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**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED AGEN-  
CIES APPROPRIATIONS FOR FISCAL YEAR 1999**

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**HEARINGS**

BEFORE A

SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON

**H.R. 4276/S. 2260**

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COM-  
MERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGEN-  
CIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1999, AND FOR  
OTHER PURPOSES

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**Department of Commerce  
Department of Justice  
Department of State  
Federal Communications  
Commission**

**Nondepartmental witnesses  
Securities and Exchange  
Commission  
Small Business Administration  
The judiciary**

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**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**TUESDAY, FEBRUARY 24, 1998**

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

The subcommittee met at 9:57 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Hutchison, Campbell, Bumpers, and Lautenberg.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF HON. JANET RENO, U.S. ATTORNEY GENERAL

ACCOMPANIED BY:

STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL, CONTROLLER

ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF

OPENING REMARKS

Senator GREGG. We will start this hearing of the Subcommittee on Commerce, Justice, and State of the Appropriations Committee. Please note that we are starting early, thanks to the Attorney General's promptness.

The purpose of this hearing is to review the budget proposal of the Justice Department. The budget of the Justice Department has increased dramatically during my tenure as chairman of this committee, but not as a result necessarily of that, but as a result of the reflection of the policies of this administration and this Congress to make a very strong commitment to trying to address the issues of crime in this country, especially drugs, terrorism, and the general atmosphere on the streets of America.

In fact, I was looking at some of the numbers here. We have gone from \$13.8 billion in 1995 to a proposed request this year of \$20.9 billion. That is a \$7.1 billion increase in 4 years, which is about 60 percent, which is a huge expansion in the resources committed in this area. It has been across the board. It has been in the area of prisons. It has been in the area of the Drug Enforcement Admin-

istration [DEA]. It has been in the area of the Federal Bureau of Investigation [FBI]. It has been in the area of the general activities of the Justice Department.

I guess the question which the consumers would want to ask the Attorney General, had they the opportunity, is with this dramatic expansion of resources, what are we getting as results? Are we able to manage this commitment of new resources effectively, and are we getting a return for our dollars?

It has been a pleasure to work with the Attorney General over the last few years as we have pursued this action of dramatically expanding our commitment to fighting crime. Her enthusiasm, energy, and direction has been acknowledged by all who have been involved in the day-to-day operation of crime fighting in this country, and I appreciate her efforts and especially her support of some of the congressional initiatives, especially in the area of counterterrorism. So with that, I will yield to Senator Campbell, if he has any opening comments.

Senator CAMPBELL. Thanks, Mr. Chairman. I appreciate it, and I certainly appreciate seeing Attorney General Reno here.

I had a few questions that I will get into later, but I certainly am aware, as you are, of the increased spending and how it is going up. I worked very closely with our Rocky Mountain HIDTA, as an example, that was just established a couple of years ago and the funding we put into that HIDTA and most of the other ones has been increased. I think that being on the ground level, particularly when we talk about the growing problem of methamphetamines, which is a very fast-moving kind of a thing, and certainly growing while other use of drugs is going down, I can see that it is easy to justify the amount of money we are putting in those programs.

I was also concerned with the amount of crime going up in Indian country. As you know, we increased the amount in the budget that would go into fighting the drug war there and juvenile gangs, as well. I guess it is just a whole new area. These young gangs from the urban areas are moving out to Indian country to new and fertile ground.

So I just wanted to tell the Attorney General, I understand that we have to get the best use of taxpayers' money, but from my perspective, if we are going to win the drug war, I fully recognize we cannot do it all from Washington. An awful lot of these things have to be done in the local communities and certainly churches and schools and Boy Scouts and everybody else have a role to play, but I just wanted to say that I think that you are doing a very good job, particularly in that crime fighting area that deals with our communities and I wish you well this coming year. Thank you.

Ms. RENO. Thank you.

Senator GREGG. Attorney General.

#### PREPARED STATEMENT

Ms. RENO. Senators, thank you very much. It has been a real pleasure to work with the committee, to do it in a thoughtful way, in a constructive way, and I look forward to furthering our working relationship in this next year. There are so many critical issues that you both touched on, cybercrime, terrorism, drugs, drug traf-

ficking, the problem of crime in Indian country, and I am always available to discuss and to work with you on how we fund these issues and then how we manage the moneys you give us the right way.

In the interest of time, I will attempt to summarize my written statement but would appreciate your including it in the official record.

Senator GREGG. Of course.  
[The statement follows:]

#### PREPARED STATEMENT OF JANET RENO

Good morning. Chairman Gregg, Senator Hollings, members of the subcommittee, it is a pleasure once again to appear before you to present the President's budget request for the Department of Justice. For fiscal year 1999, the President's budget includes \$20.9 billion for the Department of Justice—an \$877 million or 4.4 percent increase over last year—to enhance our fight against youth violence, cybercrime, illegal drugs, illegal immigration, and other crime problems. Of this amount, \$18.1 billion is discretionary funding—a 4.9 percent increase over 1998.

Since I became Attorney General in 1993, funding for the Justice Department has increased more than 87 percent—due in large part to the efforts of this subcommittee.

I believe our investment is paying off. Over the past several years, we have witnessed a decrease in violent crime, and juvenile crime appears to be turning around. We are continuing our fight against drug trafficking and abuse. We have added border patrol agents in record numbers, and removed criminal aliens at a record pace. And, we have begun a concerted effort to combat computer crime, and protect our nation from the threat of terrorist attack. Yes, we are moving in the right direction. But, more work still needs to be done.

The budget I present to you today does just that—it builds on our past successes and helps to prepare us for the law enforcement challenges of the twenty-first century.

#### FIGHTING CRIME AND YOUTH VIOLENCE

Our top task is to make certain that crime continues to fall. At the cornerstone of this effort is our commitment to place 100,000 police officers on the streets of America by the year 2000. The budget before you seeks \$1.4 billion for the Community Oriented Policing Services (COPS) Program to fund an estimated 16,000 officers in fiscal year 1999—bringing the total to 99,000 funded officers one full year before our pledge to fund 100,000.

But, to sustain our success in fighting crime, we must also continue taking aim at youth violence. For the second year in a row, juvenile arrest rates for violent crime have fallen, and arrest rates for juvenile homicides have fallen for a third year in a row. While this is encouraging news, youth violence is still far too prevalent in too many of our communities—in fact, arrest rates for juvenile violent crime and homicide are still substantially above the levels of the mid-1980's. Gangs are appearing in cities and towns across the nation and we must take a reasoned approach to both preventing and punishing youth crime.

Consistent with the administration's anti-gang and youth violence bill proposed last year, the Department's fiscal year 1999 budget seeks to focus resources on three youth violence prevention and intervention grant programs and restructure current juvenile justice programs. Our request includes nearly \$500 million in new initiatives, program enhancements, and program restructuring aimed at fighting crime and youth violence. Specifically, we are requesting:

#### *Youth violence/gangs/at risk youth*

\$100 million for a program that would provide grants to State and local prosecutor offices to fight youth drug, gang, and violence problems through the successful identification and rapid prosecution of young, violent offenders.

\$50 million for a youth violence court program to increase the speed, efficiency, and effectiveness with which youth are processed and adjudicated within the justice system.

And, \$95 million for a title V grant program—we call the at-risk children's program—to support juvenile crime intervention programs to fight truancy and school violence and strengthen appropriate curfew initiatives.

*Restructuring current juvenile justice programs*

A total of \$176 million is requested for juvenile justice programs funded under the restructuring. The new programs created with the redirected funds include \$89 million for a new juvenile justice formula grant program; \$45 million for a new discretionary grant program to develop, test, and demonstrate promising new programs; \$17 million for an incentive grants program for seven authorized purposes ranging from crime prevention to accountability-based sanctions; and \$6 million for an Indian tribal grants program.

*Community prosecutors program*

\$50 million is requested to establish a community prosecutors program to increase substantially the number of local prosecutors interacting directly with police officers and community residents to identify and solve specific crime problems in their neighborhoods. Around the country—in places like Portland, Oregon; Austin, Texas; and Indianapolis, Indiana, early efforts at community prosecution are being deployed and it appears to work. With this funding, you would provide us an opportunity to comprehensively fund and test this very promising strategy.

*Violence against women*

To combat violence against women, we are requesting \$271 million. And, following your lead, we have included targeted set-asides for civil legal assistance programs, research concerning violence against women, and the U.S. Attorneys' domestic violence unit in the District of Columbia. In addition, we have targeted \$10 million in discretionary funds for a new program—Project Safe Start—which seeks to reduce the impact of family, school, and community violence on young children.

*Technology to combat crime*

We've heard from local law enforcement that they need help in applying technology to the investigative function—using simulation modeling, computer forensics, crime mapping, and improved suspect identification technologies to solve crimes—and we're investing in this area now. For fiscal year 1999, we are seeking an additional \$12.5 million to further upgrade crime technology, such as DNA testing and identification, and criminal records and history programs.

I am convinced we can build on our success in fighting youth and violent crime with the right resources, the administration's approach to any new juvenile justice legislation, and new relationships between prosecutors and the people they serve.

## FIGHTING CYBERCRIME AND PROTECTING OUR CRITICAL INFRASTRUCTURE

Our second focus—and one of the greatest challenges of the next century—will be to address cybercrime before it can become an epidemic within the United States or a pandemic worldwide. Every day, the United States relies more heavily upon its interconnected telecommunications and automated information systems for basic services such as energy, banking/finance, transportation, and defense. Reliance on, and the use of, computers and the information superhighway is becoming a standard part of life for most Americans. As such, we must be certain they are safe and secure.

For fiscal year 1999, the Department is seeking \$64 million in increased funding to expand efforts to protect the Nation's critical infrastructures from cyber-attacks and to combat cybercrime.

These additional resources will support 75 new FBI agents and 24 assistant U.S. Attorneys to track down and prosecute cyber criminals. The FBI will focus its new resources on the formation of 6 additional computer investigations and infrastructure threat assessment squads (CITA) in cities around the country. The initiative also includes \$10 million in additional funding for the FBI's Computer Investigations and Infrastructure Threat Assessment Center (CITAC)—which is being restructured and renamed the National Infrastructure Protection Center (NIPC)—to expand operations, develop an early warning system, and conduct infrastructure vulnerability assessments; \$1.55 million in increased resources is also included for the Criminal Division's computer crime and intellectual property section (CCIPS)—a critical partner in the effort to help Federal, State and local, and foreign agencies prosecute high-tech crime, and create the necessary infrastructure—legal, technical, and operational—to pursue criminals who attack or employ global networks.

For the counterterrorism (CT) fund, the cybercrime initiative includes \$33.6 million for activities related to the protection of the Nation's critical infrastructures. Most of these funds will be needed for the NIPC. Some of these funds could be used to reimburse other agencies. An additional \$3.1 million will ensure the continuation of essential Department of Justice functions during an emergency. In addition to the

requested enhancements, \$16 million is recurred in the CT fund to continue to equip and train State and local responders to terrorist incidents.

#### CURBING DRUG TRAFFICKING AND ABUSE

To continue to fight drug trafficking and abuse, the budget before you seeks \$167.25 million in increased resources in fiscal year 1999—allowing us to hire more drug enforcement agents and prosecutors, and increase drug testing and intervention programs. This balanced investment will decrease drug use and help stem the violence it brings into our communities.

Funding for the Drug Enforcement Administration (DEA) will grow by 4.6 percent to \$1.25 billion, with program enhancements totaling \$64 million. These additional resources will support 100 more DEA agents to attack methamphetamine production, trafficking, and abuse; 54 more agents for the Caribbean corridor strategy; 95 more agents to intensify efforts against heroin traffickers; 3 more agents to support an on-going classified project; and 5 agents to foster and strengthen foreign cooperative drug investigations against Asian heroin traffickers.

Our drug initiative will also support the hiring of 64 assistant U.S. Attorneys and 5 Criminal Division attorneys to pursue and prosecute drug traffickers, and to implement our national strategy against methamphetamine.

We also want to help State and local agencies conduct vital drug testing and intervention programs—and have included \$94 million in additional grants to State and local agencies and Indian tribal governments to implement comprehensive systems of drug testing, drug treatment, and graduated sanctions; as well as expansion of the residential substance abuse treatment program.

In addition, our request includes a language change to give States the flexibility to use their prison grant and residential substance abuse treatment funds to provide drug testing and treatment to offenders. A recently released report by the National Center on Addiction and Substance Abuse at Columbia University, which draws heavily from national data compiled by the Department's Bureau of Justice Statistics, confirmed that fighting drugs in our prisons and providing comprehensive testing and treatment for prisoners is absolutely critical to keeping drugs off the streets.

The study found that 80 percent of people serving time in our State and Federal prisons either were high at the time they committed their crimes, stole property to buy drugs, violated drug or alcohol laws, or have a long history of drug or alcohol abuse. And, parolees who continue to use drugs are much more likely to commit crimes that will send them back to jail.

The findings here are clear and support what I have long suspected: to break the cycle between drugs and criminal activity, we must first break the drug habits of prisoners. For this reason, drug testing and treatment are sound, appropriate uses of correctional grant funds.

Clearly, our battle against drugs requires a balanced approach and our budget seeks to provide just that—through tougher enforcement and better intervention, we can get drug use to fall, and keep it falling.

#### PROTECTING OUR BORDERS AND PROVIDING BETTER SERVICE

For the Immigration and Naturalization Service, the budget I present to you today seeks a record \$4.2 billion—or 10.2 percent more than last year. Our fiscal year 1999 request seeks to strengthen proven, existing programs and to implement new measures that will guard against illegal immigration and promote legal entry into the United States.

Landmark immigration legislation enacted in 1996 has challenged the Department to carry out mandated responsibilities with far-reaching impacts. In response to this challenge, the Department has greatly enhanced border management in the southwestern United States, and has reengineered the naturalization process to accommodate millions of new applicants.

With the support and leadership of this subcommittee, the INS has nearly doubled its border patrol agent workforce since 1993, and has introduced innovative deterrents and advanced technologies to address illegal immigration at all borders of the United States.

For fiscal year 1999, the Department requests \$272.5 million in increased funding for “force-multiplying” technologies and 1,000 new border patrol agents. Funding will also be dedicated to programs to detain and remove illegal aliens, including criminal aliens; to address the proliferation of alien smuggling by strategically placing INS personnel along major smuggling transportation corridors; and, to ensure the integrity of the naturalization process. Immigration fee resources will support increased airport staffing to more quickly inspect passengers, and enhance document and benefit fraud investigations.

Clearly we have not resolved all of the problems that face this country in deterring illegal entry, nor have we completely resolved the problems to ensure adjudication and naturalization for legally admitted aliens eligible for benefits under the Immigration and Nationality Act. But, as we recognized in 1994 when we launched our comprehensive Southwest border strategy—the investment necessary would be multi-year and multi-faceted. This budget request continues the measured, prudent growth required to allow a reengineered Immigration and Naturalization Service to cope with the challenges it will face in the 21st century.

#### TARGETING CRIME IN INDIAN COUNTRY

As crime rates in the rest of the country continue to fall, homicide and violent crime rates on many Indian lands are rising. Law enforcement in Indian country is inadequate and needs immediate attention. Indian lands have only 1.3 police officers per 1,000 citizens, compared with an average of 2.9 officers per 1,000 citizens in non-Indian areas with similar population densities. And, the few jails on Indian lands fall far short of basic standards in such areas as staff and inmate safety.

The budget I present to you today includes \$157 million in new and redirected funds as part of a joint \$182 million initiative with the Department of the Interior to address these serious public concerns. The goal of this multi-year initiative is to raise the level of Indian country law enforcement to national standards in such areas as the number of officers per capita, the training and equipment of tribal law enforcement officers, and the quality and availability of detention facilities. In fiscal year 1999, the initiative will be funded primarily through anti-crime grants provided directly to Indian jurisdictions.

Because the Federal Government has the responsibility to investigate and prosecute major crimes in most Indian country, this initiative will support 30 additional FBI agents to enhance Indian country investigations and 31 positions to improve victim/witness assistance services in Indian country. Twenty-six assistant U.S. Attorneys will also be added to target violent crime, gang-related violence, and juvenile crime on Indian lands.

And, within the Office of Justice Programs and the COPS program, grant funds have been targeted and set aside for direct support to Indian country—\$10 million of the new drug testing and intervention program; \$20 million of the title V at-risk children's program; \$52 million of the State correctional grant program; and \$54 million of the Community Oriented Policing Services (COPS) Program. In addition, our initiative includes \$10 million to establish the Indian tribal courts program—a new discretionary program to assist tribal courts which have experienced unparalleled growth in their workload.

The crisis in law enforcement affecting Indian country demands a Federal response. This initiative is a small, but necessary first step.

#### SUPPORTING OTHER JUSTICE DEPARTMENT INITIATIVES

##### FIGHTING HATE CRIMES

Despite the best efforts of political and community leaders to promote tolerance and understanding, hate crimes continue to plague the Nation. The Department is seeking \$5.6 million in new resources for its hate crimes initiative—which includes the formation of local working groups in which Federal, State, and local law enforcement officials, as well as community leaders, meet to address hate crimes in a comprehensive manner. Included within these resources is \$3.2 million and 15 positions for the Community Relations Service to respond to increasing demands for its services, which include conciliation efforts associated with heightened racial and ethnic tension throughout the country. The Department will also be redirecting, from 1998 base resources, 40 FBI agents and 10 prosecutors toward hate crime cases.

##### PROVIDING EFFECTIVE DEFENSIVE CIVIL LITIGATION

In defensive civil litigation cases, the Department's lawyers represent the United States in its capacity as employer, regulator, administrator of Federal benefits, law enforcer, contractor, and property owner. These attorneys protect not only the fiscal interests of the United States, but also intangible interests in the implementation of lawful Government policies and practices. Yet, the one aspect these diverse types of defensive litigation have in common is that they are not discretionary—if the United States is sued, the Department of Justice must defend. Our civil defensive litigation caseload is burgeoning, and the dollars at stake run in the billions. The budget before you seeks \$16.6 million for critical program needs to address this rising caseload and effectively defend the United States Government.

## BUILDING OUR LAW ENFORCEMENT INFRASTRUCTURE

A substantial infrastructure investment continues to be needed to maintain our law enforcement programs, and to ensure the health and safety of our law enforcement personnel. The Department's fiscal year 1999 budget request includes \$753.5 million in new initiatives and program enhancements to address a wide variety of infrastructure and technology needs. While the Department is making progress, its automation and communications capabilities are still outdated. Let me highlight just a few of the items:

*Narrowband communications*

\$72.5 million is requested to enable law enforcement personnel who use Federal spectrum when communicating to narrow the bandwidth used for transmitting radio signals, as required under the National Telecommunication and Information Administration Organization Act. This is a new account, and will be managed within main Justice. In addition to the requested enhancement, the Department's participating agencies have transferred base resources to establish the new account.

*Telecommunications carrier compliance*

We are again requesting \$100 million in additional funds to reimburse private telecommunications carriers, manufacturers, and support service providers for equipment modifications made to ensure law enforcement's continued ability to conduct court-authorized electronic surveillance. I believe the FBI, in concert with industry, has now developed an implementation plan that will permit the process to move forward. We cannot afford to delay any longer.

*U.S. Marshals*

For the U.S. Marshals Service, the request includes \$32.7 million in infrastructure improvements in fiscal year 1999. Within this amount is \$11 million and 82 deputy positions to continue to ensure the safety and security of the judicial family in Federal facilities, including the staffing of new courthouses. Another \$1.6 million is included to enhance and modernize the marshals electronic surveillance unit (ESU), whose primary mission is to provide electronic surveillance and intercept support. Last year, ESU's assistance in 917 cases resulted in the arrest of 486 fugitives. This program increase will help us to do more.

*Immigration and Naturalization Service*

For the Immigration and Naturalization Service, \$141 million in infrastructure improvements are requested in fiscal year 1999—including the construction of new border patrol facilities and additional detention bedspace to keep pace with the record expansion of the service over the past several years.

*Federal Bureau of Prisons*

And, for the Federal Bureau of Prisons, \$300 million is included for full construction of three correctional institutions and partial construction of a fourth—the capacity of which is necessary for the absorption of the District of Columbia sentenced felon population.

## CONCLUSION

We are asking for more than \$20 billion because we face so many challenges. We are seeking funding to expand our efforts in fighting juvenile crime; to launch a multi-agency initiative to reduce violence on Indian lands; and, to ensure that we stay ahead of the curve in investigating and prosecuting cyber-criminals.

The budget I present to you today will help us address our ongoing challenges and prepare for new ones. This fiscal year is the last in the twentieth century—and, it is squarely aimed at the law enforcement challenges of the new millennium.

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

Ms. RENO. For fiscal year 1999, as you have indicated, Senator Gregg, we are requesting \$20.9 billion, an \$870 million, or 4.4 percent increase in funding over last year. Since I became Attorney General in 1993, funding for the Justice Department has increased more than 87 percent, due in large part to the efforts of this subcommittee.

I believe our investment is paying off. Over the past several years, we have witnessed a decrease in violent crime and juvenile crime appears to be on the decline. We are continuing our fight

against drug trafficking and abuse. We have added Border Patrol agents in record numbers and removed criminal aliens at a record pace. We are continuing a concerted effort to combat computer crime and have taken critical steps to protect our Nation from the threat of terrorist attack.

Yes; we are moving in the right direction, but I think we have more to do. The budget I present to you today does just that. It builds on our past successes and helps us prepare for the law enforcement challenges of the 21st century.

#### FIGHTING CRIME

One of our continuing top tasks at the Justice Department is to do everything in our power to see that the crime rate continues to fall. At the cornerstone of this effort is our commitment to place 100,000 police officers on the streets of America by the year 2000. The budget before you seeks \$1.4 billion for the Community Oriented Policing Services Program, or the COPS Program, to fund an estimated 16,000 officers in fiscal year 1999, bringing the total to 99,000 funded officers 1 full year before our pledge to fund 100,000.

But to sustain our success in fighting crime, we must also continue our efforts aimed specifically at youth violence. For the second year in a row, juvenile arrest rates for violent crime and homicides have fallen. While this is encouraging news, youth violence is still far too prevalent in too many of our communities and the number of young people will increase in this Nation in the immediate future in significant proportions.

#### YOUTH VIOLENCE GRANT PROGRAMS

Consistent with the administration's antigang and youth violence bill proposed last year, the Department's fiscal year 1999 budget seeks to focus additional resources on three youth violence grant programs and restructure current juvenile justice programs. Our request includes nearly \$500 million in targeted program enhancements and restructuring aimed at preventing and fighting juvenile crime and youth violence.

These initiatives include \$100 million in grants to State and local prosecutors' offices to fight youth drug gang and violence problems through earlier intervention and the identification and rapid prosecution of young violent offenders; \$50 million for innovative court programs to better handle and hold accountable young violent offenders within the justice system; and \$95 million to fight truancy and school violence and strengthen anticrime after-school programs.

#### COMMUNITY PROSECUTION

Our request also seeks to change the way that prosecutors across America serve their communities by providing \$50 million in grants to increase the number of local prosecutors interacting directly with police officers and community residents to identify and solve crime problems in their neighborhoods. Around the country, in places like Portland, OR; Austin, TX; and Indianapolis, IN; early efforts at community prosecution are being deployed and it appears

to work. With this funding, you will provide us an opportunity to fund and test this very promising strategy.

#### VIOLENCE AGAINST WOMEN

To combat violence against women, we are requesting \$271 million, and following your lead, we have included targeted set-asides for civil legal assistance programs, research concerning violence against women, and the U.S. attorneys domestic violence unit in the District of Columbia.

#### CYBERCRIME

Another central focus of our request and one of the greatest challenges of the next century is to address cybercrime before it can become an epidemic within the United States or around the world. Every day, the United States relies more heavily upon its interconnected telecommunications and automated information systems for basic services, such as energy, banking/finance, transportation, and defense. As such, we must be certain that they are safe and secure. For fiscal year 1999, the Department is seeking \$64 million in increased funding to expand efforts to protect the Nation's critical infrastructures from cyber attacks and to combat cybercrime.

As you know, I am scheduled to appear before the committee again on March 31 specifically on counterterrorism initiatives and I look forward to discussing our counterterrorism and technology crime plan in further detail then.

#### DRUG INITIATIVE

To continue to fight drug trafficking and abuse, the budget before you seeks \$167 million in increased resources in fiscal year 1999, allowing us to hire more drug enforcement agents and prosecutors and increase drug testing and intervention programs. The balance of this investment will decrease drug use and help stem the violence it brings into our communities.

Funding for the Drug Enforcement Administration will grow by 4.6 percent to \$1.25 billion, with program enhancements totaling \$64 million. Included within these additional resources are funds to support 100 more DEA agents to attack methamphetamine production, trafficking, and abuse, 54 more agents for the Caribbean corridor strategy, and 94 more agents to intensify efforts against heroin traffickers.

Our drug initiative will also support the hiring of 64 assistant U.S. attorneys and five Criminal Division attorneys to pursue and prosecute drug traffickers and to implement our national strategy against methamphetamine.

We also want to help State and local agencies conduct vital drug testing and intervention programs and have included \$94 million in additional grants to State and local agencies to implement comprehensive systems of drug testing, drug treatment, and graduated sanctions.

#### IMMIGRATION AND NATURALIZATION SERVICE

For the Immigration and Naturalization Service [INS], we are requesting a record \$4.2 billion, or 10.2 percent more than last year,

to strengthen proven, existing programs and to implement new measures that will guard against illegal immigration and promote legal entry into the United States. With the support and leadership of this committee, the INS has nearly doubled its Border Patrol agent work force since 1993 and has introduced innovative deterrents and advanced technologies to address illegal immigration at all borders of the United States.

For fiscal year 1999, the Department requests \$272.5 million in increased funding for force multiplying technologies and 1,000 new Border Patrol agents. Funding will also be dedicated to programs to detain and remove illegal aliens, including criminal aliens, to address the proliferation of alien smuggling by strategically placing INS personnel along major smuggling transportation corridors, and to ensure the integrity of the naturalization process.

Clearly, we have not resolved all of the problems that face this country in deterring illegal entry, nor have we completely resolved the problems to ensure adjudication and naturalization for illegally admitted aliens eligible for benefits under the Immigration and Nationality Act. But as we recognized in 1994 when we launched our comprehensive Southwest border strategy, the investment necessary would be multiyear and multifaceted. This budget request continues the measured, prudent growth required to allow a reengineered Immigration and Naturalization Service to cope with the challenges that we will face in the 21st century.

#### INFRASTRUCTURE

The budget before you also seeks \$753.5 million in new initiatives and program enhancements to address critical infrastructure needs fundamental to the effective enforcement of our Nation's law. Rebuilding the law enforcement infrastructure of Justice agencies continues to be a personal focus of mine, and while we are making progress, our automation and communication capabilities are still outdated. I have stated in earlier appearances before this committee, without the proper tools to get the job done, current, let alone additional attorneys, agents, and inspectors will be less efficient and less effective in performing their duties.

For fiscal year 1999, we are asking for more than \$20 billion because we face so many challenges. We are seeking funding to launch a comprehensive national hate crimes initiative, reduce violent crime on Indian lands, address the burgeoning defensive civil litigation caseload, and build additional capacity in the Federal prison system. The budget I present to you today will help us address our ongoing challenges and prepare for new ones, and I look forward to working with you as we address these issues.

#### COPS PROGRAM

Senator GREGG. Thank you very much, Attorney General.

On the COPS Program, which is at \$1.4 billion again this year, we are starting to get to the point where the towns and the cities that have used these new police officers are hitting their phaseout. What experience are we getting relative to retaining these police officers, or do you have that data yet, once they lose the Federal funds?

Ms. RENO. To date, the COPS office has provided grants to police to add over 70,000 officers. When they accepted the grant, they committed to retaining these positions after the cutoff of Federal funds and that was the plan under the COPS grant program. A number of cities and towns have come to us saying, "We are not going to have the money to do that," and we have been working with them, trying to address those issues. The COPS office consistently educates and counsels local offices about this requirement to ensure that they are adequately planning for the future.

I do not have a record of who has phased out because, again, it is part of their commitment under the grants program. But what I hear anecdotally when I visit at the International Association of Chiefs of Police or the National Sheriffs Organization, is that they are making every effort to maintain the police officers, and the cities and counties across America are recognizing that it is an excellent investment.

Senator GREGG. I think last year, and I am not sure of this, but I think you put in \$430 million to extend the program in rural areas. I believe that was the number. In any event, that showed me that we have got problems coming at us. I assume we are going to hear the same thing from the urban areas.

My sense is that most of these communities saw the program as being one that when the Federal dollars stopped, they were no longer under the obligation to keep the police officer. I do not want to get into the position where this program becomes an entitlement that pays the police officer on the street through Federal funds. Could the Department get us an evaluation as to what the expected attrition rate is going to be as we move off of the Federal program completely and into the communities having to pay these officers, and whether we are going to be able to retain them? I think there are 84,000 of them right now and you are asking for 99,000 under this bill.

Ms. RENO. We will get you as clear a figure as we can on that. I would point out that this is a difficult area because crime has gone down in some communities so significantly that police officers say we do not need the additional police, and we have got to make sure that the moneys are spent as wisely as possible. But I will get you the figures on attrition and on who has phased out, because you have the initial supplemental police hiring from 1993 and 1994 and we will provide you with those figures as soon as we can.

[The information follows:]

#### ATTRITION RATE FOR COPS FUNDED OFFICERS

The COPS Office reviewed a sample 5,259 annual reports from grantees and found that 96 percent indicated they were planning to retain their officers. As a result of this sampling, we expect the majority of COPS grantees to retain their officers.

All COPS grantees are required to retain the additional officers hired with COPS grants at the conclusion of federal funding. They are aware of this requirement and will make plans for retention accordingly. We will work with communities on a case-by-case basis if they experience some unforeseen circumstance that makes retention of COPS-funded officers difficult.

Fiscal year 1998 is the first year that COPS grants will begin to expire and very few have expired so far. COPS Office staff have been available to provide guidance to grantees needing assistance in meeting the retention commitment. The COPS Office is developing a "Retention Tool Kit" which will consist of information for grantees about different strategies and examples of what other agencies are doing to re-

tain their officers. The COPS Office also uses current publications and training opportunities to help grantees identify new ways to keep their COPS-funded officers.

Senator GREGG. I thought one of the things we thought was a factor of crime rates dropping was putting these police officers on the street. Is the view that the crime reduction is more of a demographic event or is it more of a policing event?

Ms. RENO. No; it is that they did the job. I think what one sheriff indicated to me, he said, we have done such a good job, we can control it with the force that we have now.

Senator GREGG. I do think this is a policy issue we are going to have to address, because obviously, if we end up with one-half of these 100,000 police officers being let go, we have to go back and take another look at the approach.

#### DRUG INTERDICTION

On the issue of drug interdiction, you mentioned the Caribbean corridor program. There has been a lot of anecdotal reporting that a whole series of nations in the Caribbean have essentially been taken over, for all intents and purposes, by the drug cartels, that many of the responsible leaders in the Caribbean live under tremendous threat—physical threat. We have a serious problem in Puerto Rico, and Mexico, it appears, is now the primary transit point and the primary center for the cartels, maybe even replacing the Colombia cartels.

My question is twofold. First, what is the situation with Mexico? We are nearing a decision on certification. We are going to have that on the floor of the Senate, probably before we adjourn for recess. What is the Department's position on certification? Is Mexico doing an adequate job of trying to police itself? The second one is, what should we do in the Caribbean beyond just putting personnel down there, which is nice, but I am not sure it is addressing the underlying problem.

Ms. RENO. Let me present the whole picture, as I see it, because sometimes when we take a piece here and a piece there, we lose sight of the real problem. I come at it from my vantage point of having been a prosecutor in Miami in the late 1970's and early 1980's when drug trafficking descended upon south Florida, and we were at the center of it. I watched the Federal Government come in with additional resources, extensive resources, and I saw a change. But then I heard from my colleagues that it had moved up the Atlantic coast or over to the gulf coast.

As you watched pressures placed there, as you watched the change in traffic patterns, as you watched some of our successes in Colombia, you see pressures being brought to bear on the Southwest border because of the trafficking patterns through Mexico. You put pressure there and you begin to see the buildup in the Caribbean. You put pressure there and suddenly south Florida talks about the buildup there.

So what I have tried to do is, from a law enforcement perspective, pull the relevant law enforcement agencies together on a regular basis, together with appropriate representatives of the Department of Defense and other agencies, to plan the southern frontier initiative, both with respect to maintaining pressure on the Southwest border, of working with the Mexican Government in identify-

ing organizations and taking effective action against them, and continuing our effort in Colombia to work with the police and the Fiscle to dismantle the organizations, and to focus on the Caribbean and what can be done there.

#### CARIBBEAN

The Department's efforts to curb the trafficking in the Caribbean began several years ago. For example, the FBI has reallocated 77 positions from base resources to establish three new resident agencies in Puerto Rico. DEA has reprogrammed 12 agents and is asking for more. But it will not be effective for us to deal just with Puerto Rico. As you point out, just to put additional bodies there will not make any difference if we do not address the picture as a whole. So we are working together in an initiative that includes the island of Hispaniola and we are coordinating resources in that regard.

We see the movement and we know we can have an impact, and our great challenge will be to keep one step ahead so that we are there when they start to move. We are also working with countries throughout the Caribbean to ensure that they have laws and that they implement laws focused on asset forfeiture, money laundering, and other tools necessary to do the job, and I have had some excellent meetings with, for example, the minister of justice from Trinidad and Tobago, who wants to work with us, is asking for assistance and support, and we are trying to make sure that our resources are such that we can coordinate with his government and other governments in the Caribbean.

I think it is a matter of keeping the pressure on in terms of giving them the tools and helping them implement those tools necessary to do the job, of using our resources as wisely as possible throughout the southern frontier, and I think we have and will continue to make a difference.

#### CERTIFICATION OF MEXICO

With respect to certification, we have advised the Secretary of State, who will make a recommendation to the President, and that determination should come from the White House. But we have built on efforts to identify Mexican drug organizations. The Government of Mexico has substantially increased extradition over these past 2 years. I never dreamed 3 years ago that I would be seeing extradition at the rate that we are seeing it and there is a cooperative working relationship in a number of areas that I think will be a solid foundation upon which to continue to build.

Senator GREGG. I have lots of other questions, but I want to give my colleagues a chance to go first and then we will come back. But on this Mexico issue, are the Mexicans cooperating with DEA?

Ms. RENO. The last report that I have had is that there is an excellent working relationship with respect to units that have been developed and identified as special units, that there is a good exchange of information, and that the cooperation is building.

Senator GREGG. Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman.

I am very pleased that the Attorney General understands the one very, very important factor, that drugs are like water. They take the path of least resistance.

#### ADDITIONAL DEA AGENTS

Last year, you talked a little bit about the significant increase of money we put in, Mr. Chairman, last year, and I wanted to know a couple of specific things. Madam Attorney General, how many additional DEA agents did that provide for? I heard the number 1,000 floating around somewhere. Could that be the right number? Are they on line if that was the number we increased the money for?

Ms. RENO. On board at the end of the year of 1997 was 4,003. The 1998 authorized was 4,238, and I will provide you with information as to whether they—

Senator CAMPBELL. So that additional 235 or so are agents that have come on line in the last year?

Ms. RENO. These were authorized for 1998, and what I have got to do is give you the latest information on the hiring. This was for 1998, so I have got to tell you whether they have all been hired yet or not, and I will provide you with that information.

[The information follows:]

#### SPECIAL AGENT HIRING

DEA was authorized an additional 245 additional Special Agents in its fiscal year 1998 appropriation. To date, 150 of these agents have been brought on-board. By the close of fiscal year 1998, DEA will hire the remaining 95 Special Agents, thereby meeting its total authorized staffing level for the year of 4,238 Special Agents.

Senator CAMPBELL. I would appreciate that.

The location of where they are assigned, is that predominately a function of the DEA or do you also have some input into that from Justice?

Ms. RENO. Well, let me see if I can give you the precise breakdown.

#### METHAMPHETAMINE USE

Senator CAMPBELL. While you are looking for that, just let me tell you why I am asking that question. The largest town in the western part of our State is Grand Junction, CO, not large in terms of how big these eastern cities are, but it is probably 80,000 people in Grand Junction. Just recently, the chief of police in that town, Chief Gary Consat, he stated that in that valley, that they are literally in jeopardy from methamphetamines. As I mentioned earlier, these are labs that are easily moved, small labs, and as we reduce the use of drugs in other areas, it seems like the use of the methamphetamines are going up.

I was concerned. They have two almost out of control problems in that part of the State. One is illegal aliens. In fact, sometimes the local police turn them loose, if you can imagine that, because they cannot get a quick response from Federal agents. We have tried to do what we can to improve that. But I am also concerned that the DEA agents, that we have an increase of DEA agents in western Colorado to help these local chiefs of police. If you could, I would like you to give me some information about your Depart-

ment's plans, if you are involved in the moving of the DEA agents to these areas of rising methamphetamine use.

Ms. RENO. Some of the requests are site-specific. For example, DEA in the 1999 request provides for 38 agents in the Caribbean, and there is a Caribbean initiative. But it also provides for agents specifically designated for the implementation of our methamphetamine strategy. For example, the projected methamphetamine special agent assignment for Denver is six agents for 1999.

Senator CAMPBELL. Six?

Ms. RENO. Yes.

Senator CAMPBELL. Do the requests come through the DEA or are they made from local police departments to increase DEA agents?

Ms. RENO. There are two initiatives. One, DEA plans based on the intelligence, based on the problems that it perceives. We started some over 2 years ago as we sensed the problems emerging with respect to methamphetamine, for example, and we developed a strategy. DEA held a conference in which it asked and invited State and local law enforcement and other Federal agencies to participate and prepared a report and then a strategy based on that conference and on the preparation that had gone into the development of the strategy.

It has been active in implementing that strategy around the country and trying to identify where, through intelligence, the pressure points are with respect to methamphetamine, and this deployment reflects what they are learning with respect to methamphetamine.

Senator CAMPBELL. I thank you. Let me move on to something else.

#### DRUG FIGHTING STRATEGY

Ms. RENO. Now, let me point out one other point, though. One of the first steps that we took when we came into office was to focus on violence in this country and to figure how the Federal Government could be an appropriate partner, based on principles of federalism, with State and local law enforcement. Much of this violence was generated by drug organizations and drug gangs and the problems associated with crack.

Administrator Constantine of the DEA developed the concept of the mobile enforcement team, and oftentimes that team responds based on a police department's or a police chief's request. Again, we are trying to make sure that we prioritize those based not just on who asked but on what the data shows to indicate the greatest need, but we try to work with State and local law enforcement in every way we can to make sure that our resources are allocated appropriately.

In addition, we are engaged in some long-range planning, because when I took office, I found that one district would have a lot of U.S. attorneys or assistant U.S. attorneys but no DEA agent, and some might have a lot of FBI agents and not enough prosecutors. We are trying to make sure that in our long-range planning and our allocation of resources, it is done based on need and based on population and based on the circumstances in that particular region, and Senator, it might be interesting for you as we perfect this

long-range planning, data gathering system that we have, I think you and perhaps other members of the subcommittee would be interested in this process. We would like to share it with you.

Senator GREGG. Thank you.  
[The information follows:]

METHAMPHETAMINE-RELATED SPECIAL AGENT POSITIONS

Decisions on the deployment of DEA's methamphetamine related Special Agent positions are based both on the agency's own intelligence and internal staffing requirements, as well as the collective input of Federal, state and local law enforcement agencies (including DOJ) across the United States. DEA is very concerned about the continuing spread of methamphetamine across the United States, including to areas throughout the West, Midwest and more recently, the Eastern Seaboard. The agency will continue to work diligently with its Federal, state and local counterparts to address the methamphetamine problem to prevent it from reaching the epidemic proportions that the crack cocaine crisis did in the late 1980's and early 1990's.

Through the fiscal year 1998 appropriation, DEA received a total of 60 Special Agents for its Methamphetamine Initiative. Attached is the agency's plan for full deployment of the new methamphetamine related Special Agent positions.

*Fiscal year 1998 special agent deployment plan by division*

[Methamphetamine only]

<i>DEA Division</i>	<i>Methamphetamine special agent position assignments</i>
Atlanta .....	4
Boston .....	
Caribbean .....	
Chicago .....	1
Dallas .....	3
Denver .....	2
Detroit .....	4
El Paso .....	
Houston .....	
Los Angeles .....	3
Miami .....	
Newark .....	2
New Orleans .....	4
New York .....	1
Philadelphia .....	3
Phoenix .....	2
San Diego .....	3
San Francisco .....	4
Seattle .....	4
St. Louis .....	8
Washington, D.C. ....	2
Subtotal .....	<u>50</u>
HQ Support <sup>1</sup> .....	4
Office of Training .....	<u>6</u>
Total .....	60

<sup>1</sup>Domestic Ops (1); Intelligence (1); Op Support (1); Inspections (1).

In fiscal year 1999, DEA is requesting an additional 223 positions (100 Special Agents) and \$24.5 million to continue implementation of its Methamphetamine Strategy. Agency decisions regarding the ultimate distribution of these positions are currently being developed.

JUVENILE DRUG COURTS

Senator CAMPBELL. Thank you. Do I still have a little time, Mr. Chairman?

Senator GREGG. Yes; we are allowing about 10 minutes for the first round.

Senator CAMPBELL. I recently had an opportunity to spend some time with General McCaffrey in the Denver drug court, and I tell you, I was very impressed with it, and I think they are doing a fine job. I wanted to also get your reaction.

Some of the judges in our State are considering establishing a juvenile drug court with the rise in juvenile drug use, which I think that would be a natural thing to consider. Does the Department of Justice have any intention to try to foster the spread of these juvenile drug courts?

Ms. RENO. I want to do everything I can because I have some passing knowledge of it, since the first drug court was established in Miami, FL, by the prosecutor there and the court and the public defender. I never dreamed that it would be as successful as it has been and that we would be getting objective comments, bipartisan comments from around the country about the success of the drug court.

I think it has important resources and processes that can be brought to bear in the juvenile system, but Senator, the one thing I warn is the court will not make any difference, just the existence of the drug court, unless we make sure that the treatment components and the processes used to try to address the problem that caused the drug abuse in the first place are properly funded, and we will continue to work with everybody concerned, and I will provide you with as specific information as I can as to specific plans on juvenile drug courts.

Senator CAMPBELL. I would appreciate it if you would do that.

[The information follows:]

#### JUVENILE DRUG COURTS

The populations and caseloads of most juvenile courts in the country have changed dramatically during the past decade. The nature of both the delinquent acts and the dependency matters being handled has become far more complex, entailing more serious and violent criminal activity and escalating degrees of substance abuse. During the past three years, an increasing number of jurisdictions have looked to the experiences of adult drug courts to determine how these might be adapted by juvenile courts to more effectively deal with the increasing number of substance abusing juvenile offenders.

As of February 1, 1998, there were 31 operational juvenile and family drug courts and 43 jurisdictions were in the planning process. The interest in juvenile drug courts has risen dramatically in the last year. In order to facilitate the development of juvenile drug courts and to meet the training and technical assistance needs of these courts, the Office of Justice Programs, Drug Courts Program Office (DCPO), is coordinating with the State Justice Institute (SJI), the National Institute of Justice (NIJ), and the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

DCPO has funded \$7.7 million in juvenile drug court activity between fiscal years 1995-1997. This includes 23 planning grants, 14 implementation grants, and 7 enhancement grants for juvenile drug court activity. DCPO anticipates an increase in the number of applications and awards in 1998.

The DCPO and SJI sponsored a 2-day focus group on juvenile drug courts in August 1997. As identified by the focus group, the development of juvenile drug courts presents unique challenges not encountered in the adult drug court environment. Among these are: Addressing the needs of the family, especially families with substance abuse problems; counteracting the negative influences of peers, gangs, and family members; and motivating juvenile offenders to alter their behavior.

The development of juvenile drug courts has, therefore, required special strategies to address these issues. The following are characteristics common to these special strategies: Much earlier and more comprehensive intake assessments; much greater focus on the functioning of the juvenile's family, as well as the juvenile throughout

the juvenile court process; much greater coordination between the court, the treatment community, the school system, and other community agencies in responding to the needs of the juvenile and the court; much more active and continuous judicial supervision of the juvenile's case and treatment process; and attention to the stages of adolescent development in designing appropriate substances abuse treatment services.

Currently, DCPO is jointly funding a project with SJI to develop a guidebook for jurisdictions interested in implementing a juvenile drug court. The Institute for Families in Society, University of South Carolina was awarded the project which is scheduled to be completed by December 1998. The guidebook is based on practitioner experience and will provide both practical information on how to develop a juvenile drug court, as well as information on the philosophy of juvenile drug courts. OJJDP has expressed interest in working with DCPO and SJI to use the guidebook to develop curricula for jurisdictions.

In 1998, DCPO will use, with Congressional approval, \$400,000 to provide training and technical assistance specifically for juvenile drug courts. DCPO is planning to collaborate with OJJDP to develop a broad-based training and technical assistance capability for jurisdictions interested in planning, implementing, or enhancing a juvenile drug court.

Also in 1998, DCPO will fund, through NIJ, the second phase of the National Drug Court Evaluation Program. The 14 drug courts that received implementation grants in 1995 and 1996 will be evaluated, two of which are juvenile drug courts. The first component of this evaluation will set up the capacity for conducting subsequent evaluations of the impact of the courts. The impact evaluations will be conducted as the second component. This evaluation effort will begin to answer some of the "why they work" questions about drug courts.

Finally, through DCPO funding, the American University operates the Drug Court Clearinghouse. The Clearinghouse has been able to provide comprehensive and current information about drug court activities, both adult and juvenile. This function has provided a critical "mouthpiece" for drug court "best practices." As an example, the Clearinghouse surveys juvenile drug courts to identify operational characteristics and measures for program impact. The following are retention rates (total number of graduates and active participants compared to total participants entering the program) for juvenile drug courts as of May 1997.

<i>Jurisdiction</i>	[In percent]	<i>Retention Rate</i>
Visalia, CA .....		87
Pensacola, FL .....		90
Tampa, FL .....		95
Key West, FL .....		95
Reno, NV .....		75
Salt Lake City, UT .....		90

INDIAN COUNTRY INITIATIVE

Senator CAMPBELL. Let me go to the \$10 million tribal courts initiative now, if you could explain how that is going to be administered, and also the request for the \$52 million for tribal detention facilities. Could you tell us how those grants would be disbursed?

Ms. RENO. Let me just give you an overview of it first. My mother was an honorary princess of the Miccosukee Nation because she had written some stories that helped get resources and supplies when there was an epidemic of illness that caused serious problems throughout the community. I came to Washington with a real sense of the Miccosukees but not what was happening in the rest of the Nation, and I was really surprised and shocked at how we had failed to address our law enforcement responsibilities throughout the country in Indian country.

But my Miccosukee friends had taught me that you should listen first, and so I held a listening conference in Albuquerque in which we listened for 2 days. We have had two other meetings, one in South Dakota and one at Harvard Law School, of all places, for Northeast tribes, and they have been extremely beneficial. But the

theme that runs throughout is that we have significant problems in terms of, as you point out, gangs from outside the tribal community coming in, but as importantly, the problems of youth violence, drugs, alcohol abuse, domestic violence, and child abuse, and that this has got to be addressed in a comprehensive way, so we are involved in that.

In addition to funding, the way it would work, we would try to fund with additional FBI agents, uniformed police, and tribal investigators for the law enforcement initiatives that would be critical, and then with respect to the detention funding, I can get you the specifics, but what we are concerned about there is so often when a person has to be detained, particularly young people, they are taken some considerable distance away from the tribal scene in a world that has no connection to the world that they came from, and then they are returned without appropriate backup and follow-through and after-care.

What we are trying to design within the Department, and we would be happy to brief you on the progress that we have made, is how can we develop detention facilities that are geographically situated so that they can benefit most of the tribes involved? How can we make sure that with respect to juveniles, appropriate services, such as schooling and other services, are provided, and what can we do?

Now, how this is administered, I will get you those specifics. But the important thing will be, how do we site those centers, because the whole geography is spread out so far. I would be grateful for your thoughts as we proceed with this effort.

[The information follows:]

#### DETENTION FACILITIES—GEOGRAPHICAL LOCATIONS

The Office of Justice Programs Corrections Program Office (CPO) is currently looking at two ways to develop detention facilities that are geographically situated to benefit most tribes. First, CPO, with the National Institute of Justice's crime mapping technology and assistance, is mapping out all 71 adult/juvenile facilities in Indian Country and plotting a 50 mile circumference from the facility to determine the distances between the law enforcement feeder agencies on tribal lands and the jails or detention facilities on tribal lands. CPO is surveying the field to identify the existing capacity of all facilities. These variables will be used to target the placement of new facilities and or renovation of existing jails/detention facilities to ensure the most appropriate geographic locations are integrated with the need for increased capacity in making funding decisions.

Secondly, CPO is trying to make sure that each jail/detention facility has a comprehensive array of programing for adult and juvenile offenders. These services would address the social, educational, vocational, and cognitive issues related to substance abuse and criminality for juveniles and adults who are incarcerated or detained in OJP funded facilities. CPO is also attempting to not simply lock up offenders but to keep them from offending again by getting to the root of their criminality.

Senator CAMPBELL. I appreciate your recognition that it is comprehensive. As an example, we have a very, very high rate of fetal alcoholism, as you know, fetal alcohol syndrome, it is called. They say at Pine Ridge, about one out of four babies being born is born with fetal alcohol syndrome, and that, of course, is totally preventable. But once the mother drinks and the baby is born with that, it is there for life. I know that some of the increased violent behavior comes from youngsters that have that, and so simply to put more money into more forms of incarceration and bigger jails and

so on does not really deal with the problem with the Indians, as you know.

#### MEDICARE FRAUD

Let me maybe just ask one more, since my time has about run out, or maybe perhaps just make a statement to you. I know we have a great deal of Medicare fraud, and I noted with interest in the staff briefing I got that almost every hospital in Colorado, most of them serving low-income patients from predominately rural areas, have gotten some pretty, what they call strong-arm tactics from the Justice Department in pursuing Medicare fraud. Many of them do not have the capabilities of hiring full-time people to keep all their Federal paperwork in order as the big hospitals do, and I know a number of them have called us.

This is not an appropriations matter, I understand that, but I would ask that you look at some of those issues internally about how the process is done, how the Department handles this Medicare fraud as it deals with the small rural hospitals.

With that, Mr. Chairman, I thank you and I thank you for your time.

Ms. RENO. Senator, I have done just that, and about 2 weeks ago, I addressed the national convention of the American Hospital Association, knowing of their concern. From all of our review to date, and we have reviewed it carefully, I do not believe we are using the False Claims Act to punish what are honest billing mistakes. The act requires evidence that the person involved acted knowingly or with reckless disregard or deliberate indifference, and I think that is an appropriate standard.

But what I told the hospital association was, we do not want to be in the business of punishing honest mistakes. We do want to focus on those mistakes that are reckless or deliberate or indicate deliberate indifference to the law. I told them that we would have processes in the Justice Department that if they feel that there is an inappropriate application of the False Claims Act, that we will work with them, that we will make sure that there are avenues that their concerns can be addressed, and I have had some good feedback from my talk and intend to follow through on it and make sure that we have an open line of communication, and if anyone has a specific example, we will follow through immediately.

Senator CAMPBELL. Thank you, Madam Attorney General. I appreciate your time.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator Campbell. Obviously, we look to you for leadership as chairman of the Indian Affairs Committee for this additional funding on the Indian court system.

Senator HUTCHISON.

#### IMMIGRATION AND NATURALIZATION SERVICE AND BORDER PATROL

Senator HUTCHISON. Thank you, Senator Gregg.

I want to note in your testimony the emphasis that you are placing on the INS and Border Patrol, and you mentioned the leadership of this committee as being one of the helpers to you to do that. I want to say that the leadership of this committee, Senator Gregg, really has made this a priority and I appreciate it very much, be-

cause, of course, my State is one of those that is suffering the most, and Senator Gregg sent the clerk down there and he spent a lot of time with the Border Patrol agents and the INS officials, and it has really helped. I want to reiterate what you said and thank Senator Gregg for recognizing this priority.

Ms. RENO. May I make a point?

Senator HUTCHISON. Yes, please.

Ms. RENO. I know how interested he has been in what he has done, but I also know the meetings I have been to with you. I think you had something to do with it, as well.

Senator HUTCHISON. Well, thank you.

Senator GREGG. Just a slight bit.

Senator HUTCHISON. I thank you for that.

Let me say that I understand what you have just said about once you crack down in one place, then it goes to another place, because when cockroach corner was cleaned up, through probably your good offices, it did start coming through Texas and we saw it immediately.

Senator CAMPBELL. What is cockroach corner?

Senator HUTCHISON. That was the Miami Airport. That is where all the drugs came in. Is that new for you?

Ms. RENO. I never heard that before. [Laughter.]

Senator HUTCHISON. Oh, my goodness.

Senator GREGG. Neither have I.

Senator HUTCHISON. Well, in the world of trivia, you now know what everyone else was saying about Miami Airport.

Senator GREGG. The Attorney General stands firm. [Laughter.]

Ms. RENO. What we called ourselves was the Wild West. [Laughter.]

Senator CAMPBELL. That is where I am from.

Senator HUTCHISON. It is all a matter of where you are looking at the ball. So it was felt in Texas, and, of course, as you know, Madam Attorney General, with 1,200 miles of border, there are many opportunities for undetected and unrestricted crime elements and the criminals have figured it out.

One of the things that we have started on, and I am very pleased that it is in your budget this year, is the 1,000 new Border Patrol agents. Do you think that our goal of 5,000 new Border Patrol agents by the year 2002, for which we are now on track, is going to be enough as you see the hot spots popping up in other places?

Ms. RENO. I think we are going to have to judge as we make progress year to year, because what we are also doing, and General McCaffrey has been a leader in this area, is making sure that we work with the Department of Defense to have the latest technology that will enable us to multiply our force all along the border.

It is my hope that with the expanding technology, we will be able to focus sensitive equipment at the ports of entry and at the checkpoints and facilitate the usage of personnel there. But at the same time, between the ports of entry, develop a system of sensors, of scopes, and of automated geographical tracking, if you will, so that we will have a system down that entire border that will enable us to know where the hot spots are so that we can move immediately and in a mobile way to address those issues.

If we can make our people along the border as efficient as possible with the use of the latest technology in a comprehensive way up and down the entire border, then it might not—the number that has been authorized may be appropriate. But I look forward to working with you to see how we fare and what will need to be done in subsequent years.

Senator HUTCHISON. I think that the technology that we are seeing, the infrared and the radar systems do greatly increase the amount that a Border Patrol station can see, but practically speaking, if you see the shadows going across the border 15 miles out, the actual apprehension is still difficult. So I know that we are a ways away from the 2002, but I certainly hope that you will continue to look at the number of Border Patrol agents, for whom I think nothing can be substituted.

Let me just give you one example of a success that you can take credit for, and I could not be happier than to give you credit, and that is Operation Rio Grande, which came about after the hearing that we had in this subcommittee last year to take the 60 Border Patrol agents and redeploy them practically immediately down to the McAllen-Brownsville sector. This was done in August, as you know.

Since October 1, this is the latest report. They have now seized 117,000 pounds of marijuana, 264 pounds of cocaine just in the McAllen sector, which have a value of \$102 million and reflect a 24-percent increase in drug-related apprehensions from last year. So the Border Patrol agents, along with the enhancers that you have mentioned, show a real difference just in 6 months since you instituted that program.

Ms. RENO. Let me point out to you, though, if you had said, OK, 5,000 more Border Patrol, or let us say you had been on the path to giving us 1,000 more DEA agents in south Florida in 1980 and then they had worked so well that they shifted the patterns to other parts of the country, you would not want extra agents sitting there. That is the reason I think it is going to be very important for us to work together and see just what is happening, see how patterns change, see if they maintain the same features, work together in the most constructive way we can to understand that it is a shifting problem and to be prepared to respond together in the most effective way possible to that shifting problem.

Senator HUTCHISON. I absolutely understand what you are saying, and it makes sense, and I think we will have to monitor it because 1,200 miles of border is a sieve. It is very difficult to get control of it. It is different from some of the other problems that are faced with water entry or small segments of border. I appreciate that you are working with us and will continue to want to work with you.

#### MEXICO

Let me ask you another question before I go to a different subject, and that is, is there anything else that from your vantage point at the Department of Justice you would ask us to do with our relations with Mexico and our request to Mexico that would help fight the drug trafficking across our border?

Ms. RENO. I would just like to make sure that people and Congress are aware of some of the steps that have been taken, because as I indicated earlier in my previous remarks, we had had trouble getting people extradited from Mexico. But in 1997 alone, Mexico extradited 30 fugitives to the United States and deported 10 more in lieu of extradition. In 1998, it has extradited one fugitive and there is now a good working relationship between the two nations. I have had the chance recently to meet with the new foreign minister and she has expressed continued support for a thoughtful give and take.

One of the points that I would like to see stressed, though, is that with respect to extradition, I think some of the opposition to extraditing nationals came because of sovereignty concerns. We are now in a world where we are trying to build trust around the world, and every good prosecutor knows that a crime should be prosecuted generally in the place that it was committed. I would like to see us work together to do everything we can, not just with respect to the southern frontier but around the world, to let the criminals know that there is no safe haven and that people will be brought to justice in the best forum for determining guilt or innocence. I think that is a message that is loud and clear, and I think Mexico has taken great steps to honor that concept.

Senator HUTCHISON. That is what I was going to ask you. Is there anything more that we should emphasize on that, or do you think it is coming along?

Ms. RENO. I think it is coming along. Sometimes it is not as fast as I would like to see, but Attorney General Madrazo has been a pleasure to work with. I think he is trying his best. I am impressed with what he is doing and the approaches that he has taken. We have an excellent working relationship in, for example, San Diego that we are wanting to make sure we submit up and down the entire border. We have much, much to do, but I think we are making progress.

#### HIGH-INTENSITY DRUG TRAFFICKING AREAS [HIDTA]

Senator HUTCHISON. One of the things that General McCaffrey has put in place but does not have enough funding to fully implement is high-intensity drug trafficking areas, where there is a coordination between Federal law enforcement agencies and the local law enforcement agencies, and it has been very successful and helpful in these high-intensity areas. You have, as a priority, some of that coordination and I just would ask you if you would work with General McCaffrey. I am not asking you to specifically take money and put it in, but it just seems that in these particularly high-intensity drug areas, perhaps your efforts to coordinate and his could be augmented to target some of these worse areas for drug trafficking.

Ms. RENO. Let me make a suggestion. Why do not you all and General McCaffrey and the Department of Justice and myself talk a little bit more about this, because we have worked together very effectively to ensure a Federal, State, and local partnership, a two-way street so that we give information to the State and local officials and they, in turn, support us, that the case be prosecuted where it is in the best interest of the community.

But one of the things that we are finding is that Congress will appropriate moneys for a HIDTA and make it HIDTA specific, however, perhaps we could plan it better together and make sure that the moneys are spent as wisely as possible, and we would commit any effort possible to that end. I think we could do some really interesting things because you have got a HIDTA for a particular city and then there are other areas where you have a HIDTA for a region, and the more we can plan together, the more that Justice and Treasury and State and local officials can come together and plan comprehensively by region, the better.

That does not, however, ignore the fact that we must plan nationwide, because so much of this just crosses regions, goes from one place to another in the country, comes from across the Southwest border to Chicago or to New York, and the need for national planning is critical, as well.

Senator HUTCHISON. I believe that what you are saying is absolutely accurate. I believe that perhaps the lack of coordination, and maybe we can do something to put that together, has caused some money to go into areas that are not really as intense in need, and perhaps with your overall responsibility in this area and General McCaffrey's more focused responsibility, talking might be able to help in both areas. So I will work with that, as well.

#### DOMESTIC TERRORISM

There is one last question, a different subject, and that is, with the situation in Iraq, I think the need to plan for domestic terrorism has been heightened, not that the need was any greater but that certainly we are going to see tensions rising.

You started and had the task to develop a national plan for domestic terrorism and you have started designating areas for that project to be implemented. Would you tell me where you are in the planning and what kinds of programs you might see coming forward in the eventuality that we need to be on a more highly alert status in this country?

Ms. RENO. I do not want to go into the details, but I can assure you that Director Freeh has been very sensitive to this issue in these weeks that have led up to the situation in Iraq and has taken, I think, appropriate precautions and has briefed me.

But in terms of the long-range strategy, we are going to be meeting on this issue on March 31. But we have at the Justice Department, pursuant to the provision in the appropriations bill, prepared what I call a protocol with a timeline as to how we will get a strategy to you that is developed Government-wide, that has the input of all concerned, and that addresses the issue. We have provided Senator Gregg with a copy so that he could review it and see if there were any issues that we had omitted and that will be a continuing effort and we will try to brief and involve the committee.

Senator GREGG. We will make sure that you get a copy of that, and that everybody else on the committee will get a copy of that.

Senator HUTCHISON. Are you at the funding level where you are comfortable that we can address those concerns?

Senator GREGG. There is no shortage of money.

Senator HUTCHISON. Very good.

Senator GREGG. On that issue.

Senator HUTCHISON. Thank you very much for working with us on these major issues and thank you, Mr. Chairman.

Senator GREGG. Thank you. On that specific issue, we are going to hold a hearing on March 31 to review the status of the counterterrorism effort which was started by this committee about 1½ years ago, and this committee has made it clear on a number of occasions in a very bipartisan way that we will commit whatever resources are necessary to assist the attorneys general and the other agencies within the Government that are under our jurisdiction to assure that we have an adequate response.

Senator Lautenberg.

#### JUVENILE MENTORING PROGRAM

Senator LAUTENBERG. Thanks very much, Mr. Chairman. I, too, want to welcome the Attorney General, and I want to commend her, Mr. Chairman, for making the fight against juvenile crime and violence a top priority.

To echo what you have said, because good news deserves repeating, for the second year in a row, juvenile crimes have fallen and it is exciting news and a source of pride to the men and women who interact daily with young people in the United States. I appreciate the efforts of the teachers, police officers, and volunteers who have worked hard to bring these juvenile crime rates down in our communities. There is still so much to do.

I authored the juvenile mentoring program, called JUMP, and want to emphasize today that the crime problem cannot be solved by investing in punishment alone. There has also got to be a significant investment in prevention. The Census Bureau recently reported that one-half of America's 16 and 17 year olds are at-risk children, one-half. That is 3.7 million kids. Other estimates run, for the whole adolescent age range, as high as 15 million children being at risk. That means these youths are more likely to drop out of school, less likely to find work, and, unfortunately, more likely to begin a life that leads to drugs and to crime.

General Reno, you cited juvenile mentoring as a proven way to reach out to these kids and to provide them with role models who can help turn their lives around. The JUMP Program has proven successful in matching up at-risk youth with mentors and keeping kids off the street. Therefore, I have to ask you why it is that your budget proposes to put this successful program into a block grant. Now, I know that we share the same goal of providing hope to our young people, but I am worried that some of these funds will not be invested in mentoring programs and the kids will once again fall back to a process that is not, as we have proven in the recent years, as successful as the mentoring program has been.

We started JUMP in 1992, it was authorized, and the initial funding was \$4 million in 1994. This year, in fiscal year 1998, we have \$12 million in the program. This is not a time when programs grow of their own status but rather because they have to show some signs of success, and I think we have done that with the juvenile mentoring partnership.

Therefore, General Reno, I ask you what it is that induced the program to be subsumed into the administration programs and, therefore, again, raise the specter that I am concerned about.

Ms. RENO. What we have seen, and first of all, the JUMP Program has been a marvelous program. I think it has been evaluated, it has worked, and it can make a difference. But in too many instances, you will see a mentoring program authorized and that will be the only program available, whereas if the community had a chance to design a program that went beyond just the JUMP Program, just a mentoring program, where somebody saw the child on, say, a weekly basis and was able to look at the community's response as a whole, we think it can be more effective.

We will still have a discretionary pot of money that would and could include mentoring, but more importantly, what we are saying is, let communities who know their needs and resources design the program. In some instances, it may be a mentoring program. But rather than just say you have to select this one, let communities work with us to devise the best way possible for ensuring that there are adults who can supervise and hold young people accountable.

Senator LAUTENBERG. I think there is a tendency in the country, though I think waning, that says, punish them—harder punishment, longer terms in prison, try kids as adults, all of those things. And what I fear, General Reno, is that mentoring is not something that you can measure as quickly as you would like.

So, therefore, I can see those funds being used as, well, we build a juvenile detention center or we will build a part of our police force designed to catch them, lock them up, and get them off the streets. We know, again, and I think you say that in your own remarks, that punishment alone is not enough to do the job. So I am fearful that these funds will not be used in a program that takes a little longer time for its effectiveness to show and that is the reason I raise this with you.

Ms. RENO. We will make sure, because I certainly do not think that there is any intent, and I will look at the language again of the proposal, to take it out of community initiatives that prevent juvenile delinquency and put it into something that involves enforcement or corrections, but I will address that.

What I am concerned about and where I think we can be more effective, is if you have a mentoring program that is the only thing that exists and that person, the mentor, is not able to see the young person five nights a week and they are left alone and unsupervised, there is so much that we can do if a community can design a program that will keep kids out of trouble.

I will go back and look at this, but this particular program proposal is designed to keep kids out of trouble, not to deal with them when they get into trouble. We will work with you on that, because the JUMP Program has been excellent and it in no sense is an effort to undermine that.

Senator LAUTENBERG. We will watch with interest, Madam Attorney General. If you could see that, in the process of review, that I am kept up to date in terms of what you find, and you are not going to be able to know for several months going into the thing, but I would appreciate hearing from you on that.

[The information follows:]

## JUVENILE MENTORING PROGRAM [JUMP]

It is OJJDP's belief that communities and at-risk youth are best served when communities are empowered to determine what prevention programs provide the best opportunity to establish a continuum of prevention services. OJJDP currently administers the Juvenile Mentoring Program (JUMP) and has funded 93 projects since 1994. However, while JUMP has proven to be an effective program, OJJDP strongly supports the notion that it is more appropriate to provide funds to local units of government to implement those prevention-related programs targeted to the specific needs of the community, than to administer a particular type of prevention program.

For example, OJJDP's Title V Community Prevention Grants program, which has been appropriated \$20 million in each fiscal year 1995–1998, funds nearly 500 local delinquency prevention grant programs across the nation. Under this program, community boards analyze risk factors for the children in their community, survey resources, and put into place an array of prevention programs—including mentoring programs—that target the specific needs of the community.

Mentoring programs are also funded under OJJDP's Title II, Part B, Formula Grants program. Like Title V, this program provides funding for prevention programs, while also supporting delinquency control and system improvement initiatives. Experience shows that significant resources from this program are being invested in mentoring at the state and local levels. State reports show that 1995 funds have supported 260 subgrants with a mentoring component, and to date, 1996 funds have supported 162 subgrants with a mentoring component.

## NORTHEAST CARGO THEFT TASK FORCE

Last year we directed the Justice Department to establish a Northeast cargo theft task force and to provide it with \$2 million. Can you tell me what is the status of this task force that we were trying to establish?

Ms. RENO. I do not have the information with me. I will check and furnish that to you immediately, sir.

Senator LAUTENBERG. All right, because my State, New York, and Florida are among the hardest-hit areas with respect to this crime and we would like to curb it, if we can. There is enormous cost resulting from this crime.

Ms. RENO. You are talking about cargo theft?

Senator LAUTENBERG. Yes.

Ms. RENO. I cannot give you the benefit of the specific moneys and what has been done, but let me tell you what we have tried to do. Los Angeles, San Francisco, New York, Miami, and Houston have been the five big areas. We have been working with Customs and Customs has done some marvelous things in terms of technology that is beginning to address the issue. The FBI, working with the U.S. attorney in at least those five areas, has focused on this. This has been a major concern. But I will, with respect to the grant, give you the specifics on that. I do not have that with me.

[The information follows:]

## FBI CARGO THEFT TASK FORCE

*General.*—During the past five years, cargo theft has increasingly become a significant concern for law enforcement, particularly the FBI. This concern has largely developed as the nature and extent of cargo theft has changed. Specifically, cargo theft is increasingly being committed by organized groups and “crews” which steal for black market fencing operations. These groups have become increasingly brazen in their thefts. Violence involving armed truck hijackings and robberies of businesses and warehouses is increasingly becoming a factor in these heists. Widespread cargo theft has also given rise to concomitant offenses such as robbery, kidnaping, homicide, interstate transportation of stolen motor vehicles, drug trafficking, money laundering and insurance fraud. Extensive and systematic criminality indicates that

sophisticated organized criminal groups are behind a significant amount of cargo theft activity.

These thefts and robberies have increased in key port areas in the United States. Specifically the Ports of Newark/New York, Miami and Long Beach/Los Angeles have been most affected by this increase in cargo theft. Additional cities that have seen an increase in cargo theft include San Jose and San Francisco (due to high technology production in the Silicon Valley), Memphis (due to its geographic location as a major transshipment point for the Mid-South) and Chicago (a major transportation link in the Midwest). Many other areas of the country are also seriously impacted including the United States border with Mexico. Further compounding this problem is the expansion of professional theft and fencing groups which have been traditionally based in major urban areas have branched out to other smaller cities and rural areas where law enforcement efforts are less organized and industry security prevention efforts are minimal.

As a result of this increase in cargo related crime, the FBI initiated the Cargo Theft Initiative in 1996. During 1996 and 1997, the FBI worked closely with industry and other law enforcement agencies to determine the nature and extent of the crime problem and determine what course of action to take to reduce the cargo theft problem. Numerous multi agency, FBI led task forces have been formed throughout the United States to address interstate theft crime.

After analyzing the scope and extent of the cargo theft problem, the FBI developed a national strategy and plan which will likely have a dramatic impact on this crime problem. In fiscal year 1998, the FBI began implementing this national strategy. The strategy focuses on disrupting and dismantling the criminal organizations and professional theft groups responsible for creating the increase in this crime. This strategy seeks to maximize both State and Federal prosecution to eliminate this crime problem from the street level to the highest level of the criminal hierarchy.

The combined harbors of Newark/New York is the East Coast's busiest harbor. In 1994, this combined harbor took in \$58.7 billion worth of goods according to United States Customs estimates. This was an 11.8 percent increase from 1993. The New Jersey terminals were the harbor's primary port of call, accounting for 82 percent of all arrivals. The only active piers in New York are the Passenger Ship Terminal and the Red Hook Marine Terminal in Brooklyn. The Port of New York and New Jersey handled seven percent of the nation's cargo and about 40 percent among its competitors in the North Atlantic. While Northern Europe remains the port's biggest trading partner, countries in Southeast Asia and South America provided major surges in cargo.

The Newark, New Jersey area has been characterized as having the most active trucking, rail and container/freight handling operations in the United States. The illicit trade of stolen property which occurs there and across the river in New York City involves a multitude of thieves, fences, and organized crime members. The losses in these ports are significant but for the most part have remained steady during the past five years. The estimated losses in the Newark/New York metropolitan area associated with cargo theft and other interstate theft violations are \$1.8 billion annually.

To address the cargo theft problem in the New York/Newark metropolitan area, the FBI has specialized squads and task forces which address this crime problem. These squads and task forces are summarized as follows:

*Newark Field Office, Interstate Theft Task Force, Squad C-2*

The FBI's Newark field office has a dedicated criminal squad consisting of seven Agents which are specifically tasked with investigating interstate theft matters. The bulk of these investigations consist of cargo theft crimes.

On March 6, 1995, the FBI formed the Interstate Theft Task Force with local and State law enforcement agencies in New Jersey. Currently, this task force consists of Agents and detectives from the FBI, the New York/New Jersey Port Authority, and the Bergen County Sheriff's Office. This task force proactively investigates cargo thefts in New Jersey through sophisticated, long-term undercover operations. This is an FBI Safe Streets Task Force.

"Operation Norlock".—The Interstate Theft Task Force in Newark conducted a long-term undercover operation (UCO) which targeted professional South American Theft crews involved in cargo theft in the Eastern United States. This UCO has resulted in the following statistical accomplishments:

Criminal Complaints .....	11
Indictments .....	59
Arrests .....	57
Convictions .....	40

Restitution .....	\$1,000
Recoveries .....	\$38,429,656
Fines .....	\$17,875

Additional investigative efforts of the Interstate Theft Task Force in Newark during fiscal year 1997 and through the first quarter of fiscal year 1998 are summarized as follows:

Criminal Complaints .....	7
Criminal Informations .....	3
Indictments .....	4
Arrests .....	25
Convictions .....	60
Restitution .....	\$92,030
Recoveries .....	\$229,340,554
Fines .....	\$86,966

*New York Field Office, John F. Kennedy/La Guardia International Airport Cargo Theft Task Force, Squad C-29*

The J.F. Kennedy/La Guardia Task Force has a dedicated squad of nine FBI Agents.

In April 1994, a multi-agency undercover operation was initiated by the FBI, New York/New Jersey Port Authority, the New York State Police, United States Customs Service, United States Secret Service, United States Postal Inspectors, and the New York Police Department. This undercover operation, codenamed "KATNET," targeted cargo thieves and fencing operations stealing from the J.F. Kennedy and La Guardia Airport. As a result of this highly successful investigation, an ad hoc task force was formed with the aforementioned law enforcement agencies. This task force is scheduled to be formalized through a Memorandum of Understanding in the Summer of 1998. This will be an FBI Safe Streets Task Force.

"Operation KATNET" was a long-term, multi-agency undercover operation that came to full fruition in May 1997 when search and arrest warrants were executed on numerous targets. To date, this case resulted in the following statistical accomplishments:

Indictments .....	70
Arrests .....	98
Convictions .....	70
Recoveries .....	\$13,000,000
Fines .....	\$2,000

Additional accomplishments of the J.F. Kennedy/La Guardia International Airport Task Force for fiscal year 1997 and the first quarter of fiscal year 1998 are summarized as follows:

Complaints .....	29
Indictment .....	1
Arrests .....	18
Convictions .....	8
Restitution .....	\$948,002
Recoveries .....	\$950,000
Fines .....	\$60,050

*New York Field Office, Brooklyn-Queens Cargo Theft Task Force, Squad C-31*

The Brooklyn-Queens Task Force has a dedicated squad of 15 Agents.

The Brooklyn-Queens Resident Agency, New York Field Office has established a multi-agency ad hoc task force which investigates cargo theft in the metropolitan New York area. This task force consists of Agents and detectives from the FBI, New York Police Department, the Waterfront Commission, the Queens District Attorney's Office, and the New York/New Jersey Port Authority. This task force investigates cargo theft in New York utilizing sophisticated investigative techniques to include Court authorized wire interceptions, undercover operations, and surveillance.

"Operation Second Gear" was an undercover operation conducted by the Brooklyn-Queens Cargo Theft Task Force which targeted cargo thieves and fences operating in New York and New Jersey. This UCO culminated in mass arrests and search warrants in January 1997. This UCO resulted in the following statistical accomplishments to date:

Indictments .....	40
Arrests .....	39
Convictions .....	38

Recoveries .....	\$4,500,000
Fines .....	\$57,650

Additional accomplishments of this task force during fiscal year 1997 and through the first quarter of fiscal year 1998 are as follows:

Complaints .....	4
Indictments .....	48
Arrests .....	8
Convictions .....	17
Restitution .....	\$20,000
Recoveries .....	\$320,000
Fines .....	\$63,450

All three of the task forces in New Jersey and New York have additional pending cases which will result in similar statistical accomplishments.

The FBI estimates the costs of these task forces will exceed \$3 million in 1998.

The FBI is closely monitoring the cargo theft problem in the northeastern section of the United States to ensure that the task forces and squads assigned to investigate these violations are utilizing resources effectively and are conducting investigations which are consistent with the interstate theft national strategy.

DOMESTIC VIOLENCE BILL

Senator LAUTENBERG. You are aware, Madam Attorney General, that I authored a domestic violence bill to keep spousal and child abusers from being able to own a gun. It has taken some while to structure it and put the program into place, but there are attempts to reduce the effectiveness of the bill, to permit exceptions to gun ownership, and so forth.

Madam Attorney General, have you heard anything that would either encourage or discourage you about that program and about, if you can tell us anything about where it stands?

Ms. RENO. I have not heard any recent comments on it. As you will recall, 1 year or so ago, there were considerable comments. I will check, see what the latest information the Department has gained and provide that to you.

[The information follows:]

DOMESTIC VIOLENCE BILL

The most recent amendment to the Federal Gun Control Act prohibits the sale of a firearm to persons convicted of misdemeanors involving domestic violence. The effective implementation of this provision requires that information about such disqualifying misdemeanors be immediately available through the state criminal record system and, under the provisions of the Brady Act, through the FBI's National Instant Background Check System (NICS) which will become operational in November 1998. The National Criminal History Improvement Program (NCHIP), administered by BJS, provides funds to all states to assist them in improving the accuracy and immediate accessibility of criminal record data for presale background checks. To assist states in implementing the requirements of the Lautenberg amendment, the funding guidelines for the program were expanded in 1997 to permit funds to be used by states to collect and, where applicable, to "flag" data on disqualifying misdemeanors. In 1997, 13 states received NCHIP funds for purposes associated with the collection/flagging of domestic violence related offenses, including misdemeanors under the Lautenberg amendment. Fiscal year 1998 NCHIP funds will also be available to States for such purposes.

The Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury has responsibility for implementing this law, and I know the BATF has worked to inform law enforcement officials, firearms dealers and the general public of their new obligations under this law. In addition, the Administration has taken steps to ensure the domestic violence gun ban is fully implemented within the federal government.

The Administration has heard from individuals who feel they are being unfairly impacted by the enactment of this legislation, as well as from supporters of the provision who oppose any changes to the law. Based on the Department's experience

in implementing this law, I can tell you that out of the many thousands of DOJ employees who are authorized to carry firearms very few have been disqualified as a result of this statute. Less than 100 Department employees were found to be potentially disqualified from carrying weapons by this provision.

#### INDEPENDENT COUNSEL BUDGET

Senator LAUTENBERG. General Reno, I know that you do not control or manage the independent counsel budget. The process, if you could in very short form, because we are pressed for time here, tell us how it flows that the request for funding, as I understand it, is indefinite and, well, realistically permanent once the counsel's program has been approved. Do you know how much we have spent thus far to date in the Whitewater probe?

Ms. RENO. No; I do not, sir.

Senator LAUTENBERG. I thought that was administratively the responsibility of Justice.

Ms. RENO. One of the things that I have tried to do is, except where I have specific responsibility, not be involved in terms of oversight.

Senator LAUTENBERG. The Washington Post reports it periodically, and I assume that they would furnish you that information.

Ms. RENO. What I would ask, because in my effort to make sure that the counsel is independent, I try to draw lines. If it would be OK, Mr. Chairman, I would like for Mr. Colgate to answer that. He is the Assistant Attorney General in charge of the Justice Management Division, and I think he can provide the information right now.

Senator GREGG. I think the Senator has the right to know the information, so please, Mr. Colgate.

Mr. COLGATE. As you indicated, Senator, this is a permanent indefinite appropriation. Essentially, we place an estimate in the President's budget, in consultation with the Administrative Office of the U.S. Courts, an estimated amount for fiscal year 1999. In a sense, this is a permanent appropriation and we pay whatever bills the Administrative Office of the U.S. Courts submits to us. So whatever is submitted is paid.

The Administrative Office of the U.S. Courts is the one who supplies the administrative support to the independent counsel and our records for Mr. Starr through November 30, 1997, the end of November 1997, show that we have obligated Mr. Starr \$17,789,727 against this permanent indefinite appropriation. It is my recollection that the General Accounting Office is charged under statute to do, I believe, two audits twice a year on the expenditures of each of the independent counsels, and we can provide the committee for the record the latest audit by GAO.

Senator LAUTENBERG. I have inquired because in a fairly old report in the Washington Post, as well as various other media opportunities for this data, we have seen figures at \$25 million, \$35 million, and yet you just said \$17 million had been spent through November of last year, correct?

Mr. COLGATE. That is correct, and within the General Accounting Office's report, and we will get that report up to you.

Senator LAUTENBERG. I'm concerned because that represents quite a discrepancy. The figure that I cited, by the way, was allegedly as of September of last year, and that figure was \$25 million.

So if you are speaking of figures representing expenditures through November—

Mr. COLGATE. What I gave you is the figure that was charged to the permanent indefinite appropriation. We also provide to the General Accounting Office an estimate of the nonreimbursed Department of Justice and other agencies' expenditures. I would believe, sir, that the press report is including what is charged to the permanent indefinite appropriation as well as the estimate that we provide on nonreimbursed Department of Justice expenditures to get to the larger figure in the Post report, and I believe that figure was pulled out of one of these periodic GAO reports.

Senator LAUTENBERG. There has to be some way for the American people and those of us in the Congress to be able to get precise figures, and I would hate to think that the Washington Post is the source. If you can help us develop that information, I would like to receive it without prejudice or without further comment. Thank you very much.

[The information follows:]

GAO report No. GAO/AIMD-97-164 is available on the web at <http://www.gao.gov/>.

Senator GREGG. Thank you. Senator Bumpers.

Senator BUMPERS. Thank you, Mr. Chairman.

Just following up on Senator Lautenberg's question, and you may have answered this, when you see these figures, as Senator Lautenberg has alluded to, in the Washington Post, does that include other Government personnel, such as FBI agents? If you see a \$30 million figure, that includes all of the other governmental services?

Senator GREGG. Mr. Colgate, why do you not take a seat so that you can speak into the microphone.

Mr. COLGATE. Yes, Senator, it does. When you see that figure, it includes all other governmental expenditures, either directly charged to the permanent indefinite appropriation as well as funding in other Department of Justice appropriations that are not reimbursed out of this account.

Senator BUMPERS. That was the only question I had on that, because I see the figures all the time but I did not know what it included.

#### PRISON POPULATION

General Reno, I wanted to ask you a few questions about the crime rate in the prison population of the country, if you have it. We will go into this with the Bureau of Prisons when they appear before this subcommittee in more detail, but I was just wondering if you know what the Federal prison population was at the end of 1997, and to follow that up, what the projections are by the end of the year 2000?

Ms. RENO. The population by the year 2001 is estimated to be 128,111.

Senator BUMPERS. Now, what is the year?

Ms. RENO. That is 2001. In 1997, the population was 101,091.

Senator BUMPERS. Does that trend track the preceding years, to 1998, 1997? Is the trend about the same?

Ms. RENO. I am concerned about the overcrowding levels in the BOP facilities, and in that regard, the BOP recently revised its population projections based on current incarceration trends that indicate systemwide overcrowding levels will increase from 20 percent in 1998 to 25 percent in the year 2001.

Senator BUMPERS. Do you have any idea, or does somebody with you? Can they give me, in the prison population, an ethnic number of how many African-Americans, how many Hispanics, how many Asians, and how many Caucasians are in the prisons?

Ms. RENO. I do not have that with me.

Senator BUMPERS. You do not have that? Could you provide that for us, please?

Ms. RENO. Yes, sir, we will.

[The information follows:]

BUREAU OF PRISONS PRISON POPULATION BREAKDOWN

Breakdown of the prison population in BOP facilities as of March 5, 1998 is as follows:

Category	Number	Percentage
Black .....	39,073	37.7
White .....	31,906	30.8
Hispanic .....	29,302	28.3
Indian .....	1,534	1.5
Asian .....	1,749	1.7

Senator BUMPERS. Do you have anything to give the committee which would tell us what effect, if any, longer prison terms are having on the reduction of crime? The increase that you mentioned a moment ago, the increase from 1997 to 2002 is pretty dramatic. We see the crime rate going down. I mean, the President makes much of that, and we are all very pleased that that is the case, but there is something sort of strange about the fact that the prison population is continuing to climb at a fairly dramatic rate and yet the crime rate is going down. I suppose that is a consistent thing.

Ms. RENO. Well, it goes back again to what Senator Gregg and I were talking about earlier, whether if you get enough control over a population, can you reduce the number of police.

The first point that I would like to make is, when crime goes down, and I have watched it in my own community, there is a tendency to relax and to say, "We have done the job," and turn attention to something else. What we have tried to do in these 5 years as we have watched crime go down is not relax, continue our vigilance, focus on the traffickers, focus on the violent gangs, and do everything we can to make sure it continues to go down. And so there has been no relaxation on our part. If anything, it has been a renewed effort focused on violence, focused on drug trafficking, and trying to address these issues.

One of the points that I would make to you, I watched crime begin to go down in Miami in 1983 and then suddenly I started hearing about a curious phenomena. There was a substance that was not cocaine but it really was cocaine but it was called crack, and it was violence-inciting and began to cause considerable problems in communities, and I saw the crime rate start back up.

One of the things that we have done in the last several years is focus on methamphetamine, because I did not want that to be the second crack epidemic. We have renewed our efforts focused on those that traffic in it, those that have the labs, working with State and local law enforcement.

So I think it requires a constant vigilance, and I do not think that the increase in the prison population, particularly as you look at the cases that are being brought and the convictions that are being obtained, these are serious offenders who deserve the time. I think, if I had to analyze it, it is an example of continued vigilance on the part of State and local and Federal law enforcement.

Senator BUMPERS. General Reno, my staff just handed me a list of figures, Mr. Chairman, which I think it would not hurt to read into the record, and I will not read all of them, but in 1975, that was 22 years ago, there were 25,000 Federal prisoners. As you pointed out, at the end of 1997, there were 101,000. That is, what would you call that, a 400-percent increase in a 20-year period, roughly.

As I read over your testimony, if I read it correctly, roughly 75 to 80 percent of the people in prison are there because of either alcohol, drugs, or related crimes dealing with drugs, is that a fair statement?

Ms. RENO. I do not have the figures. Those are figures for State prisons.

Senator BUMPERS. That was not Federal?

Ms. RENO. I do not think it specifically applies to Federal. Let me clarify that for you, though. But clearly, the percentage of people in Federal prison—

Senator BUMPERS. General Reno, if I may, let me read this paragraph that I am alluding to here.

Ms. RENO. Eighty percent, yes.

Senator BUMPERS. Eighty percent of the people serving time in Federal and State prisons, you state, were either high at the time they committed their crimes—

Ms. RENO. It says 81 percent of State inmates, 80 percent of Federal inmates violated drug or alcohol laws. That is correct. I stand corrected, sir.

Senator BUMPERS. That is an incredible indictment of a society, of course, that one thing—mostly drugs—because we had alcohol before 1975. That shows the debilitating effect that drugs are having on this country.

#### TAPED TELEPHONE CONVERSATION

Let me ask you another question. In 1984, a man named Charles Wick, who was head of the U.S. Information Agency, admitted that he had taped 87 phone conversations, or it was either in excess of 40 or in excess of 80 conversations that he had on the telephone with Presidents Carter and Reagan and Cabinet members. Do you think that is a good idea, for something like that to be legal? It was perfectly legal for him to do that because he knew that he was being recorded, but President Reagan and President Carter did not.

Ms. RENO. I come from a State that says that is not lawful unless it is done for—

Senator BUMPERS. The States are way ahead of us on that. A lot of States are ruling that is illegal, but the Federal Government never has.

Ms. RENO. I would have to look at it in the Federal context, but it worked quite fine in Florida.

Senator BUMPERS. I am glad to hear you say that. In addition to that, I might point out that if a bill dealing with that subject exempted all law enforcement, intelligence gathering, employers who have to monitor employees' telephone conversations, and so on, if all those exemptions were made, that would make it more palatable, would it not?

Ms. RENO. Well, clearly, that is what Florida law provided for and—

Senator BUMPERS. Was that passed while you were Attorney General there?

Ms. RENO. I was not Attorney General.

Senator BUMPERS. I do not mean that, district attorney or whatever they call them in Dade County.

Ms. RENO. I do not know. It was passed either at about the time I became State attorney or shortly before.

Senator BUMPERS. Do you remember what your position was on it at the time it passed?

Ms. RENO. For it.

Senator BUMPERS. Thank you. Thank you, Mr. Chairman.

#### NARROWBAND ISSUE

Senator GREGG. Madam Attorney General, I have a couple of other technical questions with regard to the narrowband issue, under the budget that is proposed, you are talking about a decrease in spending to meet the requirements of narrowband, which is going to be fairly intense, and then increasing it dramatically, I think, over almost 200 percent. I am just not sure that I understand why we would have such a proposed spendout, where we decrease it in 1999 but then are looking at a 200-percent increase in 2000.

Ms. RENO. What we have tried to do in the Department is assure that each organization develop a budget estimate based on an implementation plan for the conversion. These estimated costs vary year by year and we will ask for resources based on what we need by year for the plan rather than a steady stream of funding.

The anticipated costs vary based on the requirements for and the number of different locations to be converted by year. Should resources be provided on a schedule different than the project need as stated, the organizations would be forced to rethink their implementation strategies.

So as I understand it, and I will ask those with more technical expertise than I on the issue of narrowbanding, you may take one part of the country that has particular problems and the conversion may be there and there is a rhyme or reason to their pattern and we will try to provide any specific information we can that would indicate why there is a variance over the 10 years.

Senator GREGG. Well, it is a big issue, and we just have to get ready for it from the budget standpoint. We know we are going to have the price. What I want to know is what it is going to cost.

I want to have some sort of projections in which we can have some confidence.

#### FEDERAL AND STATE LAW ENFORCEMENT COMMUNITIES

Getting back to Senator Bumpers' question, and I should have asked this before he left, my sense is we are just overloading the Federal law enforcement community with Federal laws that the States already do a pretty good job of. You stated that States do a good job in the area of how to properly use your phone relative to recording other conversations, and it has been a State issue. But as a general concept, should not the Congress be a little more sensitive to the pressure that it is putting on the Federal law enforcement community, the Federal judiciary, and the prosecutorial community by not passing laws which are duplicative or basically restatements of what the States have already done or where the States have a fair amount of responsibility and be a little more sensitive to the issues which are Federal as versus State?

Ms. RENO. What I have tried to do as Attorney General is to make sure that I look at it from the perspective of what is in the best interest of communities across America, what is in the best interest of national security, and what is in the best interest based on the principles of federalism. I see a large number of laws that are passed that local law enforcement can enforce just as well and they are on the books of local law enforcement. But situations will arise, for example, such as carjacking, where a matter may cross a district line or a county line and it will be easier for the U.S. attorney to handle the case and everyone would agree that it would be appropriate.

I think it is important that we look at each district, recognize their needs and resources are different, and do as we have done with our antiviolence initiative and require that the U.S. attorneys work with State and local prosecutors, local law enforcement to, No. 1, define the violence problem, prioritize it, and determine who should do what based not on credit, not on turf, but what is in the best interest of the community.

Senator GREGG. I agree with that. My concern is that the Congress keeps, for the purposes of making a political statement, passing criminal acts which are traditionally the responsibility of the States. As a result, we end up overloading our Federal law enforcement community with issues that the States have and can do a good job. I think we should be sensitive to that and take advantage of our Federal resources as an adjunct to or in addition to the State sources, not overlap.

Ms. RENO. Could I just say something on that regard, because I think you have just done a wonderful job. I mean, you and I disagree, but just in terms of a thoughtful, bipartisan approach to law enforcement, I would love to see us get out of making political statements in terms of crime and really work together, looking at each problem, figuring that it can be solved if we come together and use our resources wisely, and I think it is happening.

I think what we have been able to do, working with your subcommittee, working with State and local law enforcement, it is exciting. It is exciting to see communities come together and define their crime problem and take steps to bring it down, and if we can

continue to follow your pattern and your example, I think we could do a lot.

Senator GREGG. That is very generous of you. Thank you.

#### TRAINING FACILITIES

On immigration issues, we are going to add another 1,000 Border Patrol agents. How are the training facilities working? I am sorry Senator Hollings is not able to make it, because I know this is very sensitive to him. Are we going to have the capacity to train these folks and put them in the field and have them be experts so we do not end up with people who are undertrained or not up to doing the job?

Ms. RENO. This is a subject near and dear to my heart. I have been to Charleston. I was down there early on, making sure that we had the capacity as we expanded beyond the Federal Law Enforcement Training Center [FLETC], and I am committed to making sure that I am not responsible for an agency that puts somebody in the field, whether it be a Border Patrol or any other agent, who is not trained and is not prepared. I think with the facility at Charleston, we are going to continue to be prepared, working with FLETC, continue to be prepared to make sure that these people are properly trained.

There will inevitably be, and I do not want to backtrack from what I have said before, when you bring in that many new agents that fast, you have fewer people in the field with the considerable experience necessary to be a field training officer, but we continue to look at our assignments and make sure that we do everything we can to have the maximum experience possible in field training situations.

Senator GREGG. We are also going to want to get into this issue when we have the hearing on counterterrorism relative to first responders and how we are doing there.

#### FINGERPRINT ISSUE

I want to touch base on where you think we stand with the Immigration and Naturalization Service. We have had this very, very serious problem, and we just had a report which highlights that it was even more serious than many of us had been told. Where do we stand?

Ms. RENO. As I have shared with you before, that agency has had significant issues that it has had to address that we inherited that have been real problems, and we have tried to address them through the development of a system whereby we identify what needs to be done, develop objectives, put those objectives on timelines, and I meet weekly with the Commissioner to review the progress that we are making. If we begin to slip, whether it be in hiring or in attaining specific goals, we go back, we review it, and I think we are on target.

Senator GREGG. Where do we stand relative to the fingerprints? I see this whole thing, not to simplify it, but coming down to our ability to know that the person that we are interviewing for citizenship is who they say they are and is a legitimate person who should be a citizen. What this really comes down to, is the capacity

to electronically fingerprint and make sure that we can verify it two or three times during the system.

Ms. RENO. I have had some immediate experience with that. What we are developing is a process that will be used not just for naturalization but with respect to fingerprinting for other benefits, as well, and applications are made available. They can obtain applications in a convenient manner. They send in the application completed and then they are notified to come in to centers that are spaced convenient to the major populations being served.

I had my fingerprints taken at just such a center the other day and it was impressive to see how it works and what can be done. That will immediately—as we develop the technology, we can begin to make the immediate match and we can begin to have a process in place that—

Senator GREGG. How far are we from being able to do the majority of the work—70 percent of the applicants, 80, 90 percent?

Ms. RENO. I would ask Mr. Colgate.

Mr. COLGATE. Senator, we are in the process, as you know, of working with the FBI to transmit electronic fingerprints, as the Attorney General has indicated in her experience in Miami. We anticipate that by mid-March, we will have 70 of these new centers open throughout the United States and we will, in a major way, beginning April 1, begin electronically transmitting digital prints directly to the FBI. We are running it on a pilot basis right now. It is a fascinating technology because not only does it facilitate the speed of the process, but it actually makes it easier for the FBI because it actually does an edit check at the facility before the fingerprints are transmitted.

Senator GREGG. So somebody who is interested in the process of becoming a citizen will have their fingerprints taken at the beginning of the process and then even a couple times during the process and then, clearly, before the end of the process.

Mr. COLGATE. The way we have looked at this as far as our re-engineering, Mr. Chairman, is that we will have the full 10 prints, and what you are speaking to, to ensure the integrity of the process, and we did get a good report in December as far as addressing this issue, but in each part of the process when the individual comes in, we are going to ask them to give us 2 prints so that we can ensure that when Steve Colgate who came in and filed the application, and Steve Colgate who gave you the 10 prints, when Steve Colgate comes in to take the civics test or the English test, that it is really Steve Colgate, and that when Steve Colgate comes in to take the interview as well as the swearing in ceremony, we still want those 2 biometric prints to make sure that that individual is the person who was involved throughout this whole process.

Senator GREGG. And those prints will go through West Virginia, right?

Mr. COLGATE. Yes, sir.

Senator GREGG. Why not New Hampshire? [Laughter.]

I just got on the committee too late.

I look forward to the hearing on counterterrorism. As you know, this is an issue which we have worked very hard on and you have certainly been extraordinarily helpful. I think progress is being made, and I think people should know about it. We still have a

long way to go, but people need to know that there is an aggressive and comprehensive counterterrorism effort ongoing and that is what that hearing will be about.

#### ADDITIONAL COMMITTEE QUESTIONS

I thank you, Madam Attorney General. There are a couple of additional items. Senator Stevens has some questions for you. I think some of them may have to do with Alaska. Senator Leahy has some questions dealing with CALEA, which we would ask for the response to be included in the record.

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

#### ADDITIONAL COMMITTEE QUESTIONS

##### GOVERNMENT PERFORMANCE AND RESULTS ACT

*Question.* How are the annual performance goals in the Department's Performance Plan linked to the Department's mission, strategic goals, and program activities in the budget request?

*Answer.* The Summary Performance Plan, which we have submitted to you, sets forth the specific goals the Department expects to achieve in fiscal year 1999. These annual goals are consistent with the Department's mission and long range goals, as described in our Strategic Plan. They are also consistent with our 1999 budget request.

The Strategic Plan provides the basic framework for our annual planning and budgeting activities. Each goal in our Summary Performance Plan is directly linked to one of the long-range goals in our Strategic Plan. We have displayed the information in an easy-to-read matrix that illustrates the relationships between long-range goals and strategies, annual goals, and performance indicators. The matrix also identifies which components of the Department have lead responsibility for specific goals.

We have required our components to develop their own performance plans and to show the relationship of their programs to the strategic goals of the Department. These component-specific plans are included with their budget justification materials and provide detailed information on programs and resources.

*Question.* Could you describe the process used to link your performance goals to your budget activities? What difficulties, if any, did you encounter and what lessons did you learn?

*Answer.* The Department of Justice decided several years ago to incorporate performance planning under the Results Act with our internal budget process. We recognized that performance information is vital to making informed decisions about allocating resources. Therefore, we revised our budget process to require our components to develop annual performance plans as part of their budget requests. These individual plans link not only to the Department's overall Strategic Plan but also to component budget requests.

We are convinced that integrating performance planning and budgeting is the right way to go, but we recognized that there are obstacles. While the budget and the performance plan are consistent, they are structured very differently. The budget tends to be component or program-specific; the performance plan, more thematic, often incorporating multiple activities of several components under common goals.

*Question.* Does the agency's Performance Plan link performance measures to its budget?

*Answer.* The Department's fiscal year 1999 Summary Performance Plan does not directly link performance goals or measures to budgetary resources. Consistent with requirements of the Results Act, the Department first designed and developed a five-year strategic plan that would subsequently provide the structure for more detailed annual performance plans. The Department's strategic plan is organized around seven core functions that represent major functional areas of responsibility. Performance goals and measures within the fiscal year 1999 performance plan necessarily flow from this overall framework, and are not directly tied to, but are consistent with, the existing budget account structure or allocation process. As a result, the Performance Plan is more thematic, often incorporating multiple activities and organizations.

*Question.* Does each account have performance measures?

*Answer.* Yes, each component organization within the Department has sought to develop and provide its own annual performance plan, which identifies the goals and indicators by which it intends to measure progress in the upcoming fiscal year. As a result, Department components are attempting each year to provide more complete information on the results they have achieved and the program objectives that they have identified for the coming year. In addition, the Department's fiscal year 1999 Summary Plan identifies those component organizations that have or share primary responsibility for each goal. Therefore, information about resource levels, as well as additional program detail, can be obtained by referencing the budget requests of these organizations.

*Question.* To what extent does your performance planning differ from the account and activity structure in your budget justification?

*Answer.* The difference is quite substantial. The account and activity structure in our budget justification is presented by appropriation, component, or major program within those components. As noted above, the Department's performance planning is more thematic, often incorporating multiple activities and organizations under common goals. We believe that this approach has certain advantages, including the opportunity to view management issues from both a budgetary and a programmatic perspective.

*Question.* Do you plan to propose any changes to your account structure for fiscal year 2000?

*Answer.* We are not certain at this time. As part of our internal fiscal year 2000 planning process, we will ask our component organizations whether they intend to propose any such changes. These types of decisions entail significant revisions to existing budget and financial management systems, and must be undertaken only after careful deliberation within Department's components.

*Question.* Will you provide any changes to the program activities described under that account structure?

*Answer.* Again, we are not certain at this time. Changes to existing program activities is another consideration that will be addressed during the Department's fiscal year 2000 internal planning process.

*Question.* How were performance measures chosen?

*Answer.* The performance measures that are contained in the Department's Summary Performance Plan are based on the measures that were developed for the Department's Strategic Plan as well as measures that the component organizations have developed for their individual performance plans.

How did the agency balance the cost of data collection and verification with the need for reliable and valid performance data.

*Answer.* To the extent that they were able, in order to keep the cost of data collection to a minimum, the component organizations developed measures for which reliable and accurate data already existed. However, in some cases, component organizations did identify measures for which data is not currently collected. On p. 26 of our fiscal year 1999 Summary Level Performance Plan: Data Sources, we discuss the specific sources of the performance data. We also state that we anticipate convening a DOJ working group to oversee our performance data needs and capabilities. The assessment will involve making difficult tradeoffs between the costs and benefits of establishing new data collection systems or making major revisions to existing ones.

*Question.* Does your plan include performance measures for which reliable data are not likely to be available in time for your first performance report in March 2000?

*Answer.* No. Although not all the data is currently tracked, the component organizations intend to begin tracking the data in order to be able to include it in the performance report in March 2000.

*Question.* What are the key performance goals from your fiscal year 1999 Annual Performance Plan that you recommend this subcommittee use to track program results?

*Answer.* The Department's Summary Performance Plan for fiscal year 1999, Core Functions 1 through 6, contain the key strategic and shorter-term performance goals that the subcommittee should track. These goals were derived from the individual performance plans of the Department's component organizations and they address the major issues that the Department will be addressing in fiscal year 1999.

*Question.* For each key annual goal, indicate whether you consider it to be an output measure ("how much") or an outcome measure ("how well").

*Answer.* By definition, our summary annual performance goals represent the results we plan to attain in one year in an effort to achieve our five year strategic goal. Therefore we have selected an array of measures to indicate the results of our

efforts—both output and outcome measures. Output measures such as the number of convictions, arrests, indictments and outcome measures such as the number and qualitative assessment of cases that have led to the disruption, dismantlement, or collapse of identified MCE and other major traffickers are examples of the mix of measures developed to indicate our effort to reduce the capability of the major Colombian and Mexican Criminal Enterprises (MCE) and other drug trafficking organizations operating along the southwest border of the United States. Although the Department will not set targets for those measures, we do intend to report on them in our March 2000 performance report.

*Question.* State the long-term (fiscal year 2003) general goal and objective from the agency Strategic Plan to which the annual goal is linked.

*Answer.* Appendix A of the Department's Summary Performance Plan contains a matrix that tracks the Department's long-term goals to the fiscal year 1999 annual performance goals.

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

*Answer.* Our internal Spring Call for fiscal year 1999 budget estimates included instructions for components' use in developing their performance plans. The guidance emphasized linkage between component annual performance plan goals and the Department's Strategic Plan goals. In addition, in May 1997, the Attorney General issued a memorandum to the heads of Department components stressing that their resource requests demonstrate a clear and direct connection between the Department's long-term goals and strategies and the components' specific performance goals. In it, she emphasized that components present a clear, direct link to one or several of the strategic goals in the DOJ Strategic Plan and that they identify those summary-level performance indicators that best represent the principal outputs and outcome of their major programs.

To articulate our specific plans for fiscal year 1999, the Department looked carefully at each strategic goal outlined in the DOJ Strategic Plan to determine what actions need to be taken in fiscal year 1999 to make progress toward meeting those goals. Using the seven core functions of the Department, outlined in the DOJ Strategic Plan, as a roadmap, the Justice Management Division (JMD) staff worked with each component individually to develop linkages between the DOJ strategic goals and those of the components supporting the various goals and to establish realistic fiscal year 1999 measures for each of the components to ensure progress toward their goals.

In addition, JMD staff worked with departmental components to ensure coordination of cross-cutting efforts aimed at attaining the same or related goals. Teams composed of component representatives developed outcome measures that will gauge the Department's efforts in meeting its fiscal year 1999 goals.

As well as describing what we plan to achieve in fiscal year 1999, we incorporated a referral system into the DOJ Summary Performance Plan to point readers to the applicable component plans. The references noted in the Summary Plan allow readers to drill down to the more detailed component plans to examine their outcome measures.

As we stated previously, we developed an array of measures, both output and outcome, for each of our goals. We were not able to develop outcome measures for all of our strategic goals. Because achieving any goal involves a process, there are interim milestones that an organization must meet. In fiscal year 1999, in many cases, we will be in the middle of the process of attaining our strategic goals, and the measure of our success will often be an output measure. To the extent feasible, the goals and indicators in the DOJ Summary Performance Plan focus on intermediate or end outcomes, but many are more "output" than "outcome" oriented. As we continue to improve our performance plans in the years ahead, we will attempt to include more and more outcome type measures.

*Question.* Do you have the technological capability of measuring and reporting program performance throughout the year on a regular basis so that the agency can be properly managed to achieve the desired results?

*Answer.* For the vast majority of our indicators, data are already collected and reported through existing statistical series and internal Justice data systems. Pages 27 and 28 of our Summary Performance Plan describe the principal sources of fiscal year 1999 performance data.

However, we recognize that improvements are likely to be needed. As we stated earlier, in fiscal year 1998, we will work with our major component organizations to continue to systematically assess our performance data needs and capabilities. We anticipate convening a DOJ working group, comprised of senior level officials, to oversee this assessment and provide recommendations for action. Recommenda-

tions may involve additional resources to support new or improved data collection systems and practices. There is little doubt that performance measurement is likely to entail making changes to current tracking and reporting systems.

*Question.* If so, who has access to the information—senior management only, or mid- and lower-level program managers, too?

*Answer.* For the most part, line program managers have access to, and the need for, much more detailed program performance information than that provided to senior-level officials.

*Question.* Are you able to gain access easily to various performance-related data located throughout your various information systems?

*Answer.* Generally, yes. However, this will be one of the questions addressed by the working group.

*Question.* The Government Performance and Results Act requires that your agency's Annual Performance Plan establish performance goals to define the level of performance to be achieved by each program activity set forth in your budget.

Many agencies have indicated that their present budget account structure makes it difficult to link dollars to results in a clear and meaningful way. Have you faced such difficulty?

*Answer.* Yes, we have faced this sort of difficulty. However, we have determined that the best way to proceed at this time is to ensure that each major budgetary "account" is supported by a GPRA-based performance plan that includes programmatic objectives and indicators. We believe that integrating GPRA requirements and concepts in this way allows a realistic link between dollars and results within the existing budget account structure. However, as noted previously and below, this does not mean that the opportunity is lost to propose some restructuring in the future.

*Question.* Would the linkages be clearer if your budget account structure were modified?

*Answer.* It is difficult to say that linkages would automatically be clearer. In some respect, the way in which this Department has implemented GPRA allows for a more extensive presentation of program performance goals and expected results. As this Committee is aware, the "program" structure by which our resources are displayed in Congressional budget justification material is more detailed than the "budget activity" account structure contained in the President's Budget. We believe the thematic presentation of our component organizations' performance plans allows a stronger emphasis on an agency's key mission priorities that are not artificially constrained by budget structure. This thematic approach also encourages a sharper focus on more cross-cutting program goals and tends to establish accountability at higher managerial levels.

*Question.* If so, would you propose to modify it and why do you believe such modification would be more useful both to your agency and to this committee than the present structure?

*Answer.* As indicated above, we are not prepared at this time to propose any modification to the existing structure. As part of our internal fiscal year 2000 planning process, we will ask our component organizations whether they intend to propose any such changes. These types of decisions entail significant revisions to existing budget and financial management systems, and must be undertaken only after careful deliberation within Department's components.

*Question.* How would such modification strengthen accountability for program performance in the use of budgeted dollars?

*Answer.* As explained above, we have not yet determined whether there will be any modifications to our budget structure proposed.

*Question.* Under one of the new accounting standards recommended by the Federal Accounting Standards Advisory Board (FASAB) and issued by OMB, this year for the first time all federal agencies are required to have a system of Managerial Cost Accounting.

The clearly preferred methodology for such a system, as stated in that standard, is the one known as "Activity-Based Costing," whereby the full cost is calculated for each of the activities of an agency.

What is the status of your agency's implementation of the managerial cost accounting requirement, and are you using Activity-Based Costing?

*Answer.* The Department of Justice has not yet implemented the new managerial cost accounting standards. Over the next four months, the Department is undertaking a study and evaluation to assess compliance with the new managerial cost accounting standards and to establish consistent classification definitions required by the new standards. Existing Departmental systems currently provide a classification structure necessary to satisfy basic cost accounting requirements. The Department's organization structure and accounting classification structure facilitates the ac-

counting for costs [inputs] by component and by program or activity within components. The new standards require agencies to examine and realign existing classification structures as necessary to ensure appropriate integration with and support for Budget Formulation and Strategic Plans.

The Justice Bureaus and the Justice Management Division (for the Offices, Boards and Divisions) individually maintain financial information classification structures that employ common data elements, common transaction processing, consistent internal control and efficient transaction entry. Financial transactions for resource costs are categorized in financial and non-financial systems by organizational unit [reporting entity and component], funding identification [account symbol and year], accounting classification [standard general ledger, object class, entity non-entity, federal non-federal, and reporting period], and financial accumulators, i.e., units of measurements. However, classification structures must be reviewed Departmentally for formal and consistent recognition of responsibility segments. In addition, classification structures must be designed to effectively and efficiently record cost information by Program and Project within and across responsibility segments. The Department will convene a special Working Group to document and establish a common set of definitions necessary to facilitate a determination of technical compliance or non-compliance with the new standards.

With respect to costing methodologies, the Department is engaged in a broad range of diverse operations which necessitates the flexibility to utilize different costing methodologies. Department components primarily use the following costing methodologies: Job order costing for discrete jobs [construction projects, audit assignments]; Process costing for unique programs engaged in activities involving a regular process [Prison industries]; Standard costing in non-financial systems [reimbursable service providers]; and Activity-Based costing, which is used by some Department components in conjunction with Job order and Standard costing .

*Question.* Will you be able in the future to show this committee the full and accurate cost of each activity of each program including those calculations of such items as administration, employee benefits, and depreciation?

Answer. Yes, in all material respects.

*Question.* By doing so, would we then be able to see more precisely the relationship between the dollars spent on a program, the true costs of the activities conducted by the program, and the results of these activities?

Answer. Yes, in all material respects.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that:

To what extent are your performance measures sufficiently mature to allow for these kinds of uses?

Are there any factors, such as inexperience in making estimates for certain activities or lack of data, that might affect the accuracy of resource estimates?

Answer. We believe that performance data should be interpreted and used with caution, especially in the initial period of GPRA implementation. Our reasons include:

Performance measurement in the Federal Government is still in its infancy. Although output data have been collected and reported for years, the more outcome-oriented information demanded by the Results Act is new. We need time to identify, test, and validate indicators that fairly and accurately capture outcomes, especially in the areas of criminal investigations and prosecutions and civil litigation.

In a number of areas, baseline data are not available, which makes the setting of a target little more than guesswork. One of the clearest examples is the lack of agreed-upon data on the availability of illegal drugs. We are working with ONDCP to address this issue. We are also taking steps to obtain baseline data in several other areas, such as the number of communities implementing community policing. But there is a long way to go.

Performance is heavily influenced by factors external to the Department of Justice. Outcome data, although important, will not demonstrate the extent to which the activities undertaken by the Department have, in fact, contributed to the outcomes achieved. To establish these relationships, more systematic evaluation is required to ascertain just what has caused the particular outcome and why.

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions in your strategic plan issued on September 30, 1997?

Answer. No. Our strategic plan provided a solid foundation for our fiscal year 1999 performance plan and budget request. Each of our annual performance goals relates directly to a long-range goal set forth in the strategic plan.

## QUESTIONS SUBMITTED BY SENATOR TED STEVENS

## IMMIGRANT TRAFFIC BETWEEN ALASKA AND ASIA

*Question.* In my judgment, the Department has failed to recognize the increased traffic of immigrants between Alaska and Asia, especially eastern Russia. More and more Alaskans are complaining about the lack of Immigration and Naturalization Service personnel and resources necessary to support an efficient immigration process between Alaska and Russia. What will the Department do to address these concerns?

*Answer.* Traffic between Russia and Alaska consists mainly of international flights which are inspected by INS personnel in Anchorage, Alaska. Alaska Airlines has weekly service between Vladivostok and Anchorage while the Russian airline, Aeroflot, has charter flights from various points of origin during the summer months. There are also occasional ship inspections, which are handled by our Anchorage office. There have been, to our knowledge, no undue delays in the inspections. Currently, INS has 65 personnel working in Alaska—up 55 percent from fiscal year 1993. The District Director in Anchorage recently traveled to Fairbanks to explore the possibility of acquiring space for a future position in that city. At the present time we are unaware of a need for additional resources in Alaska.

## INDIAN COUNTRY IN ALASKA

*Question.* The administration now recognizes 227 Alaskan villages as tribes. The question of whether Indian Country exists in Alaska is presently before the Supreme Court. However, without regard to the Indian Country issue there exists a large problem involving law enforcement and judicial processes in these villages. I am currently working with Alaska's governor and the state legislature to develop a program to provide these communities with improved law enforcement services and better judicial processes. Will you, as Attorney General, appoint a representative from the Department of Justice to join us in the planning and implementation of this program?

Domestic violence and child abuse are major problems in Alaska's rural communities. Any successful program must recognize and provide resources to combat these problems. These areas are not exclusively native. The rights of non-native Alaskans and non-citizen immigrants must be considered in all stages of law enforcement and throughout the judicial process. I believe that a cooperative program by Alaska and the Department is the best vehicle for addressing these issues. Could we arrange a meeting with the Attorney General, the Governor of Alaska and the Congressional Delegation to discuss the Department's participation in this program?

*Answer.* On February 25, 1998, the Supreme Court held in *State of Alaska v. Native Village of Venetie Tribal Government* that the fee lands provided by the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1601 et seq., did not constitute Indian country pursuant to 18 U.S.C. 1151. In the wake of *Venetie*, therefore, the State has certain regulatory authorities over ANCSA lands, which it would not have if those lands were Indian country. The Supreme Court did not address, however, whether there are other sources of governmental authority for Native villages that are not limited to Indian country. The Department's preliminary view is that a Native village retains sovereign authority over its members even if the village does not possess land that qualifies as Indian country.<sup>1</sup>

Whether or not Native villages retain law enforcement authority and adjudicatory jurisdiction after *Venetie*, we must all work to improve delivery of law enforcement and judicial services to Native villages. I commend your efforts to improve these vital services, and the Department would be pleased to assist you in these efforts. To this end, I am appointing Thomas LeClaire, Director of the Office of Tribal Justice, to work with you in developing and implementing this important program.

In addition, you have inquired about the creation of a Federal-State partnership to address domestic violence and child abuse in Alaska's rural communities. Family violence has a tremendous impact on the growth and spread of crime. A child that observes domestic violence grows up to accept violence as a normal part of life and is more likely to become an abuser or an abuse victim. As a society we must take the position that family violence will not be tolerated. I would be happy to meet

<sup>1</sup>The State of Alaska appears to have taken a similar position. In its brief before the Supreme Court in *Venetie*, the State noted that: "Generally speaking, Indian tribes may govern their own internal affairs, and thus may 'punish tribal offenders,' 'determine tribal membership,' 'regulate domestic relations,' and 'prescribe rules for inheritance for members' \* \* \*. Tribal jurisdiction to regulate land and the activities of non-members, however, turns on whether the tribes occupy Indian country." Brief for Petitioner at 12-13 n.8.

with the State Attorney General, the Governor of Alaska and the Alaska Congressional Delegation to discuss a possible partnership to address family violence in Alaska's rural communities. Because we will need to work closely with Native villages in this effort, I encourage you to include a representative of the Native villages in planning for this partnership.

#### RURAL DRUG ENFORCEMENT

*Question.* Alaska benefits from a cooperative federal-state program addressing drug abuse in our major urban centers. However, the need for help is even greater in our rural areas, where unemployment rates often exceed 75 percent. High unemployment contributes to the disproportionate impact drugs have on Alaska's rural communities. What can the Department do to help Alaska and its rural communities overcome these challenges and reduce the availability of drugs in these areas?

*Answer.* I agree that drug trafficking has a devastating impact on our nation's smaller cities and rural areas. We are committed to enhancing federal drug law enforcement resources statewide in order to combat this growing threat. As such, DEA is in the process of developing an enforcement program that will provide the residents of smaller cities and towns in Alaska the increased Federal drug law resources that have proven to be effective in larger metropolitan areas across the country.

DEA currently helps to reduce the availability of drugs in rural Alaska by working aggressively to reduce the supply of drugs statewide. Anchorage, Alaska is the state's largest metropolitan area (population 257,000) and is the principal source city and drug distribution center for the state. Supplies and trends observed in the greater Anchorage area are directly correlated to the trends and types of drugs seen throughout the state and in the more remote outlying cities and villages. Therefore, efforts aimed at reducing the supply of drugs in Anchorage have a "ripple" effect on the rest of the state and ultimately help to lessen the availability of drugs in rural locales.

DEA's Anchorage Resident Office (ARO) is responsible both for reducing the supply of drugs entering Anchorage and for the State of Alaska as a whole. The ARO has an on-board staffing level of 14, which includes 1 Resident Agent in Charge, 4 special agents, 5 task force agents and 4 support/contract employees.

DEA is also already integrally involved in several cooperative efforts with our federal, state, and local counterparts to diminish the impact of drugs in both urban and rural areas in Alaska. For example:

In November of 1996, the DEA's ARO agreed to become an active member of the Anchorage FBI's Safe Street Initiative under the title of Interagency Community Enforcement and Criminal Apprehension Program. This multi-agency initiative, consisting of numerous federal, state, and local law enforcement agencies in the Anchorage area, continues to focus its combined efforts and resources to investigate individuals and gangs involved in aggravated crimes of violence and drug trafficking. This violence and drug trafficking radiates outwards from metropolitan Alaska to the smaller communities throughout the state.

Since January of 1996, the ARO assigned a DEA special agent on a full-time basis to the Alaska State Trooper's Statewide Drug Enforcement's Airport Interdiction Unit at Anchorage International Airport. Anchorage International Airport is a unique entity as it is considered a focal or "choke" point for persons entering or leaving Alaska. Therefore, the vast majority of drugs in urban and rural Alaska will have passed through the airport, either arriving or being transported out to the other more distant and remote consumer areas such as Fairbanks, Juneau, Homer, and Ketchikan. Consequently, the ARO considers the Airport Interdiction Unit to be an extremely valuable investigative tool and will continue to develop cases initiated by this unit.

These cooperative efforts have met with considerable success and have had a significant impact on drug trafficking and related violence in Alaska's urban and rural communities. Some significant accomplishments follow.

—In September of 1996, the Fairbanks Police Department (FPD) contacted DEA's ARO and emphasized the dramatic increase of illegal street level trafficking of "crack" and associated problems of violence in their area. FPD also requested DEA's direct involvement, assistance, and expertise in dealing with the situation. In close cooperation, ARO and FPD began an intensive investigation which eventually led to the execution of 13 search warrants and the arrest of 34 individuals. To date, all defendants have been formally charged in state court. The investigation received much media attention statewide, and has had a considerable impact on the local "crack" cocaine traffickers and the violence they caused.

—In June 1997, a cooperative DEA and Anchorage Police Department (APD) investigation into the marijuana cultivation activities of Raymond Sorenson culminated in the seizure of marijuana from three separate rural grow sites owned by Sorenson. Sorenson was arrested and charged in Federal Court in Anchorage and his marijuana proceeds valued at approximately \$600,000 were seized by the government.

The DEA will continue to help the entire state of Alaska combat the scourge of drugs by providing quality training to its federal, state, and local counterparts. For example, the ARO has been contacted by several state and local law enforcement agencies throughout the State of Alaska to provide basic narcotic officer training, as well as asset forfeiture training. The United States Attorney's Office conducted an asset forfeiture school in Anchorage in November of 1997. In addition, a two-week basic drug investigators school is scheduled at Anchorage for May of 1998.

DEA's Mobile Enforcement Team (MET) program is also available for use by state and local law enforcement authorities in addressing the issue of drug-related violent crime. The MET program was initiated in 1995 in response to the growing problem of drug-related violence that plagues neighborhoods and communities throughout our nation. The MET program represents the most ambitious domestic enforcement program that DEA has ever undertaken to attack drug-related violence in America.

At the request of a police chief, sheriff, or district attorney, a MET (composed of 8 to 12 DEA special agents) works in concert with local police to dislodge violent drug offenders from the community. It is DEA's goal to ensure that the state and local officials requesting the MET deployment feel completely comfortable in inviting the agency into their community.

DEA's Seattle Division Office currently has a MET stationed within the division for use by state and local law enforcement in the State of Alaska. The Special Agent in Charge of DEA's Seattle Division will, in upcoming weeks, contact law enforcement authorities in Alaska to reinforce the availability of this important enforcement resource.

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#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### MEXICO DRUG CERTIFICATION PROCESS

*Question.* Attorney General Reno, the Administration is expected to announce this week that it has again certified that Mexico is fully cooperating in the drug war. Whether Mexico truly deserves certification this year is an open question. Another open question is whether the certification process itself needs to be altered or discarded altogether.

Could you provide the Committee with an idea of how the Justice Department works with the State Department as it reaches its decision to recommend that the President certify a particular country?

*Answer.* The Department of Justice provides factual information and assessments to Administration personnel regarding the cooperation, or lack thereof, and compliance with the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of the major drug producing and drug transit countries identified by the President; in 1997, there were 30 such countries. Pursuant to the Foreign Assistance Act of 1961 as amended, the State Department requests relevant information from all pertinent Departments regarding counterdrug cooperation and efforts. The Department of Justice, from our perspective, provided an assessment of: efficacy of narcotics laws and enforcement, including legislative initiatives and bilateral law enforcement cooperation; extradition; mutual legal assistance; money laundering and asset forfeiture; control of precursor and essential chemicals; maritime cooperation; political and official corruption; and political will.

*Question.* What role do the U.S. law enforcement agencies play in the certification process? Could you please describe how these agencies participate in the certification process, and how they interact with each other, as well as the various offices at the State Department?

*Answer.* DEA and FBI support the annual certification process by preparing country briefings on the major drug producing and transit countries. These agencies also provide assessments of narcotics enforcement; money laundering and asset forfeiture; control of precursor and essential chemicals; maritime cooperation; official and political corruption; and political will.

*Question.* How many man-hours did the Justice Department spend this year on the Mexico certification decision? Would you please break that down by agency and office?

Answer. The Department does not keep a record of this kind of information and therefore we cannot quantify with precision the number of hours Department personnel dedicated to the certification process. We view the certification process as a year-round activity in which we work in close cooperation with our international counterparts to establish goals and work together toward achieving them. From our perspective, our bilateral cooperation relationship with Mexico in the area of drug law enforcement remains a work in progress. Our goal is to eliminate any remaining obstacles to law enforcement cooperation with Mexico in recognition of the threat posed to the national security of both countries and the international community.

*Question.* What are your views on the best way to improve the certification process? Is the process fatally flawed, or can you offer Congress a way to fix it?

Answer. The annual certification process is required by federal statute and can only be altered through the legislative process. The U.S. is exploring other avenues to achieve multilateral counterdrug cooperation, including a monitoring and evaluation system the Administration and its regional partners in the Organization of American States (OAS) have proposed. The objective of this multilateral system is to enhance cooperation among our hemispheric partners against drug trafficking, use, and their consequences.

*Question.* Do you support the notion of a multi-lateral drug treaty for the western hemisphere? If so, would the treaty involve supply reduction, demand reduction, or both? How would such a treaty be enforced?

Answer. The transnational nature of the drug threat requires a multilateral response, and therefore, the Department of Justice supports the development of a multilateral counterdrug evaluation mechanism in this hemisphere. Building on the 1994 Summit of the Americas, the United States and its regional partners in the OAS have proposed a framework for enhanced multilateral counterdrug cooperation. The Administration expects to advance this concept of monitoring and evaluation at the April 1998 Summit in Santiago, Chile.

*Question.* I have been one of the Members of Congress pushing for the United States to aggressively pursue the extradition of drug lords so that they can be prosecuted to the full extent of the law. You state that in 1997 Mexico extradited 30 individuals to the United States for drug-related crimes. How many of these 30 were Mexican nationals? What were the countries of origin for the remaining persons?

Answer. A total of 23 fugitives for whom extradition was sought by the U.S. were surrendered by Mexico in 1997. Eight of them (seven extraditees and one expelled fugitive) were for drug-related offenses. Of the 23 fugitives surrendered, there were three Cubans, two Canadians, one British, one Israeli, and 16 U.S. citizens. No Mexican citizen was physically surrendered through the extradition process in 1997, although 10 Mexican nationals (from a total of 14 persons) were found extraditable in 1997, by the Government of Mexico. These 10 cases and a case of one other Mexican fugitive found extraditable in 1995 are now pending appeals or resolution of their Mexican charges. Five of those found extraditable in 1997, and the one found extraditable in 1995, are sought in the U.S. on drug trafficking charges. Two other significant Mexican traffickers, Florencio Blanco-Meza and Arturo Paez-Martinez, have been arrested for purposes of extradition to the U.S. One Mexican national has already been extradited in 1998, on sexual assault charges.

*Question.* What are the current plans for the extradition of foreign nationals this year? Could you give us the status of these proceedings to date?

Answer. The U.S. Government has approximately 120 active provisional arrest and extradition requests pending in Mexico. So far in 1998, Mexico has extradited three fugitives to the U.S.: a U.S. citizen on drug charges, a Spanish citizen for bank fraud, and a Mexican national for crimes of sexual assault on minors. They also expelled to the U.S. a U.S. citizen on bank (armored car) larceny charges. In November 1997, the U.S. and Mexico negotiated a protocol to their bilateral extradition treaty to authorize the temporary surrender of persons for trial purposes and their return after prosecution to complete the process or sentence against them in the country of their initial arrest. The protocol, although signed, has not yet been ratified.

#### COUNTERTERRORISM TECHNOLOGY R&D

*Question.* With the leadership of our distinguished Chairman, Senator Gregg, this Subcommittee began a significant counterterrorism initiative in the 1997 bill. These initiatives were greatly expanded for fiscal year 1998.

The 1998 Commerce, Justice, State, and the Judiciary Appropriations bill established a Counterterrorism Fund, providing \$52.7 million for several initiatives. The Fund included \$11.5 million to undertake a counterterrorism technology research and development program. The Subcommittee provided \$1 million for the Attorney

General, in consultation with other federal agencies, to develop a five-year, interdepartmental counterterrorism and technology crime plan.

Ms. Reno, can you provide the Subcommittee with a status report on the development of the counterterrorism and technology crime plan funded through the 1998 Commerce, Justice, State and the Judiciary Appropriations bill?

Answer. The Conference Committee Report accompanying the 1998 Justice Appropriations Act requires the Department of Justice to develop an interdepartmental Counterterrorism and Technology Five Year Plan by December 31, 1998. In response to this Congressional directive, representatives from the Department and the Federal Bureau of Investigation developed an ambitious 13-page outline of issues to be addressed in the final Five Year Plan. This outline has been circulated to other agencies with key counter-terrorism responsibilities and their comments have been incorporated into the outline.

A projected work plan has also been developed to assist the Department in meeting the deadline of December 31, 1998 for submission of the final Plan to Congress. In order to ensure the maximum amount of interdepartmental participation in the development of the Five Year Plan, a Core Agency Group, consisting of high ranking representatives of 15 other federal agencies which have various counter-terrorism responsibilities within the government, has been established to help develop the Plan. The Core Agency Group had its first meeting on March 5, 1998. Each agency was asked to complete a lengthy questionnaire soliciting information about current and anticipated programs, training, research and development projects, and projected resource needs in order to fight the perceived terrorist threat over the next five years. Responses to the questionnaire will form the basis of a discussion paper for use by specialized working groups to be constituted from experts identified within the Core Agencies.

The working groups will meet during the spring to address major areas of concern, such as crisis management, consequence management, cyber-terrorism, information sharing and intelligence, critical technologies/research and development. The working group discussions and recommendations will form the basis for developing an interim Plan that will be circulated to state and local officials, academic experts and experts in the private sector for review and discussion during the summer. The drafting of the final Five Year Plan will, therefore, reflect consultation with the major federal agency participants in efforts to combat terrorism as well as consultation with affected state and local representatives, and experts from academia and the private sector. As a result, the Department expects that the final Plan will be a truly comprehensive one.

*Question.* Has the Department submitted a prospectus with estimated time lines and major milestones for completion of this plan to the Committees as was requested by February 1?

Answer. The Department has submitted to the Committees the 13-page outline as well as an organizational chart and a chart of key dates and milestones for completion of specific phases of the project through submission of the Five Year Plan to the Committees.

*Question.* Do you anticipate consulting with Congress as this plan is developed? Would you expect to complete this plan by the end of this calendar year as directed by the Appropriations Subcommittees?

Answer. The Department recognizes the great interest that Congress has in the development of the Five Year Plan. Understanding this interest, the Department has been consulting with members of the Congressional Subcommittees, as well as with staff members of each subcommittee, in creating the outline for the Plan and discussing the proposed development of the Plan from that outline. The Department anticipates additional consultation with Congress as the Plan develops during the next several months at the working group level. The Department has developed the organizational plan and the work plan with the expectation that the final Plan will be completed and submitted to Congress by December 31, 1998. The breadth of the outline, as well as the directive to create a plan that is truly interdepartmental in nature, however, demonstrates that the project is an extremely ambitious one.

The Department is committed to working to complete the Plan and submit it to Congress by the end of this calendar year; the scope of the project and the amount of interagency coordination required to finalize a comprehensive Five Year Plan may make that deadline a challenging one to meet. We will advise the Subcommittees, as the project progresses during the next several months and as the various expert working groups meet to develop their recommendations, as to any necessary adjustments to the present timetable.

*Question.* How much is requested in the President's fiscal year 1999 budget for the Department of Justice to continue counterterrorism initiatives?

How does this compare to the funding provided for these programs in fiscal year 1998? Could you provide these estimates by agency and program?

Answer. The Department's fiscal year 1998 budget includes \$652 million related to counterterrorism/antiterrorism efforts, including prevention, investigation, prosecution, detention, and incarceration. This level reflects recent counterterrorism enhancements received in 1995, 1996, 1997, and 1998, as well as prorated segments of agency program resources related to, or supporting, counterterrorism activities. In 1999, the Department's counterterrorism-related resources total \$666 million. Attached is a chart that breaks out these resource levels, by agency and by function.

In addition, the following identifies the \$60.3 million in specific agency program enhancements requested in the 1999 budget related to counterterrorism and threats to the nation's critical infrastructure/cybercrime, as well as the current 1998 funding for these programs:

*Counterterrorism/cybercrime initiative*

The United States relies heavily upon its interconnected telecommunications and automated information systems for basic services such as energy, banking/finance, transportation, and defense. Any broadly successful effort by an individual, group, or country to disrupt, destroy, or deny access to the National Information Infrastructure (NII) could result in serious economic, defense, national security consequences. This threat is heightened by the increasing number of incidents of computer intrusions by individuals who, although possessing limited resources, have demonstrated the capability to compromise sensitive computer and telecommunications networks extensively.

1999 COUNTERTERRORISM AND CYBERCRIME INITIATIVE BY COMPONENT

	Positions	Agents/Attorneys	Amount
Federal Bureau of Investigation (FBI) .....	133	(75)	\$22,019,000
Criminal Division (CRM) .....	17	(13)	1,552,000
Attorney General's Counterterrorism Fund (CTF) .....			36,703,000
Total .....	150	(88)	60,274,000

CURRENT 1998 COMPONENT CYBERCRIME PROGRAM RESOURCES

	Positions	Agents/Attorneys	Amount
Federal Bureau of Investigation (FBI) .....	167	(99)	\$23,909,000
Criminal Division (CRM) .....	21	(16)	2,345,000
Attorney General's Counterterrorism Fund (CTF) <sup>1</sup> .....			
Total .....	188	(115)	26,254,000

<sup>1</sup> Of the \$52.7 million provided within the CTF in 1998, \$20 million is to be used for reimbursing Departmental components for extraordinary costs incurred in support of efforts to counter, investigate, or prosecute terrorism, and to restore the operational capabilities of offices destroyed or damaged by terrorist acts. The remaining \$32.7 million in 1998 funds will be used as follows: \$1 million to develop a comprehensive intergovernmental counterterrorism and technology strategy, \$10.5 million for counterterrorism research and development, \$16 million for State and local first responder training and equipment, and \$5.2 million for State and local bomb technician training at FBI's Hazardous Devices School.

The Department's 1999 budget includes \$60.3 million in additional funding for counterterrorism/cybercrime for the following:

*Cybercrime and Counterterrorism Investigations.*—The FBI's request includes 124 positions (75 agents) and \$11.6 million to establish six additional Computer Crime Squads in Atlanta, Boston, Charlotte, Miami, Minneapolis, and Seattle.

*Cybercrime/Counterterrorism Coordination, Threat Assessment, and Early Warning.*—The FBI's request includes 9 positions and \$10.4 million in additional resources for the National Information Protection Center (NIPC), formally the Computer Investigations and Infrastructure Threat Assessment Center. Of this amount, \$4.6 million is to conduct infrastructure vulnerability assessments and \$4.3 million is to develop a comprehensive Early Warning System. In addition, the request includes funding for training, Computer Crime Squad equipment, and staff to expand the operations of the Watch and Threat Analysis Unit.

*Legal/Technical Challenges.*—The Criminal Division's request includes 17 positions (13 attorneys) and \$1.6 million for the Computer Crime and Intellectual Property Section (CCIPS) to keep pace with the rapidly changing legal and technological environment associated with cybercrime cases. The Criminal Division plays a critical role in the federal effort to protect critical infrastructure, secure lawful use of the Internet, and respond to information warfare. The Division provides advice to and coordinates federal efforts with state, local and foreign governments.

*Implementation of the Recommendation of the President's Commission on Critical Infrastructure Protection.*—The Attorney General's Counterterrorism Fund request includes \$36.7 million, including \$33.6 million to implement the recommendations of the President's Commission on Critical Infrastructure Protection, including funding for the expansion of the NIPC and \$3.1 to ensure the continuance of essential DOJ/FBI functions during an emergency.

In addition to the requested enhancement, the Counterterrorism Fund includes \$16 million in recurred funding to continue efforts to equip and train state and local first responders to terrorist incidents.

#### DEPARTMENT OF JUSTICE COUNTERTERRORISM RESOURCES

[In millions of dollars]

Agency/component	Counterterrorism/antiterrorism by fiscal year			
	1996 budget	1997 budget	1998 enacted	1999 request
<b>Federal Bureau of Investigation:</b>				
Law enforcement and investigative activities .....	188	277	348	327
Preparing for and responding to terrorist acts .....	84	82	102	108
Physical security of government facilities and employees .....	5	9	8	8
Physical protection of national populace and national infrastructure .....	5	15	20	42
Research and development .....	2	4	4	4
Subtotal, FBI .....	284	387	482	489
<b>United States Attorneys:<sup>1</sup></b>				
Law enforcement and investigative activities .....	15	15	15	15
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....	10	14	14	14
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, USA .....	25	29	29	29
<b>Drug Enforcement Administration:</b>				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....		5	2	2
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, DEA .....		5	2	2
<b>Immigration and Naturalization Service:</b>				
Law enforcement and investigative activities .....	1	5	6	9
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....				

## DEPARTMENT OF JUSTICE COUNTERTERRORISM RESOURCES—Continued

[In millions of dollars]

Agency/component	Counterterrorism/antiterrorism by fiscal year			
	1996 budget	1997 budget	1998 enacted	1999 request
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, INS .....	1	5	6	9
United States Marshals Service:				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....	31	25	25	25
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, USMS .....	31	25	25	25
Federal Prison System:				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....	12	11	16	20
Research and development .....				
Subtotal, Federal Prison System .....	12	11	16	20
Tax Division:				
Law enforcement and investigative activities .....	1	1	1	1
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, TAX .....	1	1	1	1
Criminal Division:				
Law enforcement and investigative activities .....	6	8	9	10
Preparing for and responding to terrorist acts .....		1	1	1
Physical security of government facilities and employees .....	1	1	1	1
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, CRM .....	7	10	11	12
Civil Division:				
Law enforcement and investigative activities .....	1	1	1	1
Preparing for and responding to terrorist acts .....				

## DEPARTMENT OF JUSTICE COUNTERTERRORISM RESOURCES—Continued

[In millions of dollars]

Agency/component	Counterterrorism/antiterrorism by fiscal year			
	1996 budget	1997 budget	1998 enacted	1999 request
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, Civil .....	1	1	1	1
Community Relations Service:				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, CRS .....				
Office of Justice Programs:				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....		7	7	7
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....		10	12	10
Subtotal, OJP .....		17	19	17
Office of Intelligence Policy and Review:				
Law enforcement and investigative activities .....	3	4	4	4
Preparing for and responding to terrorist acts .....				
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, OIPR .....	3	4	4	4
Executive Office for Immigration Review:				
Law enforcement and investigative activities .....				
Preparing for and responding to terrorist acts .....		1	1	1
Physical security of government facilities and employees .....				
Physical protection of national populace and national infrastructure .....				
Research and development .....				
Subtotal, EOIR .....		1	1	1

## DEPARTMENT OF JUSTICE COUNTERTERRORISM RESOURCES—Continued

[In millions of dollars]

Agency/component	Counterterrorism/antiterrorism by fiscal year			
	1996 budget	1997 budget	1998 enacted	1999 request
<b>Counterterrorism Fund:</b>				
Law enforcement and investigative activities .....	14	24	16	.....
Preparing for and responding to terrorist acts .....	2	2	23	16
Physical security of government facilities and employees .....	1	2	1	3
Physical protection of national populace and national infrastructure .....	1	1	1	34
Research and development .....	.....	.....	12	.....
Subtotal, CTF .....	18	29	53	53
<b>JMD-Security and Emer. Planning Staff:</b>				
Law enforcement and investigative activities .....	.....	.....	.....	.....
Preparing for and responding to terrorist acts .....	2	3	1	2
Physical security of government facilities and employees .....	.....	.....	.....	.....
Physical protection of national populace and national infrastructure .....	1	1	1	1
Research and development .....	.....	.....	.....	.....
Subtotal, JMD-SEPS .....	3	4	2	3
Total, Department of Justice .....	386	529	652	666

<sup>1</sup>All U.S. Attorney figures are for specific CT enhancements received. Figures do not include pro-rated base estimates. Fiscal year 1999 level does not include the USA's request for Cybercrime, which will primarily be used to enhance USA's prosecution efforts in such areas as child exploitation/child pornography and more traditional computer-assisted or related crime.

## DEPARTMENT OF JUSTICE COUNTERTERRORISM/ANTITERRORISM RESOURCES

[Budget authority in millions of dollars]

Agency/component	Fiscal year—			
	1996	1997	1998	1999
Federal Bureau of Investigation .....	284	387	482	489
United States Attorneys .....	25	29	29	29
Drug Enforcement Administration .....	.....	5	2	2
Immigration and Naturalization Service .....	1	5	6	9
United States Marshals Service <sup>1</sup> .....	31	25	25	25
Federal Prison System .....	12	11	16	20
Tax Division .....	1	1	1	1
Criminal Division .....	7	10	11	12
Civil Division .....	1	1	1	1
Office of Justice Programs .....	.....	17	19	17
Office of Intelligence Policy and Review .....	3	4	4	4
Executive Office for Immigration Review .....	.....	1	1	1
Counterterrorism Fund .....	18	29	53	53
JMD-Security and Emer. Planning Staff .....	3	4	2	3
Total, Department of Justice .....	386	529	652	666

<sup>1</sup>USMS figures do not include physical security of U.S. Courthouses related to funding provided to USMS from the Judiciary Branch Appropriation.

## FIRST RESPONDER TRAINING

*Question.* With the leadership of our distinguished chairman, Senator Gregg, this subcommittee began a significant counter-terrorism initiative in the 1997 bill. These initiatives were greatly expanded for fiscal year 1998, again with strong leadership by our Chairman. The 1998 Commerce, State, Justice and the Judiciary Appropriations bill established a Counter-terrorism Fund, providing \$52.76 million for several initiatives. The Fund included \$21.2 million to improve State and Local Response Capabilities in cases of possible chemical or biological agents or explosive devices. This would be achieved through the purchase of equipment and gear for first responder training efforts by experts in the field.

What is the department doing to fully utilize facilities and expertise in First Responder Training for Weapons of Mass Destruction?

How do you envision this initiative getting some practical results—in other words, getting training out to the field so that our law enforcement agencies have the ability to respond to terrorists incidents if called upon?

*Answer.* In 1998, Congress provided \$21,200,000 in the Counterterrorism Fund to improve state and local response capabilities in case of possible chemical or biological agents or explosive devices. Of this amount, \$5,200,000 was provided for the FBI's Hazardous Devices School at Redstone Arsenal, Hunstville, Alabama. These funds will be used for the expansion and renovation of the Hazardous Devices School, which will allow the FBI to double the number of bomb technicians trained each year for improvised explosives and WMD matters. In addition, the funding will provide certain items and articles of equipment for response to improvised explosive devices by bomb squads, including Percussion Actuated Nonelectric disrupters, robots, and reference materials.

Congress also provided \$16,000,000 in the Counterterrorism Fund for first responder equipment and training, specifically: (1) \$12,000,000 to provide grants for acquisition of terrorism-related equipment for state and local agencies; (2) \$2,000,000 for support operations of the state and local training center for First Responders at Fort McClellan, Alabama; and (3) \$2,000,000 for operations of a similar training center at the New Mexico Institute of Mining and Technology. On March 26, 1998, I signed a memorandum delegating responsibility for these programs to the Assistant Attorney General, Office of Justice Programs.

OJP's long history and experience working with state and local jurisdictions provides the knowledge and infrastructure to effectively and efficiently administer these programs. OJP will work extensively with the FBI in curriculum development and determining state and local requirements for the equipment program. OJP will also coordinate its efforts with OJP's National Institute of Justice's Office of Science and Technology and Bureau of Justice Assistance, the Executive Office of National Security, and other Federal agencies as appropriate.

OJP has a long history of working with state and local agencies to administer and implement grant programs and has established strong, positive relationships with these jurisdictions. This, combined with OJP's proven record of designing and implementing anti-terrorism training for state and local jurisdictions, speaks strongly for OJP's ability to administer these initiatives and provide first responders with hands-on training, technical assistance and the field exercises required to prepare them to meet the challenges of responding to terrorist acts.

OJP will develop a comprehensive state and local assistance "umbrella" that will administer the new equipment program and the training initiatives at Fort McClellan, Alabama and at the New Mexico Institute of Mining and Technology, along with OJP's current \$5 million First Responder Training Program for Fire and Emergency Medical Personnel. This umbrella will provide a focused, responsive, long-term national capability to execute a comprehensive and highly coordinated first responder training, test, and exercise program.

OJP's efforts will also include the utilization of a consortium of universities, research institutions and other facilities that have resources and expertise critical to the success of any program designed to assist state and local jurisdictions respond to terrorist acts. Initially, OJP will coordinate efforts with the several university and research facilities included in the Conference Report. This will further ensure that appropriated funds are used in a coordinated and complementary manner. Further, such a consortium will provide OJP a means to identify and coordinate resources and expertise that exist at other universities and institutions across the nation.

OJP's existing grant-making infrastructure will enable it to effectively and efficiently develop and implement the equipment acquisition grant program, and will ensure these funds are obligated as quickly as possible. Such equipment will include protective gear and detection, decontamination and communications equipment.

These discretionary grants will be jurisdiction-specific and will be awarded based on guidelines and criteria being developed by OJP in cooperation with the FBI, which will consider the equipment needs of fire, emergency medical services, hazardous materials response teams, and law enforcement. This equipment list is also being coordinated with the National Fire Academy and the International Association of Fire Chiefs. OJP will provide necessary technical assistance to the applicant agencies to ensure that the equipment acquired through this program is the most appropriate and technologically advanced available. The demand for first responder equipment is tremendous; there are an estimated 3,000,000 to 5,000,000 first responders working across the Nation.

With respect to the training program under development at Fort McClellan, OJP is designing an incident management course for fire and command staff as well as a tactical considerations course for hazardous materials units and emergency medical personnel. OJP is in the process of determining what personnel should be trained at the Fort, although first responder training could be appropriate for state and local law enforcement, firefighters, emergency medical personnel, public works personnel, and state and local emergency management employees.

OJP is also working with the New Mexico Institute of Mining and Technology, which already has a training program in place, to establish agreements as to training curriculums, trainers and trainee groups. Based on its expertise in large-scale explosives, the Institute is well suited for explosives-related research and operational bomb-related training for state and local first responder personnel.

#### SPECIAL IMMIGRANT JUVENILE STATUS

*Question.* Attorney General Reno, last year this Subcommittee passed minor modifications to the Special Immigrant Juvenile Status provisions located in Section 101(a)(27)(J) of the Immigration and Nationality Act. Those modifications were intended to close a loop-hole in the law whereby individuals who the statute was not designated to protect were seeking and obtaining coverage.

Can you please update the Subcommittee as to the status of the implementation of those modifications and whether the new system is working more effectively?

*Answer.* In April 1997, the Immigration and Naturalization Service (INS) drafted and submitted proposed language to amend section 101(a)(27)(J) of the Immigration and Nationality Act (INA).

On November 26, 1997, legislation contained in section 113 of S. 1022, fiscal year 1998 Appropriations Bill, amending the Act was signed by the President.

INS is drafting field instructions for interim implementation of the amendments to section 101(a)(27)(J) and will issue these instructions shortly.

INS is also in the process of drafting interim regulations with a public comment period for publication in the Federal Register. INS is aiming to complete the drafting and review of the interim regulations in July 1998. INS will review comments and draft a final rule for publication in the Federal Register in December 1998.

#### BORDER PATROL DEPLOYMENT PLAN

*Question.* Ms. Reno, you state that since you became the Attorney General in 1993, Department of Justice budgets have increased 87 percent as Congress and the White House have waged the war against crime, illegal drugs, illegal immigration, youth crime and violence, and most recently, terrorism. Congress has funded dramatic increases in the numbers of Border Patrol agents within the Immigration and Naturalization Service (INS) over the past several years, and has worked with the Administration to ensure that they are deployed most effectively, even in the less heavily populated states such as New Mexico.

INS authorized employment has increased from 18,400 positions in fiscal year 1993 to 29,349 in fiscal year 1998. With the additional personnel proposed in the fiscal year 1999 budget, INS positions would increase by more than 13,000 over a seven-year period.

How many of the INS positions are Border Patrol positions, and would you provide the Subcommittee with a breakdown of the number of Border Patrol agents funded, the number trained and deployed, and where those deployments took place by region and state?

*Answer.* In 1993, of the total 18,130 INS positions, 4,863 were Border Patrol positions. Of the total 28,894 INS positions in 1998, 9,351 (w/enhancements) are Border Patrol positions. Border Patrol positions consist of agents, administrative support, radio technicians, mechanics, and other maintenance operations support personnel. The number of funded Border Patrol agent positions (including pilots) in 1993 were 4,288 and in 1998 the number is 7,947, including the 1,000 new agents. This meets President Clinton's goal of 7,000 Border Patrol Agents by fiscal year 1998.

## NEW AGENTS TRAINED AND DEPLOYED BY REGION AND STATE

[Fiscal year 1994–1998 Proposed]

	1994	1995	1996	1997	1998
Eastern Region: Puerto Rico .....					
Central Region:					
Texas .....		328	100	360	625
New Mexico .....	50	15	31	76	45
Western Region:					
Arizona .....		128	251	228	196
California .....	300	229	428	328	134

Note.—There were no new deployments in fiscal year 1993 by the Border Patrol.

*Question.* I thank you for the work you have done to be sure that the El Paso sector, which covers New Mexico, receives adequate personnel, and I hope the Department of Justice, and especially INS, will continue to focus on an overall border strategy, considering the needs of New Mexico and Arizona, as well as the larger states of Texas and California.

The Committee is currently reviewing the proposed INS deployment plan for fiscal year 1998. What is the major thrust of the proposed plan, and how do you envision it as a component of an overall southwest border strategy over the next several years?

Do you think the plan is balanced in its approach to the problems along the border and to providing southwest border states, including New Mexico, the resources they need to address these situations?

*Answer.* The major thrust of the fiscal year 1998 deployments is to target resources to counter the current high priority areas of illegal entry attempts as well as anticipating shifts in the flow of illegal traffic into previously little-used stretches of the border including eastern California, New Mexico and the south Texas border. The overall southwest border strategy for the Border Patrol continues to be gaining control of the border by concentrating resources in the busiest illegal entry corridors first. The challenge for the INS over the next several years will be to gain and maintain control of the major corridors as neighboring areas experience significant growth in illegal alien traffic and as smuggling organizations seek new entry routes. The overall strategy must also include a commitment to providing new resources at the border ports-of-entry and to stronger enforcement in the interior of the United States in order to ensure a balanced and comprehensive approach to the prevention and deterrence of illegal immigration. The National Border Control Strategic Plan was developed to ensure that all of the Nation's border is provided with the resources necessary to gain and maintain control of illegal entries into the United States. The systematic and phased approach in the deployment of significant resources is sound and has proven that significant improvements can occur and will continue to do so in control of illegal immigration at the border.

There must be a balanced approach to addressing illegal immigration occurring along the border. A premise of the Border Patrol's National Strategic Border Control plan is that every area of the border must be addressed and that every area is an integral part of the national plan to ensure that the entire border is controlled against illegal entry. The INS plan is a balanced plan with the appropriate systematic deployment of resources to the areas with the highest levels of illegal entries first and continuing the deployments to other locations has control is gained in those areas. The New Mexico border has been targeted within the INS plan for additional resources over the last two years due to the increase in illegal alien traffic coming from west Texas and eastern Arizona. Operation Rio Grande is also currently enhancing border enforcement throughout Texas and New Mexico and will continue to do so as permanent staffing is deployed to these areas in 1998.

*Question.* Ms. Reno, in the proposed deployment plan, the El Paso sector is slated for 45 Border Patrol positions, and 6 support positions. The Department indicates that the majority of the positions are slated for New Mexico, and especially for checkpoints, including those in Deming and Lordsburg. How many agents and support positions are specifically envisioned for New Mexico in the current deployment plan of INS for the Border Patrol?

*Answer.* The current deployment plan includes 45 Border Patrol agents and 1 support position to be assigned to stations located within the State of New Mexico. This new deployment will bring the total number of agents assigned to New Mexico stations up to 476. This new agent level in New Mexico stations represents 48 percent

of the total 991 agents assigned to the El Paso Sector. In addition to these new deployments, the Border Patrol currently has Operation Rio Grande underway which targets enhanced border enforcement along the Texas and New Mexico border. The INS will be closely monitoring border conditions as this operation progresses and is prepared to respond if necessary with additional overtime and a detail of agents to New Mexico border stations.

*Question.* What is the INS rationale for this level of personnel for New Mexico out of the 1,000 new agents and additional INS positions that are funded for fiscal year 1998? Do you think the plan treats New Mexico fairly?

*Answer.* The National Strategic Plan, developed in 1994, outlines a method by which INS will regain acceptable levels of control over the border. This is done by focusing resources in prioritized target areas, and remaining in those areas until each has reached the desired level of management. This incremental approach to targeted enforcement has been very successful in areas such as El Paso, Texas and San Diego, California.

Last year, the Central Region of INS developed a Texas/New Mexico Enforcement Strategy. The Central Region initiated enforcement efforts in McAllen and Laredo, Texas (Central Region's Corridor I area) with the commencement of Operation Rio Grande. The deployment of enhancements into Central Region is heavy in the Corridor I area in order to support the Rio Grande strategy. Operation Rio Grande is working and acceptable levels of control in the Central Regions primary corridor are on the horizon. New Mexico is part of the Central Region's enforcement strategy, and will become the primary target focus of the strategy as acceptable levels of control are gained, incrementally, inland from the Gulf of Mexico.

The plan is fair to New Mexico, in that, if we do not hold to the strategy and were to begin diluting our resources, New Mexico would receive more personnel in the short term, but the long-term impact would be a lack of acceptable control across the border.

*Question.* Were this deployment to be completed, how many Border Patrol agents and INS personnel will be serving in New Mexico, and where would these people be deployed? Could you justify this allocation based upon caseload factors, areas to be covered, etc, and provide that information for the hearing record?

*Answer.* Provided below are the staffing levels anticipated upon the completion of the 1998 deployments to the Border Patrol stations located in New Mexico:

*Border Patrol Agents (includes supervisory personnel)*

Las Cruces .....	127
Alamogordo .....	76
Santa Teresa .....	127
Deming .....	83
Lordsburg .....	34
Albuquerque .....	4
Carlsbad .....	6
Silver City .....	2
Truth or Consequences .....	17

Provided are the staffing levels anticipated upon the completion of the 1998 deployments to the INS offices located in New Mexico:

*Investigations*

Albuquerque—1 Officer in Charge; 1 Assistant Officer in Charge; and 13 Criminal Investigators.

*Inspections*

Albuquerque—1 Immigration Inspector.  
 Santa Teresa—3 Immigration Inspector.  
 Columbus—1 Senior Inspector; 1 Special Operations Inspector; 1 Supervisory Inspector; and 8 Immigration Inspectors.

*Detention and Deportation*

Albuquerque—1 Deportation Officer and 3 Deportation Enforcement Officers.

*Adjudication*

Albuquerque—3 District Adjudication Officers.

The goal of the Central Region Strategy and Operation Rio Grande is to positively impact on the greatest number of people living and working along the border by incrementally achieving acceptable levels of control along the entire southwest border. To achieve the greatest impact, Central Region prioritized high population areas that were experiencing high levels of illegal immigration. New Mexico is less popu-

lous than Texas and has fewer large metropolitan areas impacted by the illegal border crossing problem. The remote nature of New Mexico's border with Mexico has deterred the high levels of illegal border activity experienced in the cities of McAllen, Laredo, and El Paso. As of February 23, 1998, Central Region Border Patrol Stations apprehended a cumulative total of 53,492 illegal aliens. Of these, 27,589, (51.5 percent) were at stations in Corridor I, while 6,278 (11.7 percent) were apprehended at Border Patrol Stations in New Mexico.

*Question.* Are you confident that INS will implement this plan as developed in consultation with the appropriate committees of the Congress?

*Answer.* The INS has successfully demonstrated over the past four years that the Border Patrol will deploy the new agents and support as planned. The Service is confident that with the experiences learned during this time that the implementation of the 1998 deployments will be successfully accomplished. Due to uncertainties associated with the constant changes in conditions on the border, it may become necessary to make adjustments to the proposed plan during the year. However, no permanent changes to the proposed plan will be made without the prior notification and approval of the appropriate committees of Congress.

#### REDEPLOYMENT OF BORDER PATROL AGENTS

*Question.* Ms. Reno, as part of our action on the 1996 Commerce, Justice, State, and Judiciary Appropriations bill, Congress assumed the redeployment of 200 Border Patrol agents from interior offices to the border. I think the rationale is valid in that Border Patrol agents are highly trained law enforcement personnel who should be doing the job they are trained to do. However, these Border Patrol agents also carry out vital work in the interior of our states.

I understand that the Department is currently working on an Integrated Interior Enforcement Strategy, and that the 1999 budget includes \$115 million to support 745 new positions to specifically address illegal immigration in the interior of the United States.

How does the Department envision the Integrated Interior Enforcement Strategy helping secure the southwest border?

*Answer.* A systematic approach to broad-based immigration enforcement throughout the United States will help reduce incentives for illegal migration and illegal activities, as well as remove individuals unlawfully present in the country. This will have two major results: To promote national security, public safety, economic and social systems security, and preservation of constitutional rights; and to help secure the border, including the southwest border, by making it more difficult for illegal migrants to become securely established in the United States, thus making it less attractive and profitable to attempt illegal entry.

*Question.* Ms. Reno, do you believe there is a valid role for the Border Patrol in some of our interior cities? What do you see that role to be?

*Answer.* The first and foremost enforcement priority for the Border Patrol is control of our borders, and we are making good progress in that direction. Border Patrol agents have been effective working with INS investigators in the interior of the country, and INS will continue to use them in a limited, supporting role. The closer Border Patrol agents are to the immediate border they are charged with protecting, the more effective they are.

There is no question that interior enforcement operations conducted by uniformed agents send a message to alien smugglers that there is depth to INS enforcement efforts. Border Patrol traffic check and transportation check operations are effective means of locating smuggled loads of aliens and drugs and provide a deterrent effect at the border. INS investigators are the most effective resource for locating illegal alien criminals, smugglers and those employed illegally in the interior of the country.

*Question.* What is the anticipated schedule for completing the Integrated Interior Enforcement Strategy? What is the anticipated schedule to implement this plan?

*Answer.* On September 17, 1997, INS contracted for a study to develop a series of options to be considered in building an INS Interior Enforcement Strategy. INS submitted an interim report to Congress on April 6, 1998. Based on the recommendations of the study, INS will submit a final report on its comprehensive, integrated interior enforcement strategy. INS expects to complete this task during the summer of 1998. Implementation of the plan should occur in fiscal year 1999.

#### LAW ENFORCEMENT IN INDIAN COUNTRY

*Question.* I am pleased to see the Administration's focus on the law enforcement situation in Indian Country, and its efforts to have the Bureau of Indian Affairs (BIA) and the Department of Justice agencies work together on this issue. The De-

partment of Justice budget highlights a request of \$157.5 million in new and redirected funds as part of a joint \$182 million initiative with the Department of Interior and BIA to address the public safety situation on Indian lands.

Ms. Reno, could you please provide the Subcommittee with an analysis of the new funding in the 1999 budget to be targeted to the Indian Law Enforcement Initiative?

Answer. New funds for this initiative for the Department of Justice total \$51,475,000. In addition, BIA is requesting \$25,000,000 in new funding. The Department of Justice increases are summarized below:

- \$4,657,000 and 50 positions (including 30 agents) for the FBI, to be dedicated to investigations in Indian Country. To improve the investigation of violent crime in Indian Country, including homicides, child physical and sexual abuse, and gang-related criminal activity, the FBI requests positions to implement two new Safe Trails Task Forces and enhance four current task forces. These additional positions will be assigned to the Minneapolis, Phoenix/Albuquerque, Salt Lake City, Oklahoma City, Las Vegas, and Seattle field offices.
- \$3,352,000 and 31 positions for full-time Victim/Witness Coordinators to be assigned to FBI resident agencies with jurisdiction that includes Indian Country. The Victim and Witness Protection Act of 1982, Crime Control Act of 1990, and Violent Crime Control and Law Enforcement Act of 1994 require the federal criminal justice system to respond to the needs of crime victims and witnesses. The 1995 Attorney General Guidelines for Victim and Witness Assistance established procedures for implementation of these laws by federal investigative, prosecutorial and correctional personnel. The Attorney General Guidelines apply in all FBI cases in which individual victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity. The FBI developed a comprehensive plan to implement the Attorney General Guidelines, which includes a detailed list of duties to be performed by FBI Victim/Witness Coordinators. While the Victim/Witness Coordinator position is primarily a collateral duty in the FBI, increases in violent crime, especially gang violence, homicides, and crimes against children, dictate that additional full-time Victim/Witness Coordinators are needed in Indian Country.
- \$3,466,000 and 35 positions (including 26 attorneys) in support of the violent crime programs of the offices of the United States Attorneys with significant areas of exclusive federal criminal jurisdiction. Federal investigation and prosecution of most felonies in Indian Country cannot be deferred to a local (county or state) jurisdiction. Federal law enforcement is both the first and the only avenue of protection for the victims of these crimes. Local jurisdiction applies only when both victim and offender are non-Indians. Like the United States Attorney for the District of Columbia, United States Attorneys in Indian Country are effectively district attorneys for the citizens in their districts; they have the sole responsibility for prosecuting all major crimes committed by or against Indians on the reservations in their districts. Additional positions are needed if the Federal Government is to make a serious and sustained effort to meet its jurisdictional responsibility to Indian peoples.
- \$20,000,000, part of the \$95,000,000 request for the Office of Justice Programs, Juvenile Crime Control and Prevention, Title V At-Risk Children's Grants Program, will be directed to a new juvenile justice prevention and intervention initiative in Indian Country. Juvenile crime is a growing problem in Indian Country. This initiative will improve coordination and cooperation among tribal governments, federal agencies, and other organizations serving Indian youth by developing, enhancing, and supporting operations of tribal juvenile justice systems, targeting alcoholism and substance abuse. It will also focus on reducing the incidence of crimes against children in Indian Country. Working with tribal justice systems, programs will be tailored to fit the needs of Indian communities. Programs could include after-school and tutoring programs; Tribal courts and Teen Court activities and training; youth shelters; treatment and intensive supervision services; child abuse and neglect prevention, intervention and treatment services; job readiness and skill building; legal advocacy for Indian youth; and technical assistance and training, among other activities.
- \$10,000,000 of the \$85,000,000 requested for a new Drug Testing Initiative in 1999 will be targeted for Indian Country. As used here, the term "drug" includes alcohol. The Drug Testing Initiative will be a discretionary grant program and will provide funding primarily to local units of government and Indian tribes for the planning, implementation and enhancement of comprehensive programs of drug testing, drug treatment, and graduated sanctions for individuals within the criminal justice system. Research has shown that when drug testing is combined with effective interventions, drug use can be curtailed within the criminal justice population. Further, recent studies demonstrate that

drug-dependent individuals who receive comprehensive treatment decrease their drug use, decrease their criminal behavior, increase their employment, improve their social and interpersonal functioning, and improve their physical health. Funding would be available to Tribes for planning, implementation, and enhancement of comprehensive drug and alcohol treatment programs; training and technical assistance; and program evaluation.

- \$10,000,000 for discretionary grants to assist tribal governments in the development, enhancement, and continuing operation of tribal judicial systems. Tribal courts are an integral part of the criminal justice system in Indian Country, and have experienced tremendous workload increases in the past few years. This grant program will assist tribal courts by providing financial and technical assistance for federally-recognized Indian tribal governments for tribal judicial systems; by providing training for federal, state, and tribal court personnel; and by promoting cooperation and coordination among tribal justice systems and the federal and state judiciary systems.

*Question.* Could you also please provide the Subcommittee with an analysis of the funds that will be redirected to this initiative from within the Department if that is indeed the case? From the Department of Interior, and specifically BIA?

Answer. Funds will be redirected from two grant programs within the Department of Justice for this initiative: the Community Oriented Policing Services (COPS) program and the Office of Justice Programs, Correctional Facilities Grants Program. Redirected funds, totaling \$106,000,000, are as follows:

- \$52,000,000 of the \$711,000,000 requested for the Correctional Facilities Grants Program in 1999 is targeted for construction and renovation of detention facilities in Indian Country. There are 71 detention facilities in Indian Country, most of which are in such poor condition that they do not comply with building codes or professional and Bureau of Indian Affairs standards. These inadequate jail structures contribute to high suicide rates among Indian detainees. Most Indian Country jails are extremely crowded, and some Tribes lack facilities altogether and must transport prisoners to other locations. Since tribal officers usually transport these prisoners, police availability for other law enforcement functions is reduced further. Correctional Facilities Grants Program funding is needed to improve detention in Indian Country by constructing, renovating, and repairing Indian Country detention facilities.
- \$54,000,000 of the \$1,420,000,000 requested for the COPS program in 1999 will promote community policing and will improve law enforcement capability on Indian lands. A total of 6 positions and 3 workyears are also requested to administer this program. As of February 1998, the COPS program has funded over 700 officers in Indian Country. In light of the continuing and pressing need for additional uniformed officers in Indian Country, the COPS program will expand its focus on Tribal needs. Grants and cooperative agreements will be for the hiring or rehiring of additional career law enforcement officers for deployment in community policing, for additional grant projects as authorized by law, and for other purposes (including the procurement of essential equipment, technology, and training) directly enhancing the capabilities of tribal law enforcement officers and their agencies.

The funds included in the Initiative by the BIA are new monies requested for fiscal year 1999. The BIA will focus the core of its \$25,000,000 request on providing additional trained and equipped law enforcement and detention personnel in Indian Country in areas not addressed by the Department of Justice (such as BIA-operated law enforcement programs on reservations). This will allow both agencies to maximize Federal funds without duplicating services. The BIA will also implement a change in its budget and line authority in fiscal year 1999 to ensure a professional law enforcement and detention structure realigned under the Director, Office of Law Enforcement Services, BIA.

*Question.* Did the Administration seek the input of the nation's tribal leaders as it developed this law enforcement initiative?

Answer. Yes. On August 27, 1997, the President directed the Secretary of the Interior and me, working in conjunction with tribal leaders, to analyze law enforcement problems on Indian lands and suggest ways for improving public safety and criminal justice in Indian Country. To carry out the President's directive, we formed an experienced, interdepartmental "Executive Committee for Indian Country Law Enforcement Improvement." One third of the 18 Executive Committee members were tribal leaders who represent diverse interests, cultural backgrounds, and geographic areas. In addition, at the request of the Executive Committee, U.S. Attorneys led an unprecedented series of tribal consultations on Indian Country law enforcement across the country during September and October 1997. In the lower 48 states, more than 205 Tribes participated in these consultations. In addition, an offi-

cial from the Department of Justice's Office of Tribal Justice met with tribal leaders at the annual Alaska Inter-tribal Council Conference. This funding initiative results from these efforts.

*Question.* What do you see as the highest priority need for law enforcement resources in Indian Country?

*Answer.* The law enforcement needs in Indian Country center around building a capable, trained, and equipped investigator and uniformed officer cadre that is commensurate in size with other non-tribal areas of the country that have similar population densities. In addition, however, we need to keep our focus on the entire criminal justice system needs, which include crime prevention and intervention efforts, substance abuse treatment, and detention. Our highest priority should be to maintain a balanced approach to improvements by providing fully equipped and trained uniformed officers; FBI and BIA criminal investigators, FBI Victim Witness Coordinators; Assistant U.S. Attorneys; detention facility construction, renovation and repair funding; funding for Juvenile Justice, substance abuse testing and treatment, and assistance to tribal courts.

#### JUVENILE CRIME

*Question.* Please further explain the Administration's proposed new Grants to Prosecutors' Offices to Target Gang Crime and Violent Juveniles program. How would states qualify to receive funding under this new program? How precisely would states use the new grant money?

*Answer.* This new program, known as the Prosecutorial Initiatives Program, will be a discretionary grant program which will solicit requests for funds directly from state and local prosecutors' offices. Applications will then compete against each other so that the most highly qualified receive funding. Specific program guidelines would be prepared once appropriations have been provided. With these funds, prosecutors' offices would be able to enter into partnerships with school officials, probation officers, social service professionals and community members to develop and implement programs targeting gangs, gang violence and other violent crime, as well as implement strategies to attempt early identification of youth at high-risk of joining gangs or committing violent crimes. Prosecutors' offices would also be able to hire new gang prosecutors to deal specifically with juvenile violence crime cases, thereby speeding up the prosecution of violent juvenile offenders.

*Question.* Please provide your estimate of how many new prosecutors would be funded by the Administration's proposed new \$50 million Community Prosecutors Program?

*Answer.* Of this amount, at least 80 percent, or \$40 million, is available for hiring prosecutors. At an average of approximately \$60,000 each, about 650 prosecutors could be hired.

*Question.* I understand that the Administration has proposed to restructure current Juvenile Justice Programs. Please provide a detailed description of how this would work.

*Answer.* On February 17, 1997, the President announced a broad initiative aimed at mounting a full scale assault on juvenile crime and youth violence in America. The Administration's proposal was transmitted to the Congress on February 25, 1997 as part of its "Anti-Gang and Youth Violence Act of 1997." As part of that initiative, the Administration proposed changes to the current structure and programs of the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP). OJJDP is the principal Department component with responsibility for assisting state and local jurisdictions improve and better administer their juvenile justice systems, help at-risk youth, and further assist state and local jurisdictions prevent and control juvenile crime and violence. OJJDP also has the responsibility for working with other Federal agencies to provide for a coordinated Federal approach to juvenile justice issues.

Under the Administration's proposal, states and local governments, Indian tribal governments, and non-profit organizations would be given increased flexibility in accessing and using Federal juvenile justice grant funds, while still ensuring that monies are targeted to places that need the most help and to programs and activities that work. Specifically, this proposal:

- Restructures many of OJJDP's categorical grant programs (e.g.: gangs, mentoring, etc.) into one flexible discretionary grant program. This would allow individual communities to receive assistance unique to their needs and would also allow OJJDP to target funding to programs aimed at addressing critical issues.
- Provides very specific funding to prevention programs through an at-risk children's initiative. This component is based on the recognition of the important

- role that prevention—particularly programs targeted to after-school activities—plays in reducing juvenile crime.
- Provides that 10 percent of all monies expended be used to fund and support research and evaluation efforts. This is in recognition that the Federal government has a fiduciary responsibility to ensure that monies are spent wisely based on knowledge of which programs work and which do not work. Further, an additional 2 percent of monies expended is dedicated to providing training and technical assistance to states and localities to assist them in planning and developing potential solutions to the issues they are confronting.
- Eases the requirements States must meet—specifically in regards to the housing of juvenile offenders—to obtain Federal funds.
- Creates a separate program for Indian tribal governments, which would provide targeted assistance to these communities while recognizing and protecting tribal sovereignty.

*Question.* I believe that one of the most important juvenile crime issues facing the country is how to deal with juveniles who commit serious violent crimes.

Does the Administration agree that as a condition of receiving any Federal funds, states should be required to prosecute as adults juveniles over age 14 who commit serious violent crimes?

*Answer.* The Administration shares your opinion that juveniles who commit serious violent crimes pose an important challenge to our nation. And clearly, some juveniles should be tried as adults, especially if they have had their chances in delinquency court and flouted that court's efforts to help them. But the question of which juveniles in the state court system should be tried as adults, and under what circumstances, ought to be a matter of state determination. Indeed, nearly every State has already reformed its law in this area in the last few years. The Administration does not believe that additional instruction from Washington is needed.

#### RADIATION EXPOSURE COMPENSATION

*Question.* Ms. Reno, as you are aware of my longstanding interest in implementation of the Radiation Exposure Compensation program, which I authored and for which I have sought sufficient funding to fulfill its purpose of compensating those who have sustained injury as a result of the United States open-air nuclear testing and uranium mining activities in the 1950's through 1970's.

The President's fiscal year 1999 budget includes \$2 million to administer the radiation exposure compensation program, and \$11.7 million for the Radiation Exposure Trust Fund from which payments are made. I am pleased to see the Administration continue its support of this program.

Congress has appropriated approximately \$200 million to the Trust Fund established under the Radiation Exposure Compensation Act.

How many claims has the Department approved and how much has been spent out of the Trust Fund to pay these claims?

*Answer.* From the inception of the Program in April 1992 through February 1998, the Department has approved a total of 2,933 claims valued at over \$216 million.

*Question.* What is the current balance in the Trust Fund with which to pay claims during fiscal year 1998? How many claims are currently pending for compensation from the Radiation Exposure Compensation Trust Fund? Is the amount currently available in the Trust Fund sufficient to pay claims for the remainder of the fiscal year?

*Answer.* At the end of February 1998, the Radiation Exposure Compensation Trust Fund had a balance of approximately \$28 million. At that time, 272 claims and appeals were pending. The amount in the Trust Fund is sufficient to pay claims for the remainder of fiscal year 1998.

*Question.* Congress provided an advance appropriation of just under \$16.3 million for fiscal year 1997 for the payment of these claims, and another \$4.4 million was approved in the 1998 bill. Would you please provide the Subcommittee with updated information on the number of claims approved for payment from the Trust Fund, the average amount of the claims approved, the number of claims denied, and the general reason for denial of these claims?

Do you believe the amount requested for fiscal year 1999 is sufficient to continue the processing of pending and anticipated claims under the Radiation Exposure Compensation Act for the full period of fiscal year 1999?

*Answer.* Through February 1998, a total of 2,933 claims were approved—with an average value of \$73,810—and 3,193 claims were denied. Claims are denied if one or more of the following eligibility criteria are not met: disease, exposure and identification of the proper party to file a claim. Downwinder and onsite participant claims are most frequently denied for failure to establish a compensable disease.

Most uranium miner claims are denied because documentation does not establish exposure to the requisite amount of radiation during the course of underground uranium mining employment.

The amount requested for fiscal year 1999 is sufficient to continue the processing of pending and anticipated claims filed under RECA. The request amount is based on assumptions regarding the number of claims approved. The projections took into account historic trends in the receipt and approval of applications as well as the impact of pending regulatory changes and statutory changes proposed by the Administration.

—The major regulatory changes would (1) allow high-resolution computed tomography as proof of non-malignant respiratory disease, (2) allow biopsies as proof of lung cancer, (3) consider any former smoker who ceased smoking 15 years before diagnosis of certain compensable diseases to be a non-smoker, and (4) define pulmonary impairment standards that are consistent with the recommendations of the American Thoracic Society.

—The projections for 1999 also assumed that Congress would enact changes to the Radiation Exposure Compensation Act that were proposed by the Administration one year ago. The proposal would (1) define eligibility criteria for some uranium miners to qualify for partial compensation, (2) add two new sets of exposure criteria for lung cancer, (3) extend compensation for silicosis or pneumoconiosis to all miners, and (4) expand the list of compensable diseases for downwinders and onsite participants. Should this legislation be enacted, there would be an initial surge of claims received and approved. With the straightforward applications being processed first, the number of claims approved would balloon in 1999, tapering off thereafter.

The pending 1999 request for \$11,717,000, when combined with balance expected to be available in the beginning of the year of \$18,941,000 and anticipated interest earnings, will be sufficient to cover the \$31,233,000 in payments that would be made under an amended Act and revised regulations. Although the regulatory changes are progressing, with implementation possible as soon as April 1998, the statutory changes have yet to be sponsored.

#### RADIATION EXPOSURE COMPENSATION TRUST FUND

[Dollars in thousands]

	1997	Est. 1998	Est. 1999
Starting Balance .....	\$14,502	\$28,952	\$18,941
Plus New Appropriation .....	30,000	4,381	11,717
Plus Interest Earnings .....	332	633	575
Minus Payments .....	– 15,882	– 15,025	– 31,233
Ending Balance .....	28,952	18,941	.....

*Question.* For the record would you please provide the Subcommittee with a breakdown of the types of claims approved or disapproved (childhood leukemia, other downwinders, onsite participants, or uranium miners), the number of claims currently pending, and the amounts disbursed by type of claim paid?

For my use, would please provide the same information specifically for claims from New Mexico, including the total claims received, the total claims approved, the total claims denied, and the total claims pending?

*Answer.* The following table lists, by category, the total value of the awards approved by the Radiation Exposure Compensation Program, as well as the number of claims and appeals received, approved, disapproved and pending at the end of February 1998.

#### RADIATION EXPOSURE COMPENSATION PROGRAM—APRIL 1992—FEBRUARY 1998

	Value of Awards	Claims Received	Initially Approved	Initially Dis-approved	Appeals Received	Appeals Approved	Appeals Dis-approved	Ending/Pending	
								Claims	Appeals
Childhood leukemia ..	\$1,100,000	41	22	19	9	.....	8	.....	1
Other downwinder ....	69,620,000	2,608	1,372	1,153	203	21	179	83	3
Onsite participant ....	11,573,213	868	157	679	144	13	127	32	4

## RADIATION EXPOSURE COMPENSATION PROGRAM—APRIL 1992–FEBRUARY 1998—Continued

	Value of Awards	Claims Received	Initially Approved	Initially Dis-approved	Appeals Received	Appeals Approved	Appeals Dis-approved	Ending/Pending	
								Claims	Appeals
Uranium miner .....	134,191,500	2,865	1,252	1,472	318	96	214	141	8
Total .....	216,484,713	6,382	2,803	3,323	674	130	528	256	16

With respect to claims for which the primary claimant resides in New Mexico, the Department has approved 346 claims, with a total value of over \$34 million. The following table lists, by category, the value of the awards and the number of claims and appeals received, approved, disapproved and pending at the end of February 1998.

## RADIATION EXPOSURE COMPENSATION PROGRAM—NEW MEXICO—APRIL 1992–FEBRUARY 1998

	Value of Awards	Claims Received	Initially Approved	Initially Dis-approved	Appeals Received	Appeals Approved	Appeals Dis-approved	Ending/Pending	
								Claims	Appeals
Childhood leukemia ..	\$50,000	1	1	.....	.....	.....	.....	.....	.....
Other downwinder ....	250,000	15	5	9	2	.....	2	1	.....
Onsite participant ....	600,000	31	7	23	6	1	5	1	.....
Uranium miner .....	33,134,500	923	299	566	112	33	74	58	5
Total .....	34,034,500	970	312	598	120	34	81	60	5

*Question.* Does the Administration have any long-range estimates as to the number of claims that might still be filed under the Radiation Exposure Compensation Act?

*Answer.* It is difficult to estimate with precision the number of claims that might still be filed under the existing Radiation Exposure Compensation Act. The only long-range projections of which we are aware were developed in early 1997 for the President's Human Radiation Interagency Working Group. These estimates of potential awards pertained to miners with lung cancer claims. They were based on relative-risk models using the New Mexico and Colorado Plateau cohorts. Under the existing Act, about 440 additional awards to miners with lung cancer would be expected to be approved by the termination of the Trust Fund in 2012. If the Act is amended as proposed, over 1,000 additional awards were estimated to be made through 2012.

## DISTRICT COURT RULING IN THE LINE ITEM VETO CASE

*Question.* Attorney General Reno, as you know, the Federal District Court for the District of Columbia has recently held that the Line Item Veto Act is unconstitutional. Your office has filed an appeal and I understand that we might have a decision from the Supreme Court as early as this June. In the meantime, Congress will continue to legislate and many citizens will wonder about the status of the laws (and the related spending) affected by the President's exercise of the cancellation authority granted to him under the Act.

Can you please tell the Subcommittee what your office will advise the Office of Management and Budget and the President with respect to the effect of the District Court's ruling upon the items which the President has canceled?

*Answer.* During the pendency of the appeal, the particular cancellations that are directly at issue in the appeal will remain in effect. Likewise, all other existing cancellations will remain in effect. The District Court declared the Line Item Veto Act unconstitutional, but did not issue an injunction. Thus, the Government is "free to continue to apply the statute." *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 155 (1963) ("There was no interdiction of the operation at large of the statute. It was declared unconstitutional, but without even an injunctive sanction against the application of the statute by the Government to [the plaintiffs]. Pending review \* \* \* in [the Supreme] Court, the Government has been free to continue to apply the statute.").

*Question.* During the pendency of the appeal, what is your position on the ability of the President to use the authority under the Line Item Veto [Act] on any legislation which the Congress might place before him during this interim?

Answer. The President retains his authority under the Line Item Veto Act during the pendency of the appeal. He reserves the right to exercise that power when necessary until the Supreme Court decides the appeal.

*Question.* Assuming that the Supreme Court upholds the District Court and finds that these appellees have standing and that the Line Item Veto Act is unconstitutional, what will be your position with respect to the practical effect of such a holding upon the items which the President has canceled?

Will the funds become available for obligation?

Will HCFA permit the State of New York to make use of its provider taxes?

Will the tax benefits become available to the affected taxpayers?

Answer. The effects that might follow from a Supreme Court decision striking down the Line Item Veto Act in whole or in part depend upon the Supreme Court's judgment and its reasoning. We will review any Supreme Court decision carefully before determining whether such a ruling nullifies existing cancellations and, if so, whether cancelled funds and/or tax benefits then become available. We will of course abide by the judgment of the Supreme Court.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHORSE CAMPBELL

FIREARMS

*Question.* Firearms being stolen and stolen guns being used in the commission of crimes are serious problems nationwide. What action is the Justice Department taking to address these issues?

The Brady Bill calls for the establishment of a permanent National Instant Criminal Background Check System to be accessed by federal firearms licensees before transferring any firearm to nonlicensed individuals.

The law requires that the permanent system be established by November 30, 1998. Will this instant check system be ready on time, and be able to deliver on-line instant responses?

Answer. The National Instant Criminal Background Check System (NICS) will be established by November 30, 1998. Users will be able to receive an on-line instant response within 30 seconds.

*Question.* The provisions of sections 922(g) and (n) of the Gun Control Act, as amended by the Violent Crime Control Act of 1994 and the Omnibus Consolidated Appropriations Act of 1996, prohibit the sale of 10 specified groups to people, including those who have been convicted in any court of misdemeanor crime or domestic violence.

Exactly what information is being collected on individuals?

Answer. The NICS will interface with existing systems such as the National Crime Information Center (NCIC) and the Interstate Identification Index (III) and future systems such as NCIC 2000 and the Integrated Automated Fingerprint Identification System (IAFIS) to provide information on individuals who may be prohibited from purchasing a firearm. The NCIC will provide information on persons who are fugitives from justice, deported felons, and persons who are subject to a court order restraining them from harassing, stalking or threatening an intimate partner. The III will provide criminal history records on over 32 million subjects. The NICS will contain records, provided by Federal and state agencies, on individuals who (a) have been dishonorably discharged from the Armed Forces; (b) are unlawful users of or addicted to any controlled substances; have been adjudicated as a mental defective or been committed to a mental institution; (d) are illegal or unlawful aliens; or (e) have renounced their U.S. citizenship. Records contained in the NICS will include the name, at least one numeric identifier (e.g., date of birth), and physical description of an individual, and will indicate the category under which the individual is prohibited from receiving a firearm.

*Question.* What active measures are being taken to ensure the initial and continued integrity and accuracy of this information?

Answer. The NICS will be programmed to permit only the agency that entered a record, to modify or cancel the record. The FBI will periodically audit federal and state agencies contributing records to the NICS to evaluate the accuracy and completeness of the data.

*Question.* What viable remedial options will be available to individuals who are unjustly denied the right to acquire a firearm based on faulty information in the data base?

Answer. Any individual who is determined to be prohibited from purchasing a firearm based on a NICS background check, may request the reason for the denial. The denying agency must provide the individual the reasons for the denial, in writ-

ing, within five business days of receiving the request. If the individual feels he has been wrongly denied, he may (1) submit an appeal to the denying agency, (2) direct a challenge to the accuracy of a record, in writing, to the FBI, or (3) bring an action against the state or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the firearm transfer be approved.

*Question.* What actions are being taken to protect individuals from the system being abused to invade their privacy rights?

*Answer.* First, access to NICS information will be restricted to authorized agencies only. Second, the NICS will comply with the NICS Security Guidelines, the NCIC Security Policy of 1992, and applicable federal laws, such as the Privacy Act of 1974 and Computer Security Act of 1987, for protecting information. Additionally, federal regulations on the privacy and security of NICS information propose that any state or local agency, Federal Firearms Licensees, or individual shall be subject to a fine not to exceed \$10,000 and termination of NICS privileges for the misuse of/ or unauthorized access to the system.

*Question.* Section 103(1) of the Brady Act prohibits any department, agency, officer, or employees of the United States from requiring any record or any portion of the record generated by the National Criminal Instant Check System (NICS) to be recorded in any facility owned, managed or controlled by the U.S. or any state or political subdivision. What precaution is the Justice Department taking to ensure compliance with this critical safeguard provision and what permanent ongoing measures will be taken to ensure continued compliance?

*Answer.* For security purposes, the NICS will automatically log all incoming and outgoing transactions of the system. Transactions relating to firearm transfer approvals will be maintained for 18 months. After this time, information contained in the log that pertains to the person or the transfer will be destroyed; only the unique identification number and the date the number was assigned will be retained. The NICS will not be used to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by 18 U.S.C. 922(g) or (n), from receiving a firearm.

*Question.* Are there any loopholes in this language that would allow a governmental entity to abide by the letter of this law while not following congressional intent? For example, what if a governmental entity indirectly enabled private sector consultants to set up a parallel offshore data base using advanced information encryption technology that the government could have access to while not directly controlling or managing it? Is such a scenario even the remotest of possibilities?

*Answer.* No. The FBI believes such an arrangement could not be legally made without the expressed consent of the FBI under contractual agreement.

*Question.* If not, why?

*Answer.* The FBI has management control of the NICS, its operation, and the maintenance of related databases, and as such is directly responsible for establishing, monitoring and enforcing compliance with regulations regarding the privacy and security of the system. Additionally, the FBI conducts biennial compliance audits of State Control Terminal Agencies and a random sample of local users. There also exist conditions which all NICS users must comply with including the destruction of all records of calls to the system that do not result in the identification of firearms disabilities thus attempting to prevent any establishment of a firearm registry using information obtained from NICS.

*Question.* If there is even the remotest of possibility that a scenario like this could happen, then what actions will the Justice Department take to ensure that it will not happen?

*Answer.* Should such a scenario happen, the FBI and the Department of Justice would investigate such an occurrence and prosecute those responsible for any misuse of NICS data or access.

#### INTERNATIONAL CRIME

*Question.* During hearings last year, I discussed serious new developments in international crime and its effect on Americans here at home and abroad with Secretary of State Albright and FBI Director Freeh. The Appropriations Committee, in its fiscal year 1998 Foreign Operations Committee Report, expressed concern about the increase in crime abroad and its direct and indirect impact on the United States. The Committee also requested the Secretary of State to convene a new Secretaries' Task Force on International Crime, in cooperation with you, the Secretary of Treasury, and the O.N.D.C.P. Director, and report to Congress by March 26, 1998 on specific issues which the Committee outlined.

Although Secretary Albright's Report is not due to Congress for another month, I would be interested to know what is the current status of your participation in the formation of the task force?

Answer. The Department of State is taking the lead in responding to the Appropriation Committee's request for a report on the U.S. Government's efforts against international crime. However, I can report that there is extensive cooperation between the Department of Justice, the Department of State and other relevant federal agencies on international law enforcement matters. These efforts are coordinated by the National Security Council, which convenes regular interagency meetings and committees to address the various aspects of international crime. For example, Presidential Decision Directive 42 (PDD 42), issued on October 21, 1995, ordered all government agencies to coordinate their resources and efforts to develop a global response to international crime. In response, the Department led an Administration-wide effort to develop the International Crime Control Act (ICCA) that seeks additional authority from Congress to respond to international crime both in the U.S. and abroad. The Department also took the lead in drafting the International Crime Control Strategy which is the U.S. Government plan of action to prevent and respond to acts of international crime.

*Question.* Are there any preliminary thoughts you wish to share with us here today on what the Justice Department can do to help countries reduce and prevent crime?

Answer. Because organized crime in foreign countries presents a direct and immediate threat to U.S. nationals, businesses and interests, both in the U.S. and abroad, the Department is expanding its assistance to foreign countries to combat international crime. Of particular concern to the Department are those activities involving terrorism, drug trafficking, money laundering, computer crime, and financial institution crime, as well as the integrity of our Nation's borders.

The U.S. Government's plan against international crime is contained in the International Crime Control Strategy and International Crime Control Act which includes increasing our support of the anti-crime efforts of foreign nations. The ways the Department of Justice will continue to help countries reduce and prevent crime may be summarized as follows: increasing our support of other countries' efforts to identify and prosecute significant international criminals and narcotics traffickers around the world; continuing our participation in joint investigations and prosecutions of these crime groups and their leaders; expanding our training of foreign law enforcement officials and prosecutors; leading international efforts to sign and implement multilateral treaties and conventions that address various elements of international crime; increasing our negotiation and signing of bilateral extradition and mutual legal assistance treaties to facilitate the transfer of fugitives and evidence to, and from, the U.S.; and finally, expanding our U.S. law enforcement presence overseas to support foreign law enforcement, to arrest and punish fugitives who have committed crimes against the U.S., to dismantle international organized crime rings, and to strengthen law enforcement and judicial systems around the world.

The Department understands that crime is no longer a national phenomenon; it is an international problem that challenges all countries. Only by continuing our cooperative anti-crime efforts with foreign nations will we be able to successfully meet this challenge.

"STATE AND LOCAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS AND INTEROPERABILITY" REPORT

*Question.* The Department of Justice's National Institute of Justice recently released a report entitled "State and Local Law Enforcement Wireless Communications and Interoperability: A Quantitative Analysis." This report cites the need for additional radio spectrum and improved wireless communication technology in the law enforcement community.

The Balanced Budget Act of 1997 included language that frees up additional 24 megahertz (MHZ) of the spectrum for law enforcement use. Unfortunately, this spectrum will not be available until the Year 2006.

Considering increasing demands on law enforcement and disaster response situations, what steps are being taken to maximize the currently available spectrum? Our nation's telecommunications industry has made large technological breakthroughs. Is the law enforcement community taking full advancements that are already available in the marketplace?

Answer. Technology exists that enables state and local law enforcement agencies to more efficiently use currently available spectrum. This technology includes the ability of law enforcement to use narrower bands of spectrum when they commu-

nicate, thus allowing these agencies to get more use out of the spectrum they have. The FCC, under its "refarming" process, will not "type accept," i.e., permit the sale of, any new model equipment that is not capable of using 12.5 kHz channels instead of the wider 25 kHz channels. By 2005, "type acceptance" will require the capability to operate at 6.25 kHz.

The type acceptance process only requires new model equipment to meet the narrowband requirements. Mobile radio manufacturers can and do continue to bring previously developed, wideband (25 kHz) equipment to market. Because of the high cost of replacing wireless equipment, particularly the cost of purchasing new model equipment, it is likely that many public safety users will continue to operate at 25 kHz for the next 20 or even 30 years.

The most common communications system for state and local public safety remains government-owned Land Mobile Radio system, as opposed to more recently available commercial carrier-operated technologies such as cellular, Personal Communications Service, Enhanced Specialized Mobile Radio and satellite. While a number of public safety agencies use some of the carrier-operated services as a complement to their Land Mobile Radio systems, internally operated Land Mobile Radio systems remain the core system technology for public safety because they better ensure availability of service, security and fixed costs.

Public safety Land Mobile Radio can be divided into digital vs. analog and trunked vs. conventional systems, digital/trunked systems being the most technologically advanced. Digital radio systems increase spectrum efficiency. Digital also facilitates encryption and allows for mixed voice and data transmission. A conventional radio system can access only one channel at a time. If that channel is in use, the user must either wait for the channel to become idle or manually search for a free channel. In contrast, a trunked radio system automatically searches all available channels for one that is clear.

The ability of state and local law enforcement to make more efficient use of spectrum through existing technological advancements depends in large measure on the availability of funding to implement these expensive technologies. In accordance with the National Performance Review's February 1997 "Access America" report, the Department of Justice has created an interagency working group to develop funding recommendations to assist state and local public safety officials to improve their wireless communications systems. The working group includes representatives from the Treasury, Commerce, Interior and Agriculture Departments, the Federal Emergency Management Agency, the Office of Management and Budget, and the Federal Law Enforcement Wireless Users Group. With the support of Congress, this effort will begin to assist state and local law enforcement in maximizing currently available spectrum and in taking advantage of technological advancements in wireless communications.

*Question.* Improved technology, especially digital, allows more individual transmissions to be packed into a smaller portion of the spectrum and with greater security. To what degree will this alleviate the current spectrum crunch for law enforcement?

*Answer.* Improved technology will alleviate the current spectrum crunch for law enforcement only to a moderate degree. In 1995, at the urging of House Chairman Harold Rogers, the Federal Communications Commission (FCC) and the National Telecommunications and Information Administration established the Public Safety Wireless Advisory Committee ("PSWAC") to provide advice on the wireless communications requirements of federal, state and local law enforcement and public safety agencies through the year 2010.

In making its recommendations in September 1996, the PSWAC took into account the future efficiencies in the transmission of information, including improved digital technology. Even assuming the use of digital technology, the PSWAC concluded that state and local public safety agencies needed an additional 97.5 MHz of spectrum: an immediate need for 2.5 MHz of spectrum dedicated to interoperability, proximate to the spectrum currently used by the majority of public safety agencies; a near-term need for an additional 25 MHz of public safety allocations; and a longer-term need for another 70 MHz.

While digital technology enables law enforcement agencies to get more use out of the spectrum they have, it has the simultaneous effect of creating a greater need for additional spectrum. Digital technology facilitates the wireless transmission of data and video (e.g. mugshots, fingerprints, missing persons photographs), which is enormously beneficial to public safety activities. Data and video transmissions require more spectrum than voice transmissions. Without additional allocations of spectrum, public safety will not be able to take full advantage of digital technology. Similarly, without sufficient funds to purchase digital systems, public safety will not be able to take advantage of this technology.

*Question.* With increased potential for large scale disasters, including both natural disasters and non-natural disasters, like the Oklahoma City and World Trade Center bombings, it is increasingly clear that an increased communications capacity among law enforcement, firefighters, emergency medical, and emergency management agencies is needed.

When the additional 24 MHz of spectrum becomes available in 2006, will it, or at least a sizeable portion, be dedicated to addressing this growing need? What is being done to address this need between now and 2006?

*Answer.* Although the Balanced Budget Act of 1997 calls for 24 MHz of spectrum in the 746–806 MHz band to be reallocated to state and local public safety agencies by the end of 2006, much of this spectrum will only be made available as television broadcasters currently operating in that band vacate the band and transition to digital broadcast channels below 746 MHz. Unfortunately, the Balanced Budget Act includes an extension provision favored by the broadcasters that may delay the transition to digital television beyond the December 31, 2006 cut-off date otherwise specified in the legislation. As a result, the transfer of spectrum to public safety may be delayed indefinitely in some markets.

The FCC is currently conducting rulemaking proceedings governing the 24 MHz of spectrum provided for in the Balanced Budget Act. The FCC's Notice of Proposed Rulemaking anticipates that a significant portion of this spectrum will be dedicated to increased communications capacity, i.e., interoperability, between public safety agencies. It should be noted, however, that the PSWAC Report identified the need for 2.5 MHz of spectrum for interoperability located proximate to the majority of current public safety users. The bulk of current public safety spectrum is located below 512 MHz. Thus, even if a significant portion of the 24 MHz of public safety spectrum in the 746–806 MHz band is dedicated to interoperability, that will not benefit the majority of public safety agencies. The additional 2.5 MHz of spectrum called for by the PSWAC for interoperability must still be reallocated.

There are a number of technical impediments to interoperability in the current environment. Among the most significant are: (1) no commercial grade radio can operate in a wide enough range of the spectrum to reach the disparate radio bands that are currently allocated to public safety; and (2) equipment from various manufacturers may not be able to communicate, even though it operates in the same band, because it uses incompatible transmission technologies.

The Oklahoma City and World Trade Center bombings, and similar disasters, are frequently cited to highlight spectrum interoperability problems. These incidents call for what is generally referred to as mutual aid or critical incident interoperability which, of necessity, involves little advance planning and numerous participants. The 2.5 MHz of spectrum for interoperability called for by the PSWAC would be used for "mutual aid channels," that is frequencies that public safety wireless radios operating in neighboring spectrum could all reach through a uniform transmission technology.

To address interoperability in mutual aid situations today, one agency often must provide a number of its hand-held radios to representatives of the other agencies. Unfortunately, crucial time is wasted in having to distribute the equipment to all of the response participants. In disaster situations, saving minutes and seconds can affect the ability to save lives.

A very effective arrangement for achieving day-to-day interoperability for agencies operating in concurrent jurisdictions is the creation of shared systems that use digital and trunking technology. In a shared system, agencies pool their frequency and monetary resources to build and operate a radio infrastructure using compatible equipment. Shared systems improve spectrum efficiency by allowing multiple agencies to communicate without the need for additional spectrum dedicated solely to interoperability. More than a dozen states and regions have begun to plan for shared systems between their disparate agencies. Among the greatest impediments to development of these systems is budgetary support. One statewide system can cost more than \$150 million to build.

The Public Safety Wireless Network (PSWN) program, which evolved from the National Performance Review and is co-chaired by the Departments of Justice and Treasury, is examining interoperability at the federal, state and local levels on a nationwide basis. The ultimate goal of the PSWN program is to develop a plan by 2001 for achieving national interoperability. The program is engaged in a number of case studies focusing on individual regions and testbed demonstrations of interoperability equipment. The PSWN program also sponsors regional conferences to present its findings to the state and local communities and to gather additional information to assist it in its mission.

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## FEDERALIZING LORTON

*Question.* Your budget proposes an increase of \$300 million in fiscal year 1999 to begin constructing Federal prisons to house the approximately 7,000 District of Columbia prisoners housed at the Lorton Prison in Northern Virginia.

Could you explain the total program and schedule for taking over the District's prison program? How much funding in total will be requested for how many prisons in the Mid-Atlantic and Southeast?

*Answer.* BOP anticipates building a total of 6 new facilities to add sufficient capacity to absorb the D.C. sentenced felon population. In fiscal year 1998, \$294.9 million was provided to the D.C. Corrections Trustee for reimbursement to the BOP to cover site acquisition and planning of four facilities, and full construction of two facilities at existing BOP sites. The increase of \$300 million in fiscal year 1999 will provide for construction of three Federal Correctional Institutions (FCI) and partial funding for a fourth FCI. Finally, funding remainder for the last facility will be requested in fiscal year 2000 to accommodate the space requirements for the D.C. sentenced felon inmates in accordance with the D.C. Revitalization Act.

In 1998, the BOP plans to transfer into BOP custody the majority of female D.C. sentenced felons. To date, 116 female D.C. sentenced felons have been transferred into BOP custody, and procedures have been put in place so all newly-sentenced female D.C. Code violators will be designated directly to BOP custody. The BOP is currently reviewing minimum security male D.C. sentenced felons in preparation for their transfer into BOP custody. The projected movement of D.C. DOC inmates needing mental health, medical/surgical care is targeted for 1999. Absorption of higher security level D.C. inmates is projected for fiscal year 2000 and fiscal year 2001 as additional BOP capacity (construction funded in 1998) is activated.

*Question.* What are the Bureau's criteria for locating these new prisons?

*Answer.* The BOP is actively evaluating potential sites within 500 miles of the District. The BOP may need to begin the Environmental Impact Statement (EIS) process in numerous locations to ensure four acceptable sites since the EIS process is preliminary and does not always result in prison construction. To date, siting efforts have been concentrated in South Carolina, Kentucky, West Virginia, Virginia, Pennsylvania, and North Carolina. In December of 1997, the BOP began the EIS process for a medium security prison in Gilmer County, West Virginia. In addition, the BOP is proceeding with the draft EIS process for sites in Ohio/Tyler and Preston counties, West Virginia, and obtaining additional technical information to go forward in the EIS process on sites in South Carolina, Kentucky, and Pennsylvania. The BOP plans to finish each EIS related to D.C. capacity this year.

Further, the BOP plans to build a medium security facility at its existing Petersburg, Virginia, location, and a high security facility at its Coleman, Florida, location. While the Florida location is outside the 500-mile radius, the BOP can proceed quickly with this project because the EIS process completed for the existing institutions addressed the possibility of adding an additional facility at a later date. The BOP would then be able to transfer BOP inmates to Coleman and subsequently place D.C. sentenced felons in the approximately 30 existing BOP facilities that are within the 500-mile radius.

The following criteria represent the features of an ideal site for potential construction of a new institution:

The site should:

- include a minimum of 250 acres of relatively flat land of reasonable configuration (i.e. with roughly equal length and width) and with adequate buffers along the boundaries;
- be available at minimal cost to the government and include both surface and mineral rights;
- be free from environmental difficulties, including protected "wetland areas", significant archaeological or historic resources, habitats of threatened or endangered species, farmland preservation areas and prime agricultural land. It should not be located within a flood plain area;
- be located within 50 miles of a large population center to ensure the availability of community resources for the facility, such as staff, housing, goods and services, etc.;
- have adequate public utility services to the site;
- have adequate fire protection services nearby, with a public-service fire company preferred;
- have an accredited full service hospital recognized and licensed by the state within one hour's driving time;

- be within close proximity to interstate highway systems and public transportation, preferably with commercial ground and air service nearby;
- be within proximity to higher education facilities, with accredited colleges or universities and a wide variety of technical schools;
- have community support, including endorsement by local officials and Members of Congress.

*Question.* What percentage of these prisoners are going to be housed by contractor, privatized prisons? Does this use of private prisons make sense to the Bureau of Prisons?

*Answer.* A provision in the National Capital Revitalization and Self-Improvement Act of 1997 requires the BOP to house 2,000 D.C. sentenced felons in private contract facilities by December 31, 1999, and 50 percent by 2003. A Request for Proposals (RFP) was released on February 13, 1998 for the housing of approximately 2,200 minimum and low security D.C. sentenced felons, with responses due on April 1, 1998.

The BOP endorses use of private/contract facilities for minimum and low security inmates when it serves the best interest of the government and provides the best placement for an inmate. Over 10 percent of BOP inmates are housed outside of Federal prison in contract and private facilities. The five-year privatization demonstration project at the Taft, California correctional facility mandated by the Congress is underway and will help the BOP evaluate the potential effectiveness of privatizing future BOP facilities for low and minimum security inmates.

However, the requirement that 50 percent of D.C. sentenced felons be housed in private facilities is of concern to the BOP. Nearly two thirds of the D.C. sentenced felon population are medium and high security, and the private sector does not have a demonstrated track record in terms of managing medium and high security institutions. The BOP has an established effective system of higher security prisons, and in the interest of public safety as well as that of the inmates, believes those higher security inmates would be more appropriately placed in federal prisons.

“WINSTAR”

*Question.* As I understand it, the Government could lose up to \$32 billion if we lose these *Winstar* cases. Last year this Subcommittee and the Treasury Subcommittee provided \$53 million to support the Government in this litigation. In fiscal year 1999 your request is fairly complicated and provides for changes in scoring that require action by the Banking Committee. Could you describe the Government-wide budget for *Winstar*? What is the impact if the Banking Committees do not pass the Administration’s proposed legislation?

*Answer.* There are 130 *Winstar* suits which encompass over one billion pages of government documents, 60 opposing counsel representing numerous financial institutions, and damage claims estimated to be in the vicinity of \$20 to 30 billion. The genesis of this litigation is the savings and loan crisis of the 1980’s. The ensuing bailout cost taxpayers tens of billions of dollars. Ultimately, necessary banking reforms were enacted and implemented. The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) imposed new capitalization standards. It is the imposition of those standards and the alleged damages that lie at the heart of the *Winstar* claims.

Many of the *Winstar* claims are without merit, and others are grossly overstated. Our responsibility is to determine the factual basis of the claims and enable the court to distinguish legitimate claims from those that have been wildly exaggerated. Without the requisite investment in information processing, expert analysis and attorney time, there would be no way to identify and eliminate unwarranted claims. The losses which are likely to result, should funding be withheld, could well wipe out the budget surplus projected for 1999. We believe that the American public would be appalled if, in addition to the bailout of the 1980’s, billions more were to be doled out without a full analysis of the claims to winnow out those that are inflated or meritless.

*Winstar* suits are unprecedented with respect to their size and complexity. *Glendale*, the first case activated, has been in trial for 13 months. When the trial concludes in April, 30 additional suits will be activated, unleashing the one of the most massive discovery efforts ever undertaken. Simultaneously, the *Statesman* trial will begin and pretrial activities will intensify for the 12 priority cases scheduled to follow *Statesman*. Next fiscal year will be more arduous—the priority cases will go to trial at the rate of two per month, discovery efforts will continue, and an additional 30 cases will be activated. Information processing, expert analysis, pre-trial and trial activity will reach staggering proportions. The budget estimates, attached, re-

flect the substantial investment that has been made and that will continue to be required to respond to court mandates.

Given the substantial costs associated with *Winstar*, senior officials of the Department of Justice and other interested agencies are committed to exploring all reasonable settlement possibilities. At the same time, as stated earlier, we are convinced that the plaintiffs' claims are without any merit in some cases and are vastly overstated in others. Our experts, including a Nobel Laureate economist, concur in our assessment of the claims. Settlements fair to both sides can be achieved only if we have resources sufficient to analyze the cases and to defend against inflated and unreasonable demands.

As shown in the attached chart, \$26,100,000 of the 1997 costs were reimbursable out of the FSLIC Resolution Fund (FRF). For 1998, the Appropriations Act for the Treasury Department, the Postal Service and the Executive Office of the President, authorizes another \$33,700,000 for reimbursement from the FRF (Public Law 105-61). This funding has been scored against the discretionary ceiling set for Treasury-General Government appropriations—reducing the amount of spending authority for agencies funded under this umbrella.

The Treasury-General Government subcommittee staff has stated that further reimbursements beyond those authorized this year will not be approved, should that reimbursement authority count against the subcommittee's discretionary ceiling. In fact, Section 632 of the Conference Report on the 1998 Treasury-General Government Appropriations Act states that when the conferees agreed to include a provision concerning the FRF reimbursement to Justice they, "expect[ed] that OMB will submit, with the fiscal year 1999 budget request, language which would make this provision permanent law."

The FRF was created by FIRREA to wind up the affairs of the defunct Federal Savings and Loan Insurance Corporation (FSLIC). The FRF itself is a mandatory account. Resolution of *Winstar* claims is, essentially, the final phase of efforts to wind up the affairs of the FSLIC and related banking agencies. We therefore believe that the FRF continues to be the logical source of funding for the bulk of the *Winstar*-related expenses. We also believe that because the damage claims are the direct result of agency actions that were required by FIRREA, that the budget for this litigation should be scored as mandatory. An Administration proposal designed to authorize mandatory funding is forthcoming.

Should the banking committees fail to pass legislation which would authorize mandatory FRF funding, the need would have to be met out of either the discretionary resources of the Treasury-General Government subcommittees or the Commerce-Justice-State subcommittees. Should one or the other of the committees agree to funding the *Winstar* defense, the impact will fall largely to the other discretionary programs which must be cut to stay within budgetary ceilings. Should both committees fail to provide requisite funding, the government will be without the means to access, analyze and present information required to determine the legitimacy of the claims. This would set the stage for unfavorable judgments and settlements, which, as stated above, could translate into treasury payouts of sufficient size to wipe out projected budget surpluses for 1999 and future years.

#### SUMMARY OF DOJ WINSTAR RESOURCES—DIRECT AND REIMBURSED

[Dollars in thousands]

	1997	1998	1999 Base	1999 Inc	1999 Req
<b>FSLIC Resolution Fund (FRF):</b>					
Personnel .....	\$4,109	\$133	.....	.....	.....
Automated Litigation Support .....	11,230	19,564	.....	\$35,324	\$35,324
Litigation Consultants .....	10,342	13,000	.....	13,764	13,764
Transcripts and Misc .....	419	1,003	.....	2,104	2,104
Subtotal, FRF .....	26,100	33,700	.....	51,192	51,192
<b>General Legal Activities (GLA):</b>					
Personnel .....	.....	5,483	\$6,056	1,725	7,781
Automated Litigation Support .....	.....	1,000	1,000	3,764	4,764
Litigation Consultants .....	.....	.....	.....	.....	.....
Transcripts and Misc .....	.....	.....	.....	.....	.....

## SUMMARY OF DOJ WINSTAR RESOURCES—DIRECT AND REIMBURSED—Continued

[Dollars in thousands]

	1997	1998	1999 Base	1999 Inc	1999 Req
Subtotal, GLA .....		6,483	7,056	5,489	12,545
Fees and Expenses of Witnesses .....	6,300	4,000		10,000	10,000
Total Appropriations .....	32,400	44,183	7,056	66,681	73,737
Available from Prior Year(s) .....	12,350	8,814			
Grand Total .....	44,750	52,997	7,056	66,681	73,737

## COUNTERDRUG INITIATIVES—METHAMPHETAMINE

*Question.* Your budget this year supports 100 more DEA agents to attack methamphetamine production, trafficking and abuse. Typically, when we think of methamphetamine production, we're thinking California. But the word is that meth labs and meth use are spreading east faster than you can blink an eye. In fact, in South Carolina, methamphetamine cases have been on the rise in the last few years and like other states in our region, we've become victim to traveling motorcycle gangs that transport meth and portable meth labs into the state.

What efforts are being made to address the spread of methamphetamine production before this problem gets out of control?

*Answer.* DEA is addressing the increasing threat posed by illegal methamphetamine trafficking through several initiatives and investigative actions directed at the production of methamphetamine; the control of the chemical precursors used to manufacture methamphetamine; the international trafficking organizations (predominantly Mexican based) that control the majority of the illicit methamphetamine trade; and the growing problem state and local law enforcement agencies face from the domestic production of methamphetamine which is causing a drain on police services and is presenting a public safety threat.

Known on the street by names like "crank" and "speed," methamphetamine is a dangerous stimulant, which possesses addictive qualities similar to those of crack cocaine. According to statistics from the Drug Abuse Warning Network (DAWN), the U.S. experienced a 209 percent increase in the number of methamphetamine-related emergency room episodes between 1990 and 1995. Following a brief drop during the first half of fiscal year 1996, total methamphetamine episodes skyrocketed by 71 percent during the second half of the year.

Today, DEA is taking part in more methamphetamine-related arrests and is seizing more clandestine laboratories per year than ever before in the agency's 25-year history. Since fiscal year 1993, DEA arrests in methamphetamine-related investigations have consistently risen. Methamphetamine arrests increased by 45 percent in one year, rising from 3,920 in fiscal year 1996 to 5,780 arrests in fiscal year 1997. During fiscal year 1997, DEA was involved in the seizure of more methamphetamine laboratories (1,272) than in the three previous fiscal years combined (combined total equals 1,256).

Until recently, methamphetamine trafficking and production in the U.S. was controlled by outlaw motorcycle gangs operating independent drug trafficking networks across the country. Today, although these gangs continue to distribute methamphetamine, trafficking and production of this dangerous drug is largely divided between thousands of small, independent organizations, who run "mom-and-pop" labs capable of small-scale meth production, and the major Mexican syndicate networks who produce methamphetamine in more sophisticated labs in Mexico and California. Both groups are producing more methamphetamine than ever before. However, it is the emergence of the Mexican syndicates, and their growing domination of methamphetamine production and distribution in the United States, that has redefined the methamphetamine problem in this country.

The Mexican syndicates' dominance of the methamphetamine market can largely be attributed to two factors. First, Mexican organized crime has established access to enormous quantities of the precursor ephedrine from wholesale sources of supply on the international market. Second, these criminal groups regularly produce unprecedented quantities of high-purity methamphetamine in Mexican and Californian super labs, which is then trafficked to states across the United States. Today, it is

estimated that 80 to 90 percent of the available supply of methamphetamine in the United States is produced by Mexican organized crime syndicates.

The Amezcua-Contreras Brothers, operating out of Guadalajara, are the world's largest smugglers of ephedrine and clandestine producers of methamphetamine. The Amezcua Organization obtains large quantities of precursor ephedrine through contacts in Thailand and India, which they then use to make methamphetamine for subsequent distribution to Mexican trafficking groups operating in major U.S. population centers.

Drug traffickers are adopting increasingly sophisticated methods to obtain the chemicals needed to produce methamphetamine. In the U.S., rogue chemical companies, by willful ignorance and/or criminal intent, supply precursor and essential chemicals to methamphetamine producers on both sides of the border. As evidence in the operations of the Amezcua Organization, many Mexican trafficking groups are obtaining their chemicals from sources in Europe, China and India, using a combination of direct purchases, brokered shipments, and false front companies.

In recent years, DEA chemical investigations have expanded rapidly to keep pace with the spread of methamphetamine trafficking and abuse across the United States. Increasingly, DEA is conducting these investigations in cooperation with state and local law enforcement. An example of this cooperation is evidenced in DEA's Special Enforcement Program Operation Back Track, initiated in February 1997. This operation targets rogue chemical companies and other independent operators who distribute enormous quantities of precursor chemicals, specifically pseudoephedrine, phenylpropanolamine (PPA) and their drug products, which are then diverted to the illicit manufacture of controlled substances. The focus of Operation Back Track is directed at identifying, tracking, disrupting and eliminating chemical sources, routes, transportation and distribution networks that supply the production of clandestinely manufactured drugs. During September 1997, DEA's Phoenix Division, in coordination with the Phoenix Police Department, Organized Crime Bureau and Vice Unit and other regional law enforcement agencies, arrested 32 suspects and conducted 25 search warrants which resulted in the seizure of 1,000,000 pseudoephedrine tablets and the civil seizure of 18 convenience stores.

Due to methamphetamine's increasing popularity in the West and its rapid spread eastward, an increasing number of independent trafficking and production networks have also been established across the country. These networks feed the habits of customers typically found outside the Mexican drug syndicates' predominant areas of influence. The independent networks, which have proliferated in the Midwest, and more recently on the East Coast, are selling primarily to users in rural areas, middle class suburbs, and on college campuses. Surging demand and increased profit margins are driving increased drug production, and luring more traffickers and chemists into the methamphetamine trade. Often, a minimal investment of \$500 can yield profits as high as \$4,000 to \$18,000.

Fifty percent of the clandestine labs seized by DEA in fiscal year 1997 were located in the Midwest. The majority of these labs were of the "mom and pop" variety, typically producing anywhere from two/three ounces to a pound of methamphetamine. In the Midwest, states like Missouri, Arkansas, and Oklahoma, which four years ago experienced negligible clandestine laboratory activity, have seen clandestine laboratories proliferate. Just last month, DEA, in cooperation with state and local law enforcement, seized its first major clandestine methamphetamine laboratory in the city of St. Louis. In fiscal year 1997, DEA seized a total of 295 clandestine methamphetamine laboratories in Missouri, over 100 more labs than in any other state in the United States.

The illicit manufacturing of methamphetamine in smaller, "mom and pop" operations can take place anywhere the operator can set up laboratory equipment to synthesize the product (e.g., motel rooms, apartment complexes, industrial areas, farms, a neighbor's house, etc.). The caustic, flammable and explosive chemicals required by "cooks" to produce methamphetamine endanger the lives of not only the criminals, but innocent bystanders as well. Clandestine laboratories are so dangerous that many are not found by law enforcement, but by fire and rescue personnel after they have caught fire or exploded. These laboratories can prove extremely dangerous to untrained police, fire and rescue personnel.

Since many clandestine laboratories (particularly those managed by "home grown" trafficking networks) are found in the cook's house, they frequently place their own children at risk. In April 1997, a clandestine methamphetamine laboratory in New Mexico exploded, destroying a house trailer and killing the laboratory operator. The explosion was so severe that it blew out the windows in adjacent trailers.

The potential environmental damage caused by one clandestine laboratory can place an entire community at risk. As if the risk of explosion and fire were not enough, these same toxic chemical substances, such as benzene, ethanol, hydriodic

acid and red phosphorous, generate hazardous chemical by-products once the manufacturing process is complete. Careless operators typically dump their acidic "sludge" on the ground, in nearby streams and lakes, or in local sewage systems and septic tanks. Some simply bury the hazardous material in their back yards, allowing the dangerous waste to be absorbed by the soil and into natural water systems.

Because of the dangers associated with these laboratories, close cooperation with state and local law enforcement is essential. As has been previously indicated, many of these volatile labs are first encountered by law enforcement personnel in smaller cities and towns across the United States. In many cases, these officers do not have the requisite clandestine laboratory safety certification training, thereby increasing their chance of serious injury. In an effort to diminish the risks associated with clandestine laboratory encounters, DEA continues to work closely with state and local law enforcement personnel across the country to ensure the provision of necessary clandestine laboratory investigative and safety training. To date, DEA has provided clandestine laboratory training to over 2,000 state and local officers across the United States. With additional funding provided to the agency in fiscal year 1998 through the Community Oriented Police Services (COPS) program, DEA anticipates training an additional 1,600 state and local officers over the next two years.

Today, states as far east as Georgia, and Kentucky are also beginning to see the effects of growing methamphetamine production and distribution. In August 1997, DEA, in cooperation with the FBI and the Northern Kentucky Drug Strike Force, arrested Mexican national Enrique Ochoa-Montanez and seized approximately 35 pounds of methamphetamine and \$14,000 in cash from a hotel in northern Kentucky. In December 1997, DEA's Atlanta Field Division was involved in the seizure of 10 pounds of methamphetamine being shipped via Federal Express from California, Texas and Mexico. The methamphetamine seized was linked to the drug trafficking operations of the Amezcua-Contreras Organization.

Just last month, DEA agents, again in cooperation with state and local law enforcement, arrested four people and seized 25 pounds of methamphetamine in Marietta, Georgia. This seizure—totaling a half a million dollars worth of methamphetamine—had been manufactured in Mexico and was intended for distribution in the Atlanta area. The significant rise in methamphetamine use and abuse in Atlanta has caused the drug to replace cocaine as the city's number one drug of choice.

As in other areas of the Eastern U.S., methamphetamine trafficking and abuse are rising in South Carolina. Distribution is now associated with Mexican organizations as well as traditional groups such as motorcycle gangs and truckers. There has been an increase in methamphetamine distribution in South Carolina through the U.S. Mail and parcel services. Methamphetamine in state is currently selling in the range of \$1,000 to \$1,500 per pound.

In recent months, DEA offices in South Carolina have been involved in two significant methamphetamine cases. The first case, initiated by our Florence Resident Office, surrounded the activities of a member of the Pagans Outlaw Motorcycle gang who operated a mobile clandestine methamphetamine laboratory that was capable of producing multi-pound quantities of methamphetamine. The investigation led to the seizure of a clandestine methamphetamine laboratory being operated in a hotel room in Myrtle Beach during Bikers Week. The defendant in this case was identified as the chemist and at his arrest he was in possession of a .40 caliber pistol. He was charged with creating a substantial risk to human life due to the amount of chemicals found at the clan lab site, and the manufacturing of a controlled substance. The defendant was ultimately found guilty and is currently facing a life sentence.

The second case, initiated by our Greenville Resident Office, involved a group of Mexican nationals that established themselves in the Greenwood area and were engaged in the wholesale distribution of large quantities of marijuana and methamphetamine. Telephone toll analysis revealed communication was ongoing with other known Mexican traffickers throughout the United States. Methamphetamine being produced in labs in California, was being driven into the state by tractor trailer for delivery to the Greenwood area. This organization deliberately picked a rural area of the state and an area where no law enforcement personnel spoke Spanish. To date, a total of three defendants have been arrested in this case and 880 grams of methamphetamine have been seized.

DEA has been aggressively addressing the growth of the methamphetamine trade across the U.S. through its Methamphetamine Enforcement Initiative. This initiative has provided an integrated and coordinated strategy in support of the National Drug Control Strategy, the National Methamphetamine Strategy, and the Department of Justice Methamphetamine strategy. It focuses our intelligence and enforcement efforts against Mexican drug trafficking organizations, independent domestic methamphetamine traffickers, and rogue chemical companies responsible for the

smuggling, production, and distribution of methamphetamine in the United States. Through our demand reduction efforts, the training of state and local law enforcement officers and our major investigative efforts, including a recent investigation entitled Operation META, we are committed to ensuring that methamphetamine does not become the "crack" cocaine of the 1990's. A brief chronology of DEA's methamphetamine-related actions and accomplishments are summarized below.

*Fiscal year 1995*

In fiscal year 1995, DEA devoted almost 10 percent more work hours to methamphetamine investigations than in 1994. The result was 2,600 arrests, 20 percent increase over 1994 figures. DEA was also involved in the seizure of 327 methamphetamine laboratories across the U.S., including 38 tons of ephedrine and pseudoephedrine from three rogue chemical companies.

*Fiscal year 1996*

In fiscal year 1996, DEA sponsored the first annual Methamphetamine Conference, which brought together federal, state and local law enforcement officers and raised national awareness about the growing methamphetamine problem. DEA's Demand Reduction Section, in cooperation with the American Council for Drug Education, produced a follow-up methamphetamine awareness pamphlet for distribution to the public-at-large.

In April 1996, DEA established a Special Enforcement Program, Operation Velocity, to target significant domestic methamphetamine organizations and independent traffickers and chemists involved in the production of methamphetamine and/or the distribution of precursor chemicals in the United States.

In fiscal year 1996, DEA made a total of 3,920 methamphetamine-related arrests and seized 903 clandestine laboratories, a 220 percent increase over 1995. DEA also conducted seven, one-week state and local clandestine laboratory certification schools, providing training for approximately 247 state and local participants nationwide.

*Fiscal year 1997*

In fiscal year 1997, DEA expanded its overall interdiction and chemical control efforts along the southwest border through an enhancement of 54 special agents for the southwest border Initiative. In June 1997, DEA established a Special Operations Section to target Mexican methamphetamine command and control operations.

DEA's Operation META demonstrated the extensive involvement of the major Mexican trafficking groups in the U.S. methamphetamine trade. This multi-agency wiretap investigation targeted traffickers associated with the Amezcua brothers' methamphetamine trafficking organization, a syndicate which, as previously indicated, supplies its U.S. cells with methamphetamine, precursor chemicals, and cocaine.

Amezcua cells manufactured methamphetamine in Los Angeles. During the META raids, operating methamphetamine labs were discovered near a day-care center and in an equestrian center where riding lessons were being conducted. This is typical of the disregard organized crime syndicates have for the safety and well-being of the American public. The labs discovered were capable of producing more than 300 pounds of methamphetamine. Operation META, an OCEETF investigation conducted as part of DEA's Southwest Border Strategy, resulted in more than 100 key arrests of methamphetamine traffickers operating in the U.S.

In 1997, DEA conducted 23 one-week clandestine laboratory investigative and safety training classes for state and local law enforcement officers at sites in San Diego, California, Overland Park, Kansas, and at the FBI Academy/Camp Upshur in Quantico, Virginia. A total of 914 state and local officers were trained. A one-time transfer of funds from ONDCP allowed DEA to provide much needed clandestine laboratory safety equipment (e.g., air monitors, air purified respirators, fire resistant clothing, etc.) to each state and local officer completing the course.

DEA produced and distributed nationwide a new public awareness videotape entitled "Methamphetamine—Trail of Violence." DEA also produced and distributed clandestine laboratory awareness posters and two videotapes, one which details and illustrates the chemicals found in the new "Nazi" formula labs, and another called "Chemical Time Bombs," to clandestine laboratory enforcement teams throughout the U.S. In 1996 and 1997, several DEA field divisions, including the St. Louis Field Division, held conferences to educate state and local authorities on the growth and hazards associated with methamphetamine trafficking, production and abuse in the United States.

In 1997, DEA made a total of 5,780 arrests and seized 1,366 methamphetamine laboratories. The agency also initiated a total of 3,209 methamphetamine cases and seized 1,175 kilograms of methamphetamine and amphetamine. Operation Velocity

itself resulted in the arrest of 222 significant violators and \$2.5 million in seized trafficker assets.

*Fiscal year 1998*

DEA received a resource enhancement of 60 special agents and \$11.046 million to execute a three-pronged approach for attacking methamphetamine production, trafficking and abuse in the United States. This approach entails: (1) increased enforcement to target major methamphetamine trafficking organizations; (2) hazardous waste removal and laboratory services; and (3) clandestine laboratory training to DEA personnel and state, local and foreign law enforcement organizations. Along with the 54 DEA special agents deployed for methamphetamine enforcement nationwide, an additional 6 special agents were allocated to DEA's Office of Training to conduct state and local clandestine laboratory certification training.

Because of the hazardous nature of the waste produced, clandestine laboratory sites require professional, costly cleanup services. In 1998, the COPS program provided DEA with a one-time reimbursement of \$9.5 million for state and local clandestine laboratory cleanup and training. This funding included a total of \$5 million for state and local clandestine cleanup operations and \$4.5 million for clandestine laboratory training for state and local officers.

*Fiscal year 1999*

Building on the Southwest Border Initiative and the National Methamphetamine Strategy, DEA is requesting additional resources to implement a comprehensive approach for targeting and investigating methamphetamine trafficking and production. This approach will increase domestic enforcement, enhance chemical control, expand intelligence efforts, and improve environmental protection. The request includes an enhancement of 100 special agents to target methamphetamine trafficking in emerging markets and/or producer states.

*Question.* Are your DEA agents and/or funds being made available for states like South Carolina, that aren't consumed yet with a methamphetamine problem, but also don't want to see it balloon into something uncontrollable?

*Answer.* DEA is very concerned about the continuing spread of methamphetamine across the United States, including to areas in the Midwest and more recently, states along the East Coast. We are continuing to work diligently with our federal, state and local counterparts to address the methamphetamine problem before it reaches the epidemic proportions that the crack cocaine crisis did in the late 1980's and early 1990's.

As previously indicated, DEA's 1998 appropriation included a total of 60 special agents and \$11.046 million to address the growth and spread of domestic methamphetamine trafficking across the United States. Out of this allocation, DEA's Atlanta Field Division Office, (which includes DEA offices in South Carolina), received a total of 4 special agents.

DEA currently has a total of 26 special agents on-board in the state of South Carolina. DEA also has four state and local task forces operating in state, including task forces in Charleston (funded and operating since 1991), Greenville (Provisional and operating since 1990), Columbia (Provisional and operating since 1997), and Florence (Provisional and operating since 1991).

There is one special agent in each of the above Resident Offices that house these task forces, that is clan lab certified. There are currently no task force officers that are clan lab certified; however, students in DEA's two week Basic Narcotic School are provided with four hours of basic instruction on clan labs and methamphetamine investigations. One such school is provided in South Carolina each year with approximately 40 to 45 officers attending.

During 1997, 37 clandestine laboratories were seized in the Atlanta Division, only one of which (Myrtle Beach case referred to earlier in the text) was a methamphetamine lab originating in South Carolina. The Atlanta Division Office has established a clan lab enforcement group that is available to assist other offices throughout the division when a clandestine laboratory is encountered.

REORGANIZING INS

*Question.* I've heard that Chairman Rogers on the House side wants to abolish the Immigration and Naturalization Service (INS) and move its functions into the Department of Labor, Department of State, and retain part in Justice. Have you reviewed this issue. What is your view General Reno?

*Answer.* The Administration's restructure proposal was transmitted to the Hill on March 31, 1996. The plan took into consideration the concerns of the Congress and the Commission on Immigration Reform (CIR) with respect to the current management of immigration responsibilities.

The INS has as its single mission the effective execution of immigration and naturalization laws of this country. This single mission has two inseparable and complementary functions—services and enforcement.

The White House Domestic Policy Council (DPC), Office of Management and Budget, in consultation with the Departments of Labor and State, and the Department's own leadership—which has included my direct personal involvement—and the leadership of the Immigration and Naturalization Service have worked extensively in designing the restructuring plan. In addition, the Department has contracted with the consulting firm of Booz-Allen & Hamilton for assistance in designing and operationalizing the INS restructuring plan.

*Question.* Some have suggested that the problem is that INS has two competing missions—the border patrol and immigration inspectors are tasked with keeping aliens out, while the naturalization part of the agency is tasked with facilitating legal immigration.

Have you looked at retaining all INS functions within the Justice Department, but separating enforcement and naturalization activities into separate organizations?

*Answer.* The Department and Booz-Allen have examined alternative reorganization proposals for the INS—including those by external sources—such as the CIR proposal and the proposal provided in Congressman Reyes' bill.

The Administration's restructuring plan recognizes that one agency, INS, should continue to perform the interrelated enforcement and service functions. Consistent with the Administration's plan, the Department is focusing on a design structure that upholds the organizational integrity of the INS, while identifying additional changes that will improve INS' performance of enforcement and service functions. The Department is not considering separating INS' existing enforcement and service functions into separate Department of Justice (DOJ) components.

#### COMMUNITY PROSECUTING

*Question.* I've been told that your budget includes a new \$50 million initiative for a Community Prosecutors Program that will make discretionary grants to state and local prosecutors. Will this operate like the COPS on the Beat program?

*Answer.* Of the \$50 million request, at least \$40 million will be available to hire prosecutors. This will be a discretionary grant program that may well operate much like the COPS program. Grants are anticipated to last an average of three years and would pay a maximum of 75 percent of costs, with the Federal share declining over the life of the grant. The remaining 20 percent, or \$10 million, will be available for the following purposes: developing and implementing innovative programs that permit members of the community in assisting prosecutors in crime control and prevention; increasing prosecutors' involvement in community activities focused on crime control and prevention; developing and establishing a new administrative and management systems to facilitate the adoption of community-oriented prosecution; and developing and implementing innovative, community-based programs that include the courts and corrections systems.

*Question.* This seems like a good policy to have local prosecutors interact directly with members of the community, but can this be supported in the State and local block grants?

*Answer.* Technically Local Law Enforcement Block Grant (LLEBG) funds may be used to hire prosecutors and fund prevention efforts. However, there are several problems with doing so:

- prosecutors are primary county employees and the bulk of LLEBG funds go to cities;
- in 1996 and 1997, jurisdictions have already expressed that their primary needs are equipment, police officers and police overtime, in that order;
- even if localities were so inclined, funding levels are too small, particularly at the local level, to hire even one prosecutor, much less fund any kind of program;
- the central theme and intent of this program is to change the culture at the local level to buy into the concept of community justice and create strong coalitions among the local organizations/groups, which will then impact crime. Most of what will occur will be training and technical assistance toward this end. These kinds of activities cannot be funded through the LLEBG.

*Question.* In your testimony, you say this Community Prosecuting has worked on a small-scale level and you want the opportunity to try this nationally. Now would the \$50 million go towards a comprehensive, national strategy that would be seen in hundreds of communities throughout the country, or would you limit the program to targeted areas?

Answer. The intent is, indeed, to create a comprehensive strategy that encourages and supports prosecutors and local communities across the country to work together to fight crime in their neighborhoods.

NATIONAL ADVOCACY CENTER

*Question.* The Department of Justice is going to be opening the National Advocacy Center in a short time, and will finally have a center of excellence to train Assistant U.S. Attorneys and State and Local prosecutors together.

Two weeks ago we learned that the Department of Justice has been funding the Federal Trade Commission to train State prosecutors around the country in combating telemarketing scams.

General Reno, clearly marketing scams are a real law enforcement challenge that requires cooperation between our Federal and local prosecutors. Seems to me we should take advantage of the synergy produced by the National Advocacy Center and provide this training at the new facility.

Could you please look into that and see if we can set up such a training course at the Advocacy Center?

Answer. The National District Attorneys Advocacy Center (NDAAC) will be part of the National Advocacy Center currently under construction in Columbia, South Carolina. Each year, at currently anticipated resource levels, the NDAAC will provide training to approximately 2,000 local prosecutors who need instruction in specific prosecutorial skills. However, there are small prosecutor offices that cannot send their limited staff to the National Center for extended training. For these offices, short duration training at regional locations, possibly dealing with state-specific issues, will continue to be the most responsive approach. Also, with a potential training pool of over 65,000 local prosecutors, the currently anticipated capacity of the NDAAC alone cannot meet the requirements of the potential student population at the South Carolina location.

The recently held Telemarketing Scams courses were conducted as a joint effort by the American Prosecutors Research Institute and the National Association of Attorneys General. Two training sessions were planned for local prosecutors and assistant attorneys general. This course can be added to the curriculum of the NDAAC for presentation as demand warrants.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT [CALEA]

*Question.* I have a number of questions that Senator Leahy, the Ranking Member on the Judiciary Committee, has asked that we submit regarding the implementation of the Communications Assistance to Law Enforcement Act (CALEA).

As you know, last year we did not provide additional funding for CALEA since prior year funding had not been spent and the communications industry and the FBI had not reached agreement on capability and capacity requirements for court-ordered wiretaps in a digital telecommunications environment.

It still appears to me that the FBI and the industry have not progressed very far. What is the status of the Justice Department's negotiations with industry?

Answer. The Department of Justice (DOJ) and the industry have been discussing the implementation of CALEA on many fronts. The primary objective of these discussions has been to reach consensus with regard to implementation of CALEA. A committee was formed last summer consisting of representatives from the telecommunications industry and law enforcement to resolve the differences that existed with the industry's proposed standard. A committee was formed following a meeting between the Attorney General and Larry Babbio, Vice Chairman of Bell Atlantic Corporation.

As recently as February 23, 1998, the DOJ put forth a proposal that consisted of the following elements: (1) the Telecommunications Carrier Compliance Fund (TCCF) would be used to pay for the development of solutions for all switching platforms in existence prior to January 1, 1995; (2) with regard to deployment costs, the TCCF would be used to pay for all deployment costs for specific switches in place before January 1, 1995. Within this framework, any switching platforms in existence prior to January 1, 1995 for which the Government does not fund solution development would be deemed in compliance until such time as the Government does fund development; (3) the Government would be willing to share deployment costs with industry for specific switches installed or deployed between January 1, 1995 and October 25, 1998, even though the Government is not statutorily obligated to reimburse those costs; and (4) law enforcement would also forbear seeking enforcement actions for a reasonable period (a period that would coincide with manufacturer development timelines) after the October 25, 1998 compliance date, thereby allowing the industry a reasonable period in which to deploy solutions.

On February 25, 1998, the industry rejected all of the FBI's proposal. On March 6, 1998, leaders of the telecommunications industry, Attorney General Reno and Director Freeh met in an attempt to reach a negotiated agreement. The meeting concluded with both industry and law enforcement committing to working together intensively and cooperatively for the next 60 days. Industry and law enforcement will have the following objectives: (1) assess the technical feasibility of developing solutions which fully meet law enforcement requirements; (2) clarify the financial implications of developing solutions which fully meet law enforcement requirements; and (3) develop corresponding CALEA solution deployment timelines. On March 27, 1998, the DOJ and the FBI filed a petition with the Federal Communications Commission (FCC) opposing the interim standard adopted by the telecommunications industry. The interim standard is considered deficient by the law enforcement community because law enforcement believes it fails to meet all the capability requirements mandated by CALEA and the underlying Federal electronic surveillance statutes. It is hoped that the FCC will rule on the technical standard in an expedited manner.

*Question.* We have heard rumors that the FBI is holding out the possibility that it will seek funding in excess of the \$500 million authorization if the communications industry will sign on to its capacity and capability requirements. Is there anything to that rumor or are you committed to staying within budget for this subsidy program?

*Answer.* Currently, the FBI has no plans to request that the current authorization of \$500 million be increased.

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QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

CALEA

*Question.* We have less than a year before the October 25, 1998 deadline for telecommunications carriers to be in compliance with the Communications Assistance for Law Enforcement Act.

Given the current state of CALEA implementation, with no final capacity notice, a disputed industry capability standard in place, and no final switch-based or network-based solution deployed, please tell me how you expect telecommunications carriers to meet the October 25, 1998 compliance date?

*Answer.* CALEA turned out to be a far more significant and difficult task than the Attorney General and the FBI had originally anticipated as many difficult technological as well as implementation issues needed to be understood and addressed. However, the assistance capability requirements have been known for some time. In fact, at one point in 1995, the industry's draft standard did include all of law enforcement's technical requirements.

It was only after the industry began to dismiss a portion of those requirements that law enforcement recognized that some important evidentiary requirements would be absent from the standard and hence absent from any solution developed using the standard as its base. The industry's removal of these key requirements set a process in motion that recently concluded with the Department of Justice (DOJ)'s legal decision that nine "punch list" missing capabilities were required by CALEA and the underlying electronic surveillance statutes. The legislation recognizes that even in the absence of a standard, the industry must provide the assistance capability requirements of CALEA.

The FBI recognizes the difficulties with the implementation of CALEA and has agreed to support industry applications for extensions of time afforded them within the legislation contingent on the industry providing certain information to the FBI pertaining to electronic surveillance solution development and deployment schedules. The FBI will support the industry's good faith effort in moving toward a solution consistent with law enforcement requirements.

With regard to capacity, the FBI does not believe that compliance with the section 103 assistance capability requirements by October 25, 1998 should be tied to, or delayed pending the issuance of the Final Notice of Capacity. A manufacturer's ability to develop solutions to meet the section 103 assistance capability requirements does not depend upon the final articulation of the capacity requirements. Shortly after the publication of the Second Notice of Capacity in January 1997, the FBI advised the industry that the capacity numbers in the Final Notice of Capacity would not change from those set forth in the Second Notice of Capacity.

*Question.* Should the deadline for compliance with the capability requirements be delayed? If not, please explain why?

Answer. No, the deadline for compliance with the capability requirements should not be delayed. Law enforcement has been consulting with the industry in an effort to explain its evidentiary requirements since the initiation of standards-setting efforts in 1995. While the FBI has agreed to support applications for extensions of the compliance date before the FCC based on good faith efforts of industry, the FBI does not believe blanket extensions are justified.

Furthermore, CALEA contains provisions to accommodate a need to extend the compliance date. Section 107 of the legislation clearly states that: "A telecommunications carrier proposing to install or deploy, or having installed or deployed, any equipment, facility, or service prior to the effective date of section 103 may petition the Commission for one or more extensions of the deadline for complying with the assistance capability requirements \* \* \*"

The DOJ and the FBI share your frustration with the pace of CALEA's implementation. Few could have foreseen that a solution would not be available eight months prior to the October 25, 1998 compliance date for capability, particularly since CALEA specifically requires capability compliance by that date regardless of whether or not a standard has been adopted. However, in recognizing that the compliance date is fast approaching and a solution is not yet commercially available, the Government offered industry a new direction in a January 22, 1998 letter from the Attorney General to members of the telecommunications industry.

As stated in the January 22, 1998 letter, and further clarified in a February 3, 1998 letter from Stephen R. Colgate, Assistant Attorney General for Administration, in those situations where a carrier can foresee that they are unable to meet the October 25, 1998 deadline because a manufacturer has yet to develop a solution, the Attorney General is prepared to forbear from any enforcement action against that carrier, and support a carrier's petition to the FCC for an extension of the compliance date. In return, the Attorney General would require that each manufacturer continue good faith efforts to develop a solution with functionality required by CALEA as defined by law enforcement and the underlying electronic surveillance statutes, and provide a reasonable and fair development schedule which would include verifiable milestones.

*Question.* Why has the FBI not yet petitioned the FCC over the standard? Do you plan to file such a petition and, if so, what are you waiting for?

Answer. In December 1997, the telecommunications industry adopted an interim standard (J-STD-025) that does not contain nine punch list capabilities found by the Department of Justice to be required by CALEA. The DOJ and the FBI believe that this standard is deficient because it does not include these assistance capabilities. If the standard is not modified, the safe harbor that has been created by the passage of the deficient interim standard will be allowed to continue. The result will be the inability of law enforcement to conduct effective electronic surveillance.

It is important to note that the FBI, as a representative of all Federal, state and local law enforcement, requires a consensus among its members in order to file a petition that would be representative of the entire law enforcement community.

The FBI principally coordinates CALEA implementation actions through the Law Enforcement Technical Forum (LETF) in which law enforcement officials from across the country express their views on CALEA matters, including the industry's J-STD-025 interim standard. A LETF meeting was held on January 22, 1998, to discuss the interim standard. Also, after internal analysis, the FBI requested a DOJ review of the "punch list" capabilities. That opinion was rendered on January 23, 1998. Moreover, a meeting was held on February 24, 1998 with law enforcement associations including the International Association of Chiefs of Police (IACP), the National Association of Attorneys General (NAAG), and the National Technical Investigators Association (NATIA) to discuss the interim standard. On March 27, 1998, the DOJ and FBI filed a petition with the FCC opposing the interim standard adopted by the telecommunications industry.

*Question.* The FBI has repeatedly noted that the absence of a standard does not relieve industry from meeting the statutory deadline for capability compliance. In fact, CALEA does not let carriers off the hook if no standard is implemented. Yet, the Department is proposing to issue letters of forbearance to carriers excusing them from meeting the compliance deadline, if they agree to some or all of the FBI's "punch list" items, which carriers contend are not required under CALEA. What provisions in CALEA authorize the Attorney General to grant forbearance to carriers that cannot meet the October 1998 compliance deadline?

Answer. Section 108 of CALEA sets the conditions under which the Attorney General is authorized to seek an order enforcing the legislation. In those instances where carriers and manufacturers are indeed making good faith efforts to comply in a timely manner, the Attorney General would reserve the right to seek an enforcement order.

During the course of a January 23, 1998, meeting, the DOJ, the FBI, and representatives of the telecommunications industry discussed the conditions under which the DOJ would agree not to pursue enforcement actions against a carrier under section 108 of CALEA with regard to the CALEA mandate that a carrier meet the assistance capability requirements pursuant to CALEA section 103 by October 25, 1998, or against a manufacturer with respect to its obligation under CALEA section 106(b) to make features or modifications available on a “reasonably timely basis.” Industry representatives in attendance at the January 23, 1998, meeting included representatives from the Cellular Telecommunications Industry Association (CTIA), Personal Communications Industry Association (PCIA), Telecommunications Industry Association (TIA), United States Telephone Association (USTA), and Bell Atlantic.

Forbearance would be contingent upon the industry’s good faith efforts to develop a solution that is consistent with law enforcement’s requirements and to commit to a fair and reasonable development schedule.

*Question.* It seems that the FBI and DOJ are offering to support extensions of the compliance date through forbearance letters or at the FCC only if carriers agree to undertake efforts to develop the “punch list” which carriers contend are not required under CALEA. Does CALEA give the FBI and DOJ authority to condition the granting of extensions of the compliance deadline?

*Answer.* Only the FCC may grant extensions of the compliance deadline. However, the FCC is required to consult with the Attorney General before granting an extension to a carrier. The Attorney General can support a carrier’s request for extension of the compliance date based on that carrier’s good faith efforts to implement CALEA.

In recognition of the industry’s concern over the compliance date, the Attorney General has offered not to pursue enforcement actions against a carrier under section 108 of CALEA with regard to the CALEA mandate that a carrier meet the assistance capability requirements by October 25, 1998, or against a manufacturer with respect to its obligation under CALEA section 106(b) to make features or modifications available on a “reasonably timely basis.”

Forbearance and support for extensions would be contingent upon industry’s good faith efforts to develop a CALEA-compliant solution and commit to a fair and reasonable development schedule which would include verifiable milestones.

The DOJ, the FBI and the law enforcement community firmly believe that the “punch list” capabilities must be incorporated into a solution in order for law enforcement to maintain the integrity of interceptions and the ability to intercept the same information that it previously received through traditional methods—that is, before the advent of advanced telecommunications services and features necessitated electronic surveillance efforts to be effected within a carrier switch or network facilities. After extensive legal analysis, DOJ has found the “punch list” missing capabilities to be within the scope of CALEA, and vital to law enforcement’s ability to meet evidentiary and minimization requirements required by a court of law.

*Question.* If carriers seek deadline extensions at the FCC, will the FBI argue that any extensions should be conditioned on carriers dropping their objections to the punch list?

*Answer.* The FBI has agreed to support industry applications for extensions of time afforded them within the legislation. In return, the Attorney General expects the manufacturer to continue good faith efforts to develop a solution consistent with law enforcement’s requirements and commit to a fair and reasonable development schedule which would include verifiable milestones.

On February 4, 1998, the DOJ sent a letter to industry representatives delineating the DOJ’s determination of the legality of “punch-list” missing capabilities. The legal opinion was rendered and the letter was sent in response to an industry request for clarification of the legality of the “punch-list” missing capabilities. The DOJ legal opinion clearly stated that nine of the “punch-list” capabilities were required by CALEA and the underlying electronic surveillance statutes.

#### SUBCOMMITTEE RECESS

Senator GREGG. Thank you again, Madam Attorney General.

Ms. RENO. Thank you.

Senator GREGG. The subcommittee stands in recess until Thursday at 10 a.m. when we will hear testimony from the Secretary of State.

[Whereupon, at 11:34 a.m., Tuesday, February 24, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, February 26.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**THURSDAY, FEBRUARY 26, 1998**

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

The subcommittee met at 10:06 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Campbell, Hollings, Inouye, and Mikulski.

DEPARTMENT OF STATE

SECRETARY OF STATE

STATEMENT OF MADELEINE K. ALBRIGHT, SECRETARY OF STATE

OPENING REMARKS

Senator GREGG. We will start the hearing of the Subcommittee on Commerce, Justice, and State of the Appropriations Committee.

Madam Secretary, we do have a vote starting, two back to back votes, starting at 11 o'clock. So what I would like to suggest to the panel, if it is agreeable, and I will leave it to the panel to decide, is that we waive opening statements and go right to hearing the Secretary. Hopefully, she can give us a brief opening statement so we can get right into questions.

I yield to my ranking member for any comments he may have.

Senator HOLLINGS. Mr. Chairman, I thank you and I welcome Secretary Albright. I have got a conflicting hearing in the Commerce Committee at 10:15 and I hope to get back. Madam Secretary, welcome. Write down the word: "oceans."

I started 30 years ago with Tom Pickering. He was then the Assistant Secretary of State for Oceans and Environment. Then most recently you had Tim Wirth, as the Under Secretary, and now you have nobody. But your Department is trying to hold up any bill which creates an ocean policy commission. Julius Stratton some 30 years ago chaired an ocean study, the famous Stratton Commission, that led to the creation of NOAA. We really do not have any conflicts with international law. The problems are local.

The problem is that 85 percent of the people by the year 2000 in this country will live within 50 miles of the coast of the oceans and the Great Lakes. We passed my Oceans Act unanimously over

here on the Senate side. We are ready to get it going over on the House side. And, now I've heard rumors that State Department people are saying, "Wait, we are the lead on oceans."

It is the year of the oceans in the State Department, for lack of attention frankly. Saying, oh, no, we have got to change this. We are in charge of ocean policy. And you stay in charge of all international policy. But within respect to the coastal zone management, ocean research, El Niño, living marine resources, the actual two-thirds of the Earth that is affecting the weather, that we do not pay attention to. The U.S. Government has got to have a formative study now and an approach to real issues and problems. So I would appreciate your help on it.

With respect to Iraq. Sometimes we overdescribe, in my opinion. Sometimes we lift expectations beyond reality, and that has occurred here more recently. You have been working around the clock on an agreement, and I admire you for what you have done. But what happens is that, in all candor, this agreement cannot be enforced. You cannot police another man's country.

It can be enforced if you get rid of Saddam Hussein. Everybody agrees on that, and nobody has a substitute for it except Israel. Israel has made it known if they put in one missile in downtown Tel Aviv, that will be the end of Baghdad, Saddam, and the whole kit and caboodle. So they get on national TV and they say, by the way, if you all come in, we are not going against Israel this time. Somewhat mutually assured destruction. That policy worked with the Soviets and that, unless we are going after Saddam himself, has got to be our policy.

Our friend, Secretary Cohen, gave up the game when he held that bag of sugar on TV. You can go in there 5 days, you can go in there 50 days and bomb, and at the end of the 50 days up comes Saddam on TV with his little bag and says, ha-ha, I am still here. You yourself have said that, "Well, if necessary we will go back in."

I think that we ought to get down to reality and realize that from our own experience that you just cannot guarantee anything unless you get rid of Saddam. We thought we were doing a good job with UNSCOM. I keep hearing about the integrity of UNSCOM. The outfit itself has integrity, but the agreement to be enforced has none whatsoever.

I saw us misled years and years ago by Secretary McNamara, and he finally wrote a book about it. He was talking about having them surrounded, Operation Meat Grinder, light at the end of the tunnel, and everything else. In a similar fashion, we are over-describing this thing when we say we are going to enforce it. It will be a guarantee. It will be serious. And then in the next breath we say, wait a minute, it might not work, and we will have to go back in.

Hey, you cannot waste American personnel, GI's, men, and women on the kind of policy that does not get the job done. We made a mistake back in Desert Storm. We should have gone in and finished the job. We all know that now. And going in is the only way to enforce this so-called policy because it is unenforceable otherwise. Even in our own country, the FBI just thought they had anthrax out in Nevada.

So I understand that it is the policy that you are in charge of. When we go around and we talk categorically about what we are going to do, we say we are the one superpower and it is our responsibility. And no, we do not need the United Nations, but yet it is the U.N. resolutions that we are enforcing, and we end up with everybody in the neighborhood against us—the majority of the Security Council against us. That is bad policy and that worries me. As we move into this thing, the ultimate policy in the Mideast is whether or not we can get a peace treaty now with Arafat of any kind for Israel during the remainder of President Clinton's term.

Now I did not mean to go that long, but I have to, because unfortunately, I do not get much chance to see the Secretary. I do appreciate it, and welcome you.

Senator GREGG. Thank you, Senator Hollings.

I notice we have been joined by the chairman of the full committee and wondered if, Senator Stevens, did you wish to make any opening statement?

Senator STEVENS. No; I will abide by your request and wait.

Senator GREGG. Then we turn to you, Madam Secretary. I appreciate your coming, and appreciate your time, and look forward to hearing what you have to say.

#### SUMMARY STATEMENT

Secretary ALBRIGHT. Thank you very much, Mr. Chairman. I am very glad to be here again with you and the members of the subcommittee and to present the President's 1999 budget request. I will not read my written statement, but I encourage you to look it over because it deals with an awful lot of vital issues in parts of the world that I cannot include in my oral statement today and honor your time. But before discussing the specific accounts, Mr. Chairman, let me just review a couple of front burner foreign policy issues. Clearly, Iraq is one of them. I will not respond to everything that Senator Hollings said, but I will make a couple of comments and then, obviously, I think you all will have questions.

First, we have made efforts through diplomacy backed by the threat of force to see that Iraq complies with its obligations to the world community, and that effort is going on. On Tuesday, the Security Council was briefed by the Secretary General on the agreement, and the agreement does promise immediate and unrestricted access to U.N. inspectors to sites in Iraq, including those from which they had been previously excluded. Now I do think that this is important because Saddam Hussein has, in fact, reversed course. It is due to our own firmness and also to the strong international pressure brought to bear on Baghdad by nations from around the world.

I know that there are some Senators who have urged that we reject the agreement. But we believe that the wiser course is to test with the agreement. In the days ahead, we are going to be working with the Security Council and the U.N. Special Commission, UNSCOM, to see that the agreement is implemented in a way that reflects the core principles upon which we insisted. That is, that Security Council resolutions be obeyed, that the integrity of UNSCOM is preserved, and that there be no artificial timetables or linkages that would prevent UNSCOM from doing a full, professional job.

With our support, UNSCOM will be testing Iraq's promises thoroughly and comprehensively. As President Clinton said on Monday, our soldiers, our ships, and our planes will stay there in force until we are satisfied that Iraq is complying with its commitments.

The events of the past few days have not changed our fundamental goal, which is to end or contain the threat posed by Saddam Hussein to Iraq's neighbors and the world. A solid U.N. inspection and monitoring regime backed by sanctions and enforcement of the no-fly and no-drive zones is our preferred means of achieving that goal. But we retain the authority, the responsibility, the means, and the will to use military force if that is required.

The recent focus on the situation in Iraq should not divert our attention though from other important decisions we have to make this year. For example, we are working with Europe to meet global challenges such as proliferation, crime, and the environment. And we are working in Europe to realize this century's most elusive dream: a Europe that is whole, free, prosperous, and at peace.

This past Tuesday I joined Defense Secretary Cohen and General Shelton in testifying before the Foreign Relations Committee in support of NATO's decision to invite three new European democracies to join the alliance while holding the door open for others. By adding Poland, Hungary, and the Czech Republic to the alliance we will expand the area within Europe where wars simply do not happen. I hope with the support of leaders from both parties that the Senate will make the right choice and allow NATO enlargement to proceed.

Another major test of our commitment to building a united and peaceful Europe is our effort to assist in fulfilling the Dayton accords. Around Christmas, I went to Bosnia with the President, and Senator Dole, and the chairman of the full Appropriations Committee, Senator Stevens, and other Members of Congress. We found a Bosnia that remains deeply divided, but where multiethnic institutions are once again beginning to function. More slowly than we foresaw, but surely as we hope, the infrastructure of Bosnian peace is gaining shape and the psychology of reconciliation is taking hold. But if we turn our backs on Bosnia now, as some urge, the confidence we are building would erode and the result could well be a return to genocide and war. Senators, quitting is not the American way, and we should continue to play an appropriate role in Bosnia as long as our help is needed, our allies and friends do their share, and most importantly, the Bosnian people are striving to help themselves. That is the right thing to do, and it is the smart thing, for it is the only way to ensure that when our troops do leave Bosnia that they leave for good.

Mr. Chairman, there is much that America can accomplish unilaterally, bilaterally, or in cooperation with close allies. But many problems can best be dealt with through broad international action. That is why we participate in organizations such as the United Nations.

Last year, as you recall, we worked together to develop a 3-year plan to encourage the United Nations reform that we want while paying our overdue U.N. bills. Unfortunately, that spirit of cooperation broke down toward the end of the session when a small group

of House Members blocked final passage of this and other key measures.

I testified before the authorizing committees about my concern with the tactics used and will not belabor that point here. Certainly, your subcommittee did its part by appropriating the \$100 million called for in the first year, and now we have to find a way to free up that money and to gain approval of funds for years two and three.

Mr. Chairman, I have been discussing the United Nations and America's role in it with this subcommittee since 1993. Together we have helped the United Nations to achieve more reform in the past half-decade than in the previous 45 years. But as you know, Mr. Chairman, this progress has not come easy. We faced opposition every step of the way, and the job is far from finished.

So let me tell you frankly that if we are not able to pay our U.N. arrears soon our legs will truly be cut out from under us at the United Nations. We are told daily by our best allies and friends that U.S. credibility will be sadly diminished. That will hurt America and cost Americans.

Let me just cite one example. Last December, the General Assembly voted on a plan that could have, and I believe would have, cut our U.N. assessments by roughly \$100 million every year. Our diplomatic team had worked long and hard to make this possible. But when the U.N. arrears package was killed, support for that proposal disappeared, and it took a heroic effort to keep alive the chance for a new vote during the first one-half of this year. So if we do not seize this opportunity, we will not have another one until the year 2000.

So we have a choice. We can fail once again to act, undermine our own diplomatic leadership, and deprive our taxpayers of savings we might otherwise be able to achieve. Or we can pay our arrears, restore full U.S. influence, and make possible a reduction in our assessments that will save U.S. taxpayers money for as long as we are in the United Nations.

Now I know this choice will not be made by this subcommittee alone, but I ask your support for prompt action not tied to any unrelated issue on our supplemental appropriations request for U.N. arrears. I am convinced it is the right choice for America.

Mr. Chairman, there was a time not that long ago when our managers at the State Department could afford to be guided by a just-in-case philosophy. Planning, acquisitions, and training could be based on what might be needed. Today, we are compelled by the pace of change and the tightness of budgets to practice just-in-time management. That means putting personnel, resources, and infrastructure where they are required, when they are required, and being prepared to reposition them rapidly and flexibly when they are not.

But we still need to make some well-placed investments. This year our request for State Department operating funds is about \$2.2 billion; barely above last year's. But we are also seeking an increase of \$243 million in our "Security and maintenance" account to upgrade our facilities, especially in Germany and China.

With respect to information technology, our needs are basic. We want to install late 20th century computer technology at every post

before the 21st century begins. We need to replace overloaded phone switchboards before they experience what is known as catastrophic failure. And we want to ensure that when the clock strikes midnight on December 31, 1999, our computers do not all crash and send us back to the age of quill pens and scribes. So I hope you will support us in acquiring communication systems that are secure, reliable, and expansive enough to meet the demands of the information age.

Mr. Chairman, as Secretary of State, I can tell you that Americans can be proud of the people, whether foreign service, civil service, or foreign service nationals, who work every day, often under very difficult conditions, to protect our citizens and our interests around the world. They are really great people. But if we are to maintain the high standards of diplomatic representation we need, we must continue to emphasize high standards in recruiting, and managing our personnel. We must understand how and how much the world has changed.

We need to train our people to sift information as much as to gather it, to surf the web as much as to pound the pavement, and to look outside traditional diplomatic sources for information, contacts, and ideas. We need specialists who can keep up with advances in technology, who have the language and cultural training required to feel at home wherever they may be assigned. We need men and women with multiple skills who can monitor compliance with international property law, assist Americans in trouble, report on human rights, and promote our arms control agenda all in the same career and sometimes in the same week.

To do justice to the strength our Nation finds in its diversity, we have to do better at hiring, retaining, and promoting the best people America has to offer from every background. We are making progress, and I am particularly proud of the large numbers of women competing successfully to enter the foreign service this year. But there is much more we can do, and I hope I can count on this subcommittee's support.

Mr. Chairman, many of our initiatives are directed, as I've discussed, at particular countries or regions. Others, such as our efforts to build prosperity, fight international crime, and protect the environment can best be considered in global terms.

I think that as we are dealing with regional or worldwide issues, it is hard to lead in the 1990's with institutions designed for the 1950's. That is why we worked with Congress last year to develop a plan to reorganize our foreign affairs agencies to reflect the fact that arms control, public diplomacy, and international development belong at the heart of American foreign policy. I hope we will have the subcommittee's support for early action on reorganization legislation this year.

Mr. Chairman, one-half a century ago a Democratic President and a Republican Congress worked together to help forge the institutions that have shaped our foreign policy and defined the history of our age. Institutions that proved instrumental in the defense and spread of freedom, the growth of prosperity, the defeat of communism, the confirmation over and over again of America's standing as a leading force for justice and law in the world. Our predecessors were not prophets, but because they stood tall they were

perhaps able to see a little bit further into the future than others. They also had faith in our people and in the principles upon which our Nation was founded. Today we have a responsibility to honor their faith, to reject the temptation of complacency, and assume not with complaint, but welcome, the leader's role established by our forebears.

New Hampshire's Daniel Webster said once that God grants liberty only to those who love it and are always ready to guard and defend it. These words remind us that only by living up to the heritage of our past can we fulfill the promise of our future and enter the new century free and respected, prosperous and at peace.

#### PREPARED STATEMENT

Mr. Chairman, Senators, thank you very much and I am very happy now to answer your questions.

[The statement follows:]

#### PREPARED STATEMENT OF MADELEINE K. ALBRIGHT

##### INTRODUCTION: PROMOTING AMERICAN INTERESTS AND UNIVERSAL VALUES

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to discuss the President's fiscal year 1999 budget request for the Department of State and related programs.

I want to begin by thanking you for your work last year. One of my highest goals upon becoming Secretary of State was to work with Members of Congress to restore both the spirit and substance of bipartisan support for American leadership around the globe. And as the achievements of this past year reflect, despite some disagreements, we have been moving in the right direction.

Since I last testified before this Subcommittee, the United States has helped achieve progress towards a Europe whole and free, a Bosnia where peace is beginning to take hold, an Asia where security cooperation is on the rise, an Africa being transformed by new leaders and fresh thinking, and a Western Hemisphere blessed by an ever-deepening partnership of democracies.

We have also joined the Chemical Weapons Convention as an original member, intensified the war against international crime, taken an essential first step towards a global agreement to combat climate change and approved the first overall increase in funding for international affairs programs in several years.

More specifically, with your help, we have made progress in providing the training, equipment and resources we need to give the American people the first-class diplomatic representation they deserve.

With the additional resources made available last year, we are going forward with a major program of infrastructure repair and are accelerating our modernization of information technology. And I am pleased that, after several years of personnel reductions, we will have as many Foreign and Civil service personnel joining us this year, as leaving.

All this matters, Mr. Chairman, because American leadership is built not only on our military and economic power, and on the power of our ideals, but also on the effectiveness of our diplomacy.

The accounts funded by this Subcommittee determine whether we will have the right people in the right place with the right tools at the right time. And whether we will therefore be able, through our bilateral and multilateral diplomacy, effectively to promote peace, halt the spread of deadly weapons, counter terror, fight international crime, enforce trade agreements, build democracy, raise core labor standards, protect the environment, increase respect for human rights, combat disease, and safeguard the rights of Americans who travel or do business overseas.

I have said that it is America's strategic objective, as we prepare for the new century, to seize the opportunity that history has presented to bring nations closer together around basic principles of democracy, free markets, respect for the law and a commitment to peace.

America's place in this system is at the center. And our challenge is to keep the connections between regions and among the most prominent nations strong and sure.

We must also help other nations become full partners by lending a hand to those building democracy, emerging from poverty, or recovering from conflict.

We must summon the spine to deter, the support to isolate, and the strength to defeat those who run roughshod over the rights of others.

And we must aspire not simply to maintain the status quo—for that has never been good enough for America. Abroad, as at home, we must aim for higher standards so that the benefits of growth and the protections of law are shared not only by the lucky few, but by the hardworking many.

#### AMERICAN LEADERSHIP AROUND THE WORLD

Before proceeding to a discussion of specific accounts, Mr. Chairman, I would like briefly to review with the Subcommittee some of the major foreign policy challenges and initiatives we will face during the coming weeks and months.

Most prominent, of course, is our effort—through diplomacy backed by the threat of force—to see that Iraq complies with its obligations to the world community.

That effort is ongoing. On Tuesday, the Security Council was briefed by Secretary General Kofi Annan on Iraq's written agreement to reverse course and grant immediate, unconditional and unrestricted access to U.N. inspectors to sites in Iraq, including those from which they had previously been excluded.

We attribute the Iraqi commitments not only to our own firmness, but to the strong international pressure brought to bear on Baghdad by nations from around the world.

In the days ahead, we will be working with the Security Council and UNSCOM to ensure that the agreement is implemented in a manner that reflects the core principles upon which we have insisted: that Security Council resolutions be obeyed; that the integrity of the U.N. Special Commission—or UNSCOM—be preserved; and that there be no artificial timetables or linkages that would prevent UNSCOM from doing a full and professional job.

With our support, UNSCOM will be testing Iraq's commitments thoroughly and comprehensively.

And as President Clinton said Monday: "Our soldiers, our ships, (and) our planes will stay there in force until we are satisfied Iraq is complying with its commitments."

Although the events of the past few days may have changed the specific circumstances, they have not changed our fundamental goal—which is to contain or end the threat posed by Saddam Hussein to Iraq's neighbors and the world. A solid U.N. inspection and monitoring regime, backed by sanctions and enforcement of the no-fly and no-drive zones, is our preferred means of achieving that goal. But we retain the authority, the responsibility, the means and the will to use military force if that is required.

In the meantime, we continue to support expanded efforts through the United Nations oil-for-food mechanism to ease the suffering of the Iraqi people. We do this not as a favor to Saddam, who has often opposed such efforts, but because it is right; and because it deprives Saddam of the argument that Iraqi hardships justify lifting U.N. sanctions prematurely.

Mr. Chairman, during my visits last week to Tennessee, South Carolina and—most audibly—Ohio, I heard two somewhat different but understandable desires voiced by the American people.

The first was a strong desire to see the Iraq crisis settled peacefully. Americans have always been reluctant to use force. We do not want to put the lives of innocent people at risk, and would never unnecessarily do so.

The second is a desire to see Saddam Hussein removed from power.

Unfortunately, we cannot guarantee a peaceful outcome without opening the door to yet another round of Iraqi cheating, which we will not do. Given Saddam's history of aggression, his repeated use of poison gas and his dishonesty, we cannot safely or responsibly rule out the use of force in the future.

But if we are required to use force, why not go all the way and remove Saddam from power? The answer is that it would require a far greater commitment of military force, and a far greater risk to American lives, than is currently needed to contain the threat Saddam poses.

Some have suggested that the solution is to arm and encourage the Iraqi opposition to initiate a civil war. That option sounds—but is not—simple. We have worked with Iraqi opponents of Saddam Hussein in the past, and we are ready to work with them more effectively in the future. But the opposition is currently divided, and it would be wrong to create false or unsustainable expectations that could end in bloodshed or defeat.

This leaves us with a policy that is—quite frankly—not fully satisfactory to anyone. It is a “real world” policy, not a “feel good” policy.

But I am convinced it is the best policy to protect our interests and those of our friends and allies in the Gulf. It embodies both our desire for peace and our determination to fight if necessary. It takes into account current realities, without—in any way—ruling out future options. It presents the leaders in Baghdad with a clear choice. And it reflects principles that are vital to uphold, not only in the Gulf now, but everywhere, always.

Mr. Chairman, the recent focus on the situation in Iraq should not divert our attention from other important decisions and initiatives we will undertake this year. For America is a global power, and our citizens have important interests in every region on every continent.

For example, we are working with Europe to meet global challenges such as proliferation, crime and the environment.

And we are working in Europe to realize this century’s most elusive dream, a Europe that is whole, free, prosperous and at peace.

Earlier this week, I joined Defense Secretary Cohen and General Shelton in testifying before the Senate Foreign Relations Committee in support of NATO’s decision to invite three new European democracies to join the alliance while holding the door open to others.

By adding Poland, Hungary and the Czech Republic to the alliance, we will expand the area within Europe where wars simply do not happen. And we will enlist in the cause of peace three new allies who are dedicated to NATO principles and ready to contribute to the freedom and security of the continent.

I hope, and I believe, that with the support of leaders from both parties, and with the encouragement of the American people, the Senate will make the right choice—and allow NATO enlargement to proceed.

Another major test of our commitment to building a united and peaceful Europe is our effort to assist in fulfilling the Dayton Accords.

Around Christmas, I went to Bosnia with the President and Senator Dole and a number of Members of Congress. We found a nation that remains deeply divided, but where multi-ethnic institutions are once again beginning to function. Economic growth is accelerating. Indicted war criminals are being tried. More refugees are returning. And—perhaps most important—a new Bosnian Serb government has been elected that is committed to implementing Dayton.

More slowly than we foresaw, but as surely as we hoped, the infrastructure of Bosnian peace is gaining shape and the psychology of reconciliation is taking hold.

But if we turn our backs on Bosnia now, as some urge, the confidence we are building would erode, and the result could well be a return to genocide and war.

Quitting is not the American way. In Bosnia, the mission should determine the timetable, not the other way around. And as the President made clear in December, “that mission must be achievable and tied to concrete benchmarks, not a deadline.”

Accordingly, we and our allies have agreed that NATO will continue to lead a multi-national force in Bosnia after SFOR’s current mandate expires in June. Its mission will continue to be to deter hostilities, support the implementation of the Dayton Agreement, and contribute to establishing a secure environment in which Bosnian authorities can increasingly take charge of their country’s stability themselves.

Without expanding SFOR’s mandate, we will ensure that the new force has an enhanced capability to deal with the task of ensuring public security.

And we will review the size of the force periodically as part of our strategy to gradually transfer its responsibilities to domestic institutions and other international organizations.

We have already held informal briefings with Senators on these consultations. As we discuss with our allies and partners the details of this new phase of operations, you can expect to hear more from us.

We should continue to play an appropriate role in Bosnia as long as our help is needed, our allies and friends do their share, and—most importantly—the Bosnian people are striving to help themselves. That is the right thing to do. And it is the smart thing, for it is the only way to ensure that when our troops do leave Bosnia, they leave for good.

Mr. Chairman, one of our most important foreign policy objectives is to build an inclusive Asia-Pacific community based on stability, shared interests and the rule of law.

To this end, we have fortified our core alliances, crafted new defense guidelines with Japan, maintained our forward deployment of troops, embarked on Four Party talks to create a basis for lasting peace on the Korean Peninsula, and continued to

implement, with our partners, the Agreed Framework which is dismantling North Korea's dangerous nuclear program.

We have also intensified our dialogue with China, achieving progress on economic and security matters, while maintaining our principles on respect for Tibetan heritage and human rights. Let me stress here, Mr. Chairman, that engagement is not the same as endorsement. We continue to have sharp differences with China—but we also believe that the best way to narrow those differences is to encourage China to become a fully responsible participant in the international system.

Steps in the right direction include China's commitment to strictly control nuclear exports, its assurances on nuclear cooperation with Iran, its security cooperation on the Korean peninsula, its decision to sign the Comprehensive Test Ban Treaty, its continued economic liberalization, the release of Wei Jingsheng, its invitation to the U.N. High Commissioner for Human Rights to visit, and its agreement to pursue cooperative activities with us to strengthen the rule of law (activities that we propose to be partly funded through an increase in the Asia Foundation's budget).

We have also been working with the IMF to respond to the financial crisis in East Asia.

Our approach is clear. If a nation affected by instability is to recover, it must reform in a manner that addresses the underlying problems that created that instability. And if a nation is willing to seriously undertake such reforms, we will help.

East Asia includes some of our closest allies and friends, including South Korea, which faces a large and well-armed military force across the DMZ. The region also includes some of the best customers for U.S. products and services—and if they can't buy, we can't sell.

Moreover, since the IMF functions as a sort of intergovernmental credit union, its efforts to assist East Asian economies won't cost U.S. taxpayers a nickel.

Still, there are some who say we should disavow the IMF and abandon our friends, letting the chips—or dominos—fall where they may.

It is possible, if we were to do so, that East Asia's financial troubles would not spread and badly hurt our own economy, and that our decision to walk away would not be misunderstood, and a wave of anti-American sentiment would not be unleashed, and new security threats would not arise in this region where 100,000 American troops are deployed.

All this is possible, but I would not want to bet America's security or the jobs of your constituents on that proposition. For it would be a very, very bad bet.

Even with full backing for the IMF, and diligent reforms in East Asia, recovery will take time. And further tremors are possible.

The best way to end the crisis is to back the reforms now being implemented, approve the supplemental IMF funding requests submitted by the President earlier this month, work to keep the virus from spreading, and develop strategies for preventing this kind of instability from arising again.

In the Middle East, we continue to guard against another form of instability through our efforts to encourage progress towards a just, lasting and comprehensive peace.

Last month, President Clinton presented ideas to Chairman Arafat and Prime Minister Netanyahu in an effort to break the current stalemate, recognizing that the parties, given the level of their distrust, might respond to us even if they remain reluctant to respond to each other.

The issue now is whether the leaders are prepared to make the kinds of decisions that will make it possible to put the process back on track. Indeed, we have to ask: are they prepared to promote their common interests as partners? Or are they determined to return to an era of zero-sum relations?

The stakes are high. That's why we have been involved in such an intensive effort to protect the process from collapsing.

Mr. Chairman, closer to home, we meet at a time of heightened emphasis in our policy towards the Americas. This attention is warranted not only by proximity of geography, but by proximity of values. For today, with one lonely exception, every government in the hemisphere is freely-elected.

In the weeks ahead, we will be preparing for the second Summit of the Americas, pressing for democratic change in Cuba and intensifying our efforts in Haiti, where the challenge of developing a democratic culture and market economy—where neither has ever existed—is especially daunting.

We are also taking a fresh approach to Africa, which the President plans to visit next month. During my own recent trip, I was impressed by the opportunity that exists to help integrate that continent into the world economy; build democracy; and gain valuable allies in the fight against global threats.

To frame a new American approach to the new Africa, we will be seeking Congressional support for the President's initiative to promote justice and development in the Great Lakes, and urging approval of the Africa Growth and Opportunity Act.

LEADERSHIP THROUGH INTERNATIONAL ORGANIZATIONS

*Unfinished Business*

Mr. Chairman, there is much that America can accomplish unilaterally, through our bilateral diplomacy or in cooperation with our close allies. But in today's world, there are also many problems that can only be dealt with—or can best be dealt with—through broad international action. For this reason, it serves important American interests to participate in international organizations whose activities contribute to our security, prosperity and safety. Among the most prominent of these organizations are those within the United Nations system.

Last year, Congress and the Administration worked together to develop a three year plan to encourage United Nations reform while paying our long overdue U.N. bills.

Unfortunately, that spirit of constructive cooperation broke down during the final days of the session. A small group of House Members blocked final passage of this and other key measures to authorize the restructuring of our foreign policy institutions and to provide needed financing for the International Monetary Fund (IMF).

I have testified before the authorizing Committees about my concern with the tactics used to block this legislation, and will not belabor the point here. Certainly, your Subcommittee did its part by appropriating the \$100 million called for in the first year. Now, we have to find a way to free up that money and to gain approval of funds for years two and three.

Mr. Chairman, I have been discussing the U.N. and America's role in it with this Subcommittee since 1993. And we have had an extremely productive dialogue.

Together, through legislation and diplomacy, we have helped the U.N. to achieve more reform in the past half decade than in the 45 years that preceded it.

During this period, the U.N.'s staffing has declined and its budget has been brought under control. Assessments for U.N. peacekeeping operations have dropped by 80 percent, and those operations are subject to far greater discipline. The inspector general's office—which did not exist in 1993—has grown steadily more aggressive and effective.

And within the U.N. system, a new generation of leaders is taking the helm—from Secretary-General Kofi Annan, to Deputy Secretary General Louise Frechette, to Gro Brundtland at the World Health Organization (WHO), to Mary Robinson, the new U.N. High Commissioner for Human Rights.

Slowly, but surely, a culture of accountability, transparency and results is taking hold. And, as you know, Mr. Chairman, this progress has not come easy. We have faced opposition every step of the way. And the job is far from finished.

But let me tell you frankly that, if we are not able now—in the next few months—to approve funding for our U.N. arrears, our legs truly will be cut out from under us at the U.N. We are told daily, by our best allies and friends, that U.S. credibility will be sadly diminished. That will cost Americans and hurt America.

Let me cite just one example.

Last December, the General Assembly voted on a plan that could have—and I believe would have—cut our share of U.N. assessments to 25 percent for peacekeeping and from 25 percent to 22 percent for the regular budget—an overall difference in the amount we are assessed of roughly \$100 million every year.

Our diplomatic team had worked long and hard to make this possible. Don't forget that 22 percent is less than our share of the world's economy—or GDP—while Europe pays above its share. And in two years, Japan will be required to pay more than 20 percent of the U.N. budget.

But when word arrived in New York that the U.N. arrears package had been killed, support for reducing our rate of assessments disappeared. It took an heroic effort to persuade the U.N. to leave open the possibility for a new vote during the first half of this year. If we do not act by then, the next opportunity will not come until the year 2000.

So we have a choice. We can fail once again to act, undermine our own diplomatic leadership, weaken prospects for further U.N. reform, and deprive our taxpayers of savings we might otherwise be able to achieve.

Or we can pay our arrears, restore full U.S. influence, press ahead on reform, and make possible a reduction in our assessments that will save U.S. taxpayers money for as long as we are in the U.N.

I know that this choice will not be made by this Subcommittee alone. But I ask your support for prompt action—not tied to any unrelated issue—on our supple-

mental appropriations request for U.N. arrears. I am convinced it is the right choice for America.

*Contributions to International Organizations*

More broadly, I ask your support for the President's budget request for the entire Contributions to International Organizations Account for fiscal year 1999.

Mr. Chairman, and members of the Subcommittee, we have reviewed the importance of these organizations to American interests on an annual basis.

The Clinton Administration, like prior Administrations from Truman to Bush, has found the U.N., itself, a valuable means of enlisting the help of others in pursuit of goals we support. Current examples include the work of the U.N. Special Commission in Iraq, the effort to develop an independent and professional police force in Bosnia, and the war crimes tribunals for Rwanda and the Balkans.

Agencies affiliated with the U.N. also provide vital services.

The International Atomic Energy Agency (IAEA) helps protect Americans from the dangers of nuclear proliferation. The IAEA conducts essential verification of the Nuclear Non-Proliferation Treaty, and its strengthened safeguards regime provides assurance that peaceful nuclear programs are not being diverted for weapons purposes.

The World Health Organization, which promises to be far better managed under its new director, helps to research, track, contain and above all prevent disease and other health problems from malnutrition and malaria to Ebola and HIV/AIDS. This makes us all safer and can provide long term financial savings, as well. For example, U.S. taxpayers save hundreds of millions of dollars annually because WHO eradicated smallpox and thereby ended the need to vaccinate against the disease.

The Food and Agriculture Organization (FAO) enhances international trade in agricultural and fisheries products. Through the Codex Alimentarius, it applies objective quality and safety standards that facilitate the export of more than \$60 billion in U.S. agricultural products each year. The FAO also protects U.S. agriculture from potential losses through its plant, pest and animal disease control programs.

The International Labor Organization (ILO) was established in 1919 in response to unsafe working conditions associated with industrialization. Although workplace conditions have improved dramatically in much of the world, there remain large, economically-significant labor markets characterized by work forces that are under-age, under-paid and poorly-treated.

Accordingly, the ILO serves two primary U.S. policy objectives: promoting respect for human rights in the workplace, and minimizing unfair international competition from firms and countries that do not observe core labor standards. To this end, we will be working this year for a strong ILO declaration on core labor standards and proposals to implement them worldwide.

Mr. Chairman, other specialized U.N. agencies and international organizations such as the International Telecommunications Union, NATO, the OECD and the Organization of American States also serve important U.S. interests. To maintain our influence and leverage within these organizations, we need to stay—or become—current on our obligations to them.

*United Nations Peacekeeping*

I also ask the Subcommittee's support for the President's request for \$231 million for the Contributions for International Peacekeeping Activities (CIPA) Account.

As we have discussed over the years, U.N. peacekeeping provides one of a number of options available to us and to the world community to prevent or respond to conflicts. Although they are not the answer in all cases, well-designed U.N. operations can be effective in the right circumstances, and have the advantage of spreading costs and risks widely and fairly.

Our CIPA request this year includes funds to pay our assessments for critical operations along Iraq's border with Kuwait, on the Golan Heights, in Bosnia, and the former Yugoslav Republic of Macedonia, to name a few.

This past year saw several U.N. successes. The U.N. observer mission in Liberia helped provide a secure environment for elections in August 1997 and then withdrew. The U.N. Transitional Administration in Eastern Slavonia (UNTAES) facilitated that region's peaceful reintegration into Croatia in January—it has now withdrawn, succeeded by a small U.N. policing program. And U.N. peacekeeping operations marked a success in Guatemala, with the implementation of the final peace agreement that was signed in December 1996.

I visited Guatemala last May. At a guerrilla demobilization camp I saw firsthand how support from the U.N., USAID, and others had given the Guatemalan people a chance to recover from the debilitation of war and begin to build a true national

community. Although the process of reconciliation in Guatemala still has far to go, the U.N. operation made a unique and indispensable contribution.

In Tajikistan, where a peace agreement signed last fall is holding tenuously, the U.N. hopes to make similar progress this year. And in Angola, a U.N. observer mission is supervising the final phases of that country's peace process.

As always, Mr. Chairman, I am aware of this Subcommittee's long-standing and long-justified desire to be consulted when new U.N. peacekeeping operations are planned—not just when the bills come due. I am committed, and I know Assistant Secretary Lyman and Ambassador Richardson are committed, to meeting this obligation.

In this connection, I note the possibility that we will support a new operation or operations in Africa. I want to stress, Mr. Chairman, based on my recent visit to that continent, and my discussions with regional leaders, how important international peacekeeping has been and is to this part of the world. African leaders are determined to do more themselves to solve disputes within the region, and U.N. support can help them succeed.

Important U.S. interests in Africa are served every time an area of instability and conflict is transformed into one of peace and development. This contributes to our economic interests, reduces the likelihood of costly humanitarian disasters and refugee flows, and expands the network of societies working to counter global threats such as illegal narcotics, crime, terror and disease.

#### MANAGING FOR THE TWENTY-FIRST CENTURY

Mr. Chairman, American leadership is built on American ideals, backed by our economic and military might, and supported by our diplomacy. Unfortunately, despite progress made last year with bipartisan support from this Subcommittee, the resources we need to support our diplomacy are stretched thin.

Over the past decade, funding—in real terms—has declined sharply. Personnel levels are down. Training has been cut. And we face critical infrastructure needs that cannot be put off any longer.

There was a time, not that long ago, when State Department managers could afford to be guided by a "just in case" philosophy. Planning, acquisitions and training could be based on what might be needed. Today, we are compelled by the pace of change and the tightness of budgets to practice "just in time" management. That requires putting personnel, resources and infrastructure where they are required, when they are required, and being prepared to reposition them rapidly and flexibly when they are not.

Already, this has translated into smaller staffs, more versatile personnel, and better cost-sharing among agencies. It has meant selling, buying, renting and swapping properties around the world to achieve the most cost-effective mix. It has meant developing service programs which pay for themselves. And, through our reorganization planning, it has meant taking a hard look at functions which may be duplicative.

But to continue our progress, we need to make some well-placed investments.

This year our request for State Department Operating funds is \$2.177 billion. This reflects an increase of 4.8 percent from fiscal year 1998, nearly half of which is attributable to inflation and mandatory pay raises. In addition, we are seeking an increase of \$243 million in our "Security and Maintenance of U.S. Missions" account, to provide much-needed upgrades and improvements in infrastructure.

#### *Infrastructure*

Like the rest of us, Mr. Chairman, our facilities are aging—Old State is 60; New State is 40. Our request this year includes funds for a portion of the long-awaited renovation project at C Street, although the lion's share of money for this project is being requested by the General Services Administration. Just as important, we are requesting funds for some of our most dire infrastructure needs overseas, beginning with two of our most crucial posts—Berlin and Beijing.

In 1999, the Germans will complete the move of their capital from Bonn. We need to complete the same move by building a new embassy in the new capital.

This move symbolizes the success of fifty years of partnership between the United States and Germany, a partnership cemented with the Berlin airlift 50 years ago this summer and which ultimately helped defeat Communism, bring down the Wall, and anchor Germany firmly within a strong Euro-Atlantic community. The victory reflected in Berlin's establishment as the capital of a united and democratic Germany is one in which Americans may take great pride, and for which we should be on the ground from the beginning.

It is also a tremendous opportunity. Germany possesses the world's third-largest economy; it is host to the largest overseas contingent of U.S. troops; it is the driving

force behind European integration; and it is a nation with whom we work closely on matters as diverse as building peace in Bosnia to safeguarding the global economy to exploring space.

Accordingly, Mr. Chairman, we must move now to build our new facility, and assure the high quality representation our interests demand and our people expect. We estimate the total costs of designing, building and furnishing a new U.S. Embassy Berlin to be \$120 million. In fiscal 1999, we are requesting \$50 million—less than half the total cost—because we expect to raise the remaining funds required by selling excess U.S. property in Germany.

Our presence in China is large, growing and vital to our interests. In recent years, the number of Americans visiting that country as tourists, students or for business purposes has mushroomed—as has the number of Chinese seeking to enter the United States. And as we have developed a broader agenda on which we seek to cooperate with China, U.S. agencies have sent more officials to our missions in that country. Total staffing increased by 15 percent last year alone.

Unfortunately, as the Department's Inspector General has confirmed, with the exception of Hong Kong, our posts in China suffer from over-crowding, inadequate facilities, insufficient information technology, sub-standard housing, and serious safety and security deficiencies.

We have developed an overall plan to address these issues, beginning this year, by building reasonably-priced housing in Shanghai and rehabilitating the existing Beijing chancery—both of which can be funded with proceeds from the sale of other properties. We are also requesting \$200 million to acquire a site and design and construct a new Embassy for Beijing.

Of course, the problems we face in China are not unique. In critical posts from Luanda to Kiev to Vladivostok, America's representatives are doing their jobs under conditions that are unacceptably primitive, unhealthy or unsafe. Due to budget restraints, we have requested funding for only a fraction of the needs we have identified, focusing on improving our safety programs and increasing the number of maintenance specialists we have on staff, in order to extend yet further the useful life of the infrastructure we have.

#### *Information Technology*

Our most pressing information technology needs are basic. We want to install late-20th century computer technology at every post before the 21st century begins. We need to replace old and overloaded phone switchboards before they experience what is known as "catastrophic failure." We need to implement new information security features to protect our data and networks. And we want to ensure that, when the clock strikes midnight on December 31, 1999, our computers don't all crash and send us back to the age of quill pens and scribes.

As communications become ever more sophisticated, and ever more reliance is placed on computer hookups, State and our sister agencies need more lines of access, known as "bandwidth," between Washington and the field.

Unlike your local phone company, we cannot always depend on local lines in foreign countries, but must often supplement the communications infrastructure available. And, of course, we must do the work in-house for security reasons. The resulting "phone bill," Mr. Chairman, is the price we must pay for having the right person on the right phone line when the President, or you, or I, need to get through. I hope you will support us in working to put together a system that is secure, reliable, and capacious enough to meet the demands of the Information Age.

#### *Personnel*

Mr. Chairman, as Secretary of State, I can tell you that every American can be proud of the people—foreign and civil service and foreign nationals—who work every day, often under very difficult conditions, to protect our citizens and our interests around the world. I have never been associated with a more talented, professional or dedicated group of people.

But to maintain the highest standards of diplomatic representation in this era, we must continue to emphasize high standards in recruiting, training and managing our personnel.

We need to train our people to sift information as much as to gather it, to surf the web as much as to pound the pavement, and to look outside the traditional "diplomatic sources" for information, contacts and ideas.

We need specialists who can keep up with fast-moving developments in electronic commerce, genetic engineering, or telecommunications. We need people with good computer skills, with the knowledge to staff our regional environmental hubs, and with the language and cultural training required to feel at home in faraway lands. And we need men and women who can monitor compliance with intellectual prop-

erty law, assist Americans in trouble, report on human rights and promote our arms control agenda, all in the same career—and sometimes in the same week.

And to do justice to the strength our nation finds in its diversity, we have to do better at hiring, retaining and promoting the best people America has to offer—from every background. We are making progress. I am particularly proud of the large numbers of women competing successfully to enter the Foreign Service this year. But there is much more we can do, from making our overseas facilities more accessible to persons with disabilities to showing more support for State Department families.

I hope I can count on this Subcommittee as a partner in these efforts.

#### *Border Security*

Supported by the retention of Machine Readable Visa (MRV) fees, we will continue implementing a comprehensive border security strategy to improve consular systems and services.

Consular systems are our nation's first line of defense against the flow of international terrorism and crime across our borders. We must be able to screen out the few visa applicants who would harm our people or violate our laws, without hindering the millions of legitimate visitors who enrich our lives and add tens of billions of dollars to our economy every year.

With the MRV, we have the ability to check applicants' names against government records by computer, in every consular post. We are emphasizing improved training for consular officers, and working to provide even better computer equipment. We have also upgraded our passport-issuing services to meet record demand.

I want to thank the Subcommittee for having the foresight to continue the legislation allowing the Department to retain MRV fees through fiscal year 1999, during which we plan to fund our border security programs at \$296 million.

#### *Consolidation*

Mr. Chairman, many of our initiatives are directed, as I have discussed, at particular countries or regions. Others, such as our efforts to build prosperity, fight international crime and protect the environment, can best be considered in global terms.

But whether we are dealing with regional or world wide issues, it is hard to lead in the 1990's with institutions designed for the 1950's.

That is why we worked with Congress last year to develop a plan to reorganize our foreign affairs agencies to reflect the fact that arms control, public diplomacy and international development belong at the heart of American foreign policy.

As part of this reorganization, the Arms Control and Disarmament Agency (ACDA) and the United States Information Agency (USIA) are to integrate their activities into the Department of State. Unfortunately, legislation providing the necessary authorization for this reorganization was blocked, thus requiring the agencies to present separate budget requests for fiscal year 1999.

I hope we will have the Subcommittee's support for early action on reorganization legislation this year. This is essential not only to move ahead with our management goals, but to ensure the effective implementation of policies and programs vital to U.S. interests.

For example, it is a core purpose of American foreign policy to halt the spread and possible use of weapons of mass destruction, which remain—years after the Cold War's end—the most serious threat to the security of our people.

This imperative reflects the value of the services provided to America by ACDA. As part of our effort to reorganize our foreign policy institutions, we have “double-hatted” ACDA Director John Holum as our Acting Under Secretary of State for Arms Control and International Security Affairs, and ACDA has worked closely with the Department to develop an effective plan for integration.

Today, ACDA's agenda includes: ratifying and implementing the Comprehensive Test Ban Treaty; continuing strategic arms reductions with Russia; taking steps, with other agencies, to limit the quantity, improve the security and prevent the diversion of fissile materials worldwide; implementing the Chemical Weapons Convention; negotiating an inspections regime to strengthen the Biological Weapons Convention; and beginning negotiations to ban the export of anti-personnel land mines. To accomplish all this, ACDA is requesting \$43.4 million—a total operating budget smaller in constant dollars than that under which it is operating this fiscal year.

USIA has also experienced cuts in staffing and—in constant-dollars—appropriations. But the importance of its mission has, if anything, increased, as the challenges of globalization demand a more comprehensive and sophisticated approach to America's public diplomacy. USIA's request for fiscal year 1999 is \$6 million lower than its currently-available funds. Within this reduced level, USIA plans to accom-

moderate several priority increases to expand field programs in East Asia; enhance broadcasting to central Africa and Russia; complete a new relay station for Asia; provide added support for Fulbright exchange programs; and provide improved high-speed telecommunications capacity to a dozen additional overseas posts.

This request also includes funding for the National Endowment for Democracy, which receives funding from USIA for its important work supporting the development of democratic culture and institutions around the world.

#### CONCLUSION

Mr. Chairman, half a century ago, a Democratic President and Republican Congress worked together to help forge the institutions that have shaped our foreign policy and defined the history of our age; institutions that proved instrumental in the defense and spread of freedom; the growth of prosperity; the defeat of Communism; and the confirmation over and over again of America's standing as a leading force for justice and law in the world.

These institutions included NATO, the United Nations, the Voice of America, the OAS, the National Security Council and the Foreign Service Institute.

Their architects could not have conceived that our ambassadors would one day be cabling Washington by computer in real time; that in promoting trade, our diplomats would be dealing not only with grain and steel but with bits, bytes and movie rights; or even for that matter, that a female Secretary of State would one day meet with a black president of South Africa.

Our predecessors were not prophets. But because they stood tall; they were perhaps able to see a little bit further into the future than others. They also had faith in our people, in the principles upon which our nation was founded, in our determination to honor the commitments we make, and in our desire to base our lives, as individuals and as a nation, not on our fears, but on our hopes.

Today, we have a responsibility to honor their faith; to reject the temptation of complacency and assume, not with complaint, but welcome, the leader's role established by our forebears.

For it is only by living up to the heritage of our past that we will fulfill the promise of our future—and enter the new century free and respected, prosperous and at peace.

Mr. Chairman, Members of the Subcommittee, thank you very much. And now, I would be pleased to respond to your questions.

Senator GREGG. Thank you for that excellent statement and the wonderful quote at the end. It is the tradition of my chairmanship to always yield to the chairman of the full committee whenever he appears in our committee. For some unknown reason I have found that to be proper protocol. So I yield to my—

Senator STEVENS. And I similarly have found it to be proper protocol to thank you, Madam Secretary, and say I would like to submit questions for the record. Thank you very much.

Secretary ALBRIGHT. Thank you, Mr. Chairman.

Senator GREGG. I will yield my time initially to Senator Campbell who arrived first, and was sitting here when I arrived.

Senator CAMPBELL. Thank you, Mr. Chairman. I, like always, have conflicts, and I have to go chair another hearing right about the time we vote. But it is a pleasure to welcome you, Madam Secretary, and discuss your Department's fiscal year 1999 budget request. I was looking through your comments. They seem to be quite comprehensive. I am very supportive of the efforts you have done, and I admire your courage particularly because of the beating you took up there at that university. I know that was not easy. I do not know who made the decision to go up there and do a hearing at a university when you are talking about going to war, but a big mistake.

Secretary ALBRIGHT. Should have gone to Colorado.

Senator CAMPBELL. Should have come to Colorado Springs, they would have all been supportive of you. [Laughter.]

## IRAQ SITUATION

But before we discuss today's budget hearings, I just have to take this opportunity to make a comment on the situation in Iraq. From my belief—and I am sure you may know more about it than I do—but it looked to me like we have just concluded the second gulf war, and we lost without firing a shot. In fact, according to yesterday's Washington Post, the Iraqi Government declared a national holiday and told the country Saddam Hussein has broken United States domination on the U.N. weapons inspection commission.

Now I certainly admire your hard work, but boy, when I read headlines like that, frankly, it makes me sick to my stomach. After spending—we are hearing different amounts, but well over billions of dollars to show a significant force, the most significant since Desert Storm—I really question what we have accomplished. It seems to me that, No. 1, we have increased Saddam Hussein's stature among the Arab countries. He has tweaked us again. He obviously wants to be the new Nasser of the Middle East, and he looks like he is well on his way to doing that.

We have allowed him to increase access to financial resources from the sale of oil, which I am convinced he will use to buy new improved arms technologies. We have made the next conflict, I think, just prolonged it, but it will surely come and be more difficult when we have to face it. We have diminished our stature with Israel and most of our world allies. We have undermined the sovereignty of this country by allowing the United Nations to broker the deal, and now we are sort of going along as the tail of that to support that brokered deal and not getting too much support from our allies. More importantly, we have given Saddam Hussein, who has really been a master of brinkmanship, more time to build a bigger arsenal, more time to rally international support, more time to increase the cost to American citizens. I think that when we talk about military conflicts, there is no question that they are entwined with public relations conflicts.

We clearly have the ability to win a military conflict. But I thought it was a lose-lose deal from the beginning on the international public relations scale, because if we had bombed Iraq, and they would have put children and women in front of the places that were being bombed, we would have lost that one for sure. And a lot of Americans who were supporting the bombing would have gone the other way as soon as they had seen pictures on CNN of dead women and children.

By the same token, by not doing it we have done what I have already mentioned, and that is increase Saddam Hussein's stature. I think we just led with our chin on that without any clearly defined goals, or any exit strategy, or any clear long-term plan about how we were going to handle it. I hate to see us now pull back everything only to have to put them back over there when Saddam Hussein makes his next move.

I support, as most Americans, some kind of a peaceful resolution if we could find it. But I do not think we are ever going to find it with Saddam Hussein. I do not think he is ever going to agree to peace. I think the mentality in that part of the country is that you

only negotiate at gunpoint, and that is it. Anything less than that is considered cowardice on the part of your adversary.

I do not want to belabor that because I know that we have other questions to ask you about the expansion of NATO, which conceptually I kind of agree with, although I share the concerns of many of my colleagues about who is going to pay the bill. I know full well what we are paying well and recognize that the concept of NATO is that everybody brings something to the table for mutual defense of the members. But I am not sure some of the countries that want to come in are going to bring something to the table, and may end up simply being recipient countries.

The ongoing question about the repayment to the United Nations, I understand what you are saying about that, but also recognize that one-half the time we go to the United Nations where we are paying a good portion of the bill, we end up with those people that are recipients of some of that American money voting against us at every turn. So I have some real concerns about that, too.

#### PREPARED STATEMENT

I certainly appreciate you being here, and did not want you to take that as any kind of a personal affront. I know you have worked just tremendously hard and made a great, dedicated effort to doing the right thing, and I certainly admire you for that.

Thank you, Mr. Chairman.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Good morning Mr. Chairman. It is a pleasure to be here this morning and I welcome you here today, Madam Secretary, to discuss the State Department's fiscal year 1999 budget request.

Before we begin today's budget discussion, I would like to take this opportunity to comment on the situation in Iraq. We have just concluded the second Gulf War and it seems that we have lost without even firing a shot. In fact, according to yesterday's Washington Post, the Iraqi government declared a national holiday and told the country Saddam Hussein had broken U.S. domination of the U.N. weapons inspections commission.

After sending \$3 billion for the most significant show of military force since Desert Storm, what do we have to show for it? What have we accomplished?

It seems to me that we have done little more than increase Saddam Hussein's stature among the Arab countries; we have allowed him increased access to financial resources from the sale of oil which he will inevitably use to buy new and improved arms technologies; we have made the next conflict, which will surely come, far more difficult now that we have diminished our stature with Israel and other world allies; and we have undermined the sovereignty of the United States by allowing the U.N. to broker this tenuous deal. More importantly, we have given Saddam Hussein, the master of brinkmanship, more time to build a bigger arsenal, more time to rally international support, and given ourselves more time to increase the cost of keeping our ships, planes, and troops in the Gulf at the expense of American taxpayers.

It seems that we are rapidly becoming a toothless tiger by allowing our military operations to be led by public relations experts rather than our military leaders. We led with our chin by having no clear objective, exit plan, or clearly defined goals. So for now, Madam Secretary, we have no other choice but to sit and wait to see what other games Saddam Hussein wishes to play. Like everyone here, I hope for a peaceful resolution to this matter, but I have serious concerns about our approach.

Mr. Chairman, I know that we have a number of very important budget items that we need to cover this morning and only a limited time to do it so I will bring my comments to a close.

Again, I thank you Mr. Chairman and I look forward to today's testimony on the State Department's fiscal year 1999 budget request.

## IRAQ

Secretary ALBRIGHT. Thank you, Senator. Let me, if I might, take the opportunity to really give a better answer on Iraq. First of all I think we have to remember, we did not create this problem, nor did we create this crisis. There is no question that it is a difficult one to deal with. I believe that what we have done here is actually a win-win situation. First of all, it is very clear to us that Saddam Hussein has actually had to reverse course and allow access to all kinds of sites that he had never allowed access to before. He also has agreed that, or he has had to agree that UNSCOM can continue its work.

What I am very pleased about is that Chairman Butler, who is the chairman of this United Nations inspector group, has made quite clear that he is satisfied with the arrangements that have been made. This is the statement that he made yesterday:

"I am perfectly satisfied that this document, applied properly with Iraq cooperation, strengthens my organization. This document is a very important one," Butler said. It is the first one that Saddam Hussein has personally engaged in since the end of the gulf war. The fine print in this document is what I call the thumbprint. Saddam Hussein has been involved in this and it has got real commitment in it to enable us to get our job done. I just hope they adhere to it.

Now what we are saying, and as the aspects of how this is going to work becomes clarified as a result of very tough questions on our part, the proof of it is in the testing. UNSCOM will go back in and do the testing. That is a win situation.

We have also said that we will keep our forces on high alert until we are sure of this. Then, Senator, as you know there was a great deal of sense, you stated it yourself, that we were not getting international cooperation. It will be very clear, if Saddam Hussein reneges on an agreement that he has made now publicly, that there will be a great deal more support for what we were doing. While I have to tell you, there was a lot of support already, and I can take more time to explain that.

Now let me just say in terms of the publicity, I am not sure you would expect anything different from Saddam Hussein's controlled press or his controlled country that he would celebrate. We just cannot buy that. That is what he is doing, and I think we need to understand that he has actually reversed course on paper, and we now have to test it.

Senator CAMPBELL. One last comment, Mr. Chairman. First of all, anybody that believes Saddam Hussein is good for his word is being naive, in my opinion. I am concerned about keeping a high state of readiness, about the long-term costs, as any of us would. But you mentioned that we did not create that problem. No question about it, we did not. We did not create cancer either. But you cannot compromise it; you have to kill it or cut it out. I am absolutely convinced that we are going to be drug into some kind of a long, embroiled problem over there until Saddam Hussein simply is not in power any more.

I apologize for taking so long.

Secretary ALBRIGHT. I hate to compare anything to cancer, but I truly do think that we have to work this problem. I have made very clear that we are ready to deal with a post-Saddam regime. We have worked in the past with opposition groups. We will do so in the future. We need to deal with this problem. But I am sorry, as with cancer, it cannot be resolved immediately.

Senator CAMPBELL. I understand. Comparing this to cancer gives a bad name to cancer.

Secretary ALBRIGHT. But I do think that the problem here is the following: That this is a difficult issue that we have to deal with in a sustained way. I think I feel comfortable that we are making the right choices. We have not given up on the use of force. We are testing the agreement, because I agree with you that anybody who believes Saddam Hussein's word is naive. I do not believe his word. The proof will be in the testing.

Senator CAMPBELL. Thank you, Mr. Chairman.

Senator GREGG. Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman.

Welcome once again, Secretary Albright. I just want to echo what many of my colleagues say, that you continue to do an outstanding job as Secretary of State. And as somebody who got her start in politics as a protester, this is one protester who thinks you are doing pretty good.

Secretary ALBRIGHT. Thank you.

Senator MIKULSKI. Let me just say a few things in terms of your testimony and then get immediately to my question. First, I really want to say that I support the administration's policy for paying our U.N. arrearage and paying our dues. The United States of America cannot do anything alone, and we cannot go it alone.

If one looks at the agencies you describe on page 12 of your testimony, the World Health Organization, which protects the world against infectious disease and tracks the disease around the world and how to prevent it. Food and agriculture, to make sure that the world's food supply is safe and which we are going to be introducing an initiative with the Vice President later on this week. International labor, which is one of the most important human rights tools to eliminate the world of the scourge of child labor and even child slavery.

So we cannot do that by ourselves. We need the world, and I think we need to pay our dues and act like a responsible country in order to do that.

I would also like to associate myself with your remarks about recognizing the value of a professional foreign service, that there will be new skills and a new generation coming in. I believe this committee and this Congress should get behind supporting that.

#### INSPECTION PROCESS IN IRAQ

In terms of Iraq, I support the administration's direction here in which we need to test Saddam Hussein and not just rest on the agreement. I would seek clarification from you today about one of the aspects related to the inspection process. As I understand it, UNSCOM is supposed to come with, but that there is also a parallel process of something with untrained people, diplomatic corps,

which seems to be vague, unclear, and perhaps untrained to really do the type of precise testing and evaluation that needs to be done.

Could you comment? Do we have two tracks for inspection, one competent and the other show biz?

Secretary ALBRIGHT. Not quite. Thank you very much for what you said about the United Nations and our need to pay. It is a club and it has dues. We are a leading member of the club, and we have just refused to pay our dues, which is not the way that we Americans normally behave.

Let me take a minute, because you have asked, to explain the UNSCOM structure. These inspectors were created after the Gulf war, with a chairman appointed by the Secretary General. That chairman has two groups under him. One is a group of professional inspectors who have been divided into groups according to their expertise and what they are looking for. So there is a biological group, and a chemical group, et cetera. Then there are a group of commissioners, who are more like a board, part-time people who are also under the direction of the chairman, and on a regular basis, kind of interpret what they have seen. What we wanted as a part of this is to make sure that these presidential sites were actually under the inspection of the professionals, under that first group.

Senator MIKULSKI. That is right.

Secretary ALBRIGHT. So what has happened is that a new group has been created under UNSCOM with Chairman Butler at the top of it and then a group within it that will be run now under Chairman Butler's direction by a commissioner, one of the people from the other side of it, which is also under Chairman Butler's direction.

The reports are that the Secretary General has chosen a man we know very well, a Sri Lankan who had been Ambassador, who ran the NPT Conference, who is a disarmament expert. He will be the commissioner of this. Then under him there will be an inspector who will lead the team, and that will be an UNSCOM person.

Now what has been agreed to is that a small group of diplomats would accompany the team and do no inspection at all, but be observers to the team. They will be set up in a way where they will not know exactly where they are going. It will be foolproof in terms of early warning. So we are comfortable with the way it has been set up.

Senator MIKULSKI. But do you believe that with this third group that has been created that there will be, based on what you have just said, the competency to truly evaluate whether Saddam Hussein was complying with the U.N. resolutions? Or is this the possibility of a loophole where he could give the illusion of complying but because the expertise is not there, could essentially evade the kind of usual and customary and professional UNSCOM—

Secretary ALBRIGHT. It is our belief that that same expertise will be there. Again I go back to what Mr. Butler said. He said that, all of it comes through him as executive chairman, and I am looking forward to this development. It expands our staff and gives us an extra resource.

Senator MIKULSKI. Madam Secretary, my time is almost up.

Senator GREGG. Take a couple more minutes.

Senator MIKULSKI. That might be a line of questioning others would pursue.

## TERRORISM

But I want to go to something else related to this new world of black biology, really ghoulish biology. Biology, when you are the Senator from NIH, you think of biology as saving lives, not destroying lives. This then goes to our preparedness against terrorism. Could you share with us how our own, to the extent that you could in an unclassified hearing, what the State Department is doing to both—in coordination to prevent us any type of attack, and do we have a coordinated interagency plan for responding to such an attack?

Secretary ALBRIGHT. Yes; thank you. First of all, our policy vis-a-vis terrorists is to make no concession to them, treat them as criminals, pursue them aggressively, apply the law, and place maximum pressure on state sponsors of terrorism. We have a long-established counterterrorism mechanism in which officials of key agencies meet regularly. The coordination involves both the deputy level and assistant secretary level, as well as the specialized working groups. State is the lead agency dealing with overseas terrorism, Justice and FBI deal with terrorism within the United States.

Now annually, we also name state sponsors of terrorism, triggering a broad range of economic and other sanctions. Currently on the list we have Iran, Iraq, Libya, North Korea, Syria, Sudan, and Cuba. Then we designated 30 groups as foreign terrorist organizations in October 1997, and that triggers various restrictions under the Anti-Terrorism Act.

Senator MIKULSKI. But what are we doing here to make sure that we are really ready? I am the ranking member of the FEMA committee, which was originally a cold war agency designed to help Americans faced with nuclear war. You and I are the same generation. Remember, we all used to run under desks, and they would blow air raid drills. I was in a Catholic school, and I would say my prayers, and we would wait.

Now we are into the possibility of a biological action against an American city. I just wonder then, what is State's role? Then describe for us—because we will be asking Reno and Freeh and so on this same question.

Secretary ALBRIGHT. As I said, we have an interagency working group. I think it would be my sense that it is something that needs to be developed and evolved to deal with newer problems. But we do have a way of looking at it.

There are some who believe that it ought to be even more centralized. But I think that we believe that it is important to do it through agency interaction. We will get back to you, I think, with some more detailed things and work with you more closely on it.

Senator MIKULSKI. I would really encourage a sense of urgency within our own country about it. I believe that there is the leadership in the executive branch to do that.

But thank you. I know my time is up, and I yield to my colleagues.

Secretary ALBRIGHT. Thank you, Senator.

Senator GREGG. Senator Inouye.

Senator INOUE. Thank you very much, Mr. Chairman. May I ask that my opening remarks be made a part of the record?

Senator GREGG. Certainly.

Senator INOUE. Madam Secretary, welcome. I thank you as one citizen for a job well done.

Secretary ALBRIGHT. Thank you.

Senator INOUE. Madam Secretary, I have several questions, one on the peace process and the other on the East-West Center, but may I just submit them for your consideration?

Secretary ALBRIGHT. Yes. Thank you.

#### JERUSALEM EMBASSY MOVE

Senator INOUE. I have just one question I would like to ask at this time. Three years ago we passed the Jerusalem Embassy Relocation Act, and the act stated that by May 1999 the Embassy in Tel Aviv will be moved to Jerusalem. Last year the Congress appropriated \$9.5 million for architectural design. Can you give this committee a progress report on where we are at this time?

Secretary ALBRIGHT. Yes. Thank you, Senator. Let me just say that, obviously we have been asked to file reports about this. We have filed five such reports describing the options should the President decide to establish an Embassy in Jerusalem, and we have made arrangements with the Government of Israel for a site in west Jerusalem for a new diplomatic or consular establishment. We have made clear that we will keep our options open.

Let me just say this, our next report is due to you on March 5. But also I have to say, and you asked about the status of the Middle East peace process, obviously the status of Jerusalem is one of the final status issue discussions. That is what was negotiated at Oslo One. I think that we have all determined that Jerusalem is a final status issue.

Senator INOUE. Does that mean that the relocation will not be implemented until the peace process has been completed?

Secretary ALBRIGHT. As I said, we have kept our options open. But we believe that it is important to make sure that the issue of Jerusalem and its status remain in the final status negotiations.

Senator INOUE. Then my followup question may have the same response. We have noted that children born in Jerusalem, in their birth certificate or their passport it says, born in Jerusalem, and not in Israel. May I ask why? If I am born in London it would say, born in England.

Secretary ALBRIGHT. I think for the same reason, Senator, because Jerusalem is a final status issue.

Senator INOUE. If not, may I have a response to that?

Secretary ALBRIGHT. Yes.

Senator INOUE. Thank you very much.

Secretary ALBRIGHT. Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR DANIEL K. INOUE

Madam Secretary, welcome. I would also like to thank you for taking the time to testify before this committee. I know you are quite busy with the situation in the Persian Gulf, the Middle East and the Asian economic crisis. I have a few questions that I would hope you might be able to shed some light on.

## EAST-WEST CENTER

I have been advised that you interceded on behalf of several important educational and cultural exchange programs to ensure that they were not zeroed out in the President's Budget Request for fiscal year 1999. I would like to thank you for your efforts. These programs most certainly deserve the Administration's full support as they serve an important bridge between our neighbors in the North and South and the East and West. I support the increases that two of the programs received because I believe they play a vital role in our relations with other countries around the Globe. However, I am concerned that the third program, the East-West Center, did not receive the same treatment.

One of the programs received a 40 percent increase in the President's Budget Request from the fiscal year 1998 appropriation. The other program received a 53 percent increase in the President's Budget Request from the fiscal year 1998 appropriation. While the East-West Center received a 58 percent decrease from the fiscal year 1998 appropriation.

It occurs to me that the Asia-Pacific region, the region where the East-West Center conducts its programs and studies is an area of great importance to the United States. The most serious multinational conflicts since World War II have occurred in Asia. The continuing economic crisis in this region is beginning to negatively impact the United State's economy. Now is the time to invest more resources not less.

## MIDDLE EAST PEACE PROCESS

The core bargain of the Oslo peace process was that one side would cede land and political authority and that the other would, once and for all, renounce terrorism and violence and commit to fighting those who continued to perpetrate such acts. Since the 1993 start of the peace process, in fact one side, Israel, has ceded land and political authority. Today, 27 percent of the West Bank and virtually all of Gaza are under the civil administration of the Palestinian Authority as is almost 98 percent of the Palestinian population. Yet on the Palestinian side, violence and terrorism seem to continue to be used as political tools. You yourself have said that there is no moral equivalence between bombs and bulldozers; and that the fight against terrorism is the "sine qua non" for progress in the peace process, and that the fight must be a "total effort." After the recent meetings in Washington and the Middle East, however, you appear to blame both sides equally for the current stalemate.

## JERUSALEM

The Jerusalem Embassy Relocation Act was passed in 1995. It requires the Administration to move the U.S. Embassy in Israel from Tel Aviv to Jerusalem by May, 1999. May, 1999 is approaching quickly.

## AID

The Israeli government has recently put forth its initial thoughts about reducing economic assistance from the U.S., with the 10–12 year goal of phasing economic assistance to zero. The proposal fulfills a promise made by Prime Minister Netanyahu to a joint meeting of Congress in 1996.

## UNITED NATIONS

Israel is the only country in the U.N. system denied access to a regional grouping—the mechanism through which countries are chosen to sit on the U.N.'s powerful committees, including the Security Council.

Senator GREGG. I would, just following up on the Senator from Hawaii's comments, we did put the money in last year to start the design of the Embassy in Jerusalem. We did not do that because we did not expect it not to be built. We expect it to be built, and we are going to put in construction money. That is the policy of the Congress which passed by an overwhelming—99 to 0 vote in the Senate. So we are going to continue to pursue that case.

## PEACE PROCESS

On the issue of the peace process and Iraq, since that topic has been raised even though it may not be specifically current to this committee's hearing, I do think it is worth following up on in the

sense that during the process of building up for this confrontation we did not have the support of Saudi Arabia and Egypt at the levels that we have had it in the past. Certainly we had it in 1991. And my sense was that one of the reasons Saudi Arabia and Egypt were not able to come forward with the aggressive support that we might have wanted, especially to allow us, in the case of Saudi Arabia, to launch attacks from that country, was because the peace process has come to a halt.

It seems to me that as we pursue the policies of this administration, which is to now try again with Saddam Hussein and the process of investigating and determining whether or not he is complying with the U.N. resolutions, that we have a period when we can rebuild the efforts on the peace process.

I think its reoccurrence is a predictable event, as the Senator from Colorado has certainly pointed out. Maybe 3 months from now, maybe 6 months from now, maybe 9 months from now, but we will be back in a confrontational position with this individual, but the next time we should have the support of Saudi Arabia and Egypt.

My question to you is, what are we doing to get the peace process going again so that in turn we can get the alliance back, at least as it relates to Saudi Arabia and Egypt? Then I would follow that with a corollary question, what are we doing relative to getting the alliance back relative to Turkey, which is another launching site, so that we can use their facilities? I do not see how we can ever remove Saddam Hussein if we do not have the capacity to physically remove him. And we do not have the capacity to physically remove him if we do not have the cooperation of the neighboring states for launching capabilities.

Secretary ALBRIGHT. Yes; thank you, Mr. Chairman. First of all, let me say that 1991 was in many ways simpler because it was an Arab country invading another Arab country; something that was unheard of. Therefore, there was an outcry not only from the world but specifically the Arab countries. We are now dealing with a much more complicated problem, which is a threat of future problems rather than an actual concrete act. That is for one.

Also, what was not, I think, made clear enough was that we actually had a great deal of support internationally with countries providing a variety of support, a couple of dozen in one way or another. Also, the Arab countries were much more supportive than was evident. I think that we are all aware of the fact that people speak to different audiences. The Arab leaders themselves are in the neighborhood with the bully, and, therefore, they are less likely to be vocal publicly. But we felt, all of us including Secretary Cohen and General Shelton, that had we had to use force that we had the cooperation that was necessary for the kind of strike that was intended. Those are the facts on that ground.

As far as the Middle East peace process was concerned, 1997 was definitely not a good year for the peace process. For a variety of reasons, the parties were not willing to make the tough decisions. The United States, however, was trying to push the process forward. I visited a number of times and also met with Prime Minister Netanyahu and Chairman Arafat in different places, pushing

the process forward. But ultimately, they are the ones that have to make the hard decisions.

We are going back on that, I can assure you. And whatever is happening with Saddam Hussein, we would be pushing in terms of trying to get the parties to make the hard decisions. I assure you that we will continue to do that. We hope very much that they will, in fact, make some of those decisions that only they can make. And we will do other things in terms of rebuilding alliances.

On Turkey, again I think part of the issue was the relationship of what actually happened in 1991 versus what is happening now. We also need to work very hard to bring Turkey more into the European sphere, and help try to resolve the problems between Greece and Turkey on the Aegean issues as well as with Cyprus.

Senator GREGG. I have made my points on that, so I do not want to spend the entire period discussing that because there are a lot of issues that we have that relate specifically to the funding that comes before this committee.

#### IMMIGRATION

Let me start with the question of immigration. It has been proposed that the State Department take over the activities of operating the naturalization process under immigration because of the disaster that the immigration agency pursued and basically represented over the last 1½ years. That was the report that was given to us by an independent commission evaluating the Immigration and Naturalization Service [INS], recommending that we split the agency, leave Border Patrol and enforcement with Justice and move the actual operation of the naturalization over to State. I would be interested in the State Department's reaction to that report.

Secretary ALBRIGHT. Mr. Chairman, we were pleased by the commission's favorable assessment of the Department's consular operations. Our focus now ought to be on how services are provided, not on which agency provides them.

The White House Domestic Policy Council is leading the administration's effort to undertake a review of the commission's report and to formulate some recommendations. We have worked closely with the INS for many years and are prepared to help them in any way that we can as they reexamine their services and the best way to handle them.

Senator GREGG. This is a huge issue. You are talking about taking over an agency which would literally double the size, I suspect, of the operational aspects of the State Department, both on a personnel level and from a monetary standpoint. So I really need something more than just a casual statement of what you are studying. Do you support taking over that sort of responsibility or do you not?

Secretary ALBRIGHT. Let me just say this, at this stage we are not prepared to make an answer, because what is happening is that there is a study going on. Because you are absolutely right, this is a huge proposal and the State Department actually has a lot of things that we are doing also. So I cannot give you just a glib answer on it because we are still waiting for the study. But I can

assure you, Mr. Chairman, that we will be working with you very closely on this.

Senator GREGG. It is possible that Congress may act this year on this issue. In fact it is likely that the Congress will act this year on this issue. So I suggest you accelerate the internal operation and the interdepartment operation and get us back your thoughts on it as soon as possible.

Secretary ALBRIGHT. I shall do that.

#### U.N. ARREARAGES

Senator GREGG. On this issue of arrearages for the United Nations. As you know, I worked very hard on this and we thought we had the whole deal. We thought we had it put together. We felt it was a good resolution. We were going to require the United Nations to meet certain benchmarks. But this did not fail on our watch. I feel a little bit like the tail clearly here is wagging the dog. How are we going to get the administration to settle out with the House Members, who have the same flexibility this time? There is no question, we are not going to be able to get the arrearages issue through unless you folks reach some sort of an accommodation on the Mexico City issue, which is really just a blip on the old radar screen compared to what we are talking about here. We cannot move the U.N. arrearages issue unless the administration is willing to sit down and seriously resolve that question with these Members who have the capacity to basically stop the process.

Secretary ALBRIGHT. Mr. Chairman, I weep with you at all the work that we did on this that went for naught last year. As I said in my statement, we are paying \$100 million a year for starters for not having done what we should have, and also are losing a whole lot of influence. Senator Campbell was talking about countries voting with us. The truth is that our record is much, much better than it was in the 1980's. But part of our problem is the fact that we are not there paying fully. The British are the ones who waited 200 years to say this, but they said it is representation without taxation. So I think that that is a genuine problem here for us.

But let me say, there is a solution to this. It is a very simple solution, and it is the democratic solution. That is that you vote on the issue of concern. The issue of prochoice or prolife is a huge issue in the American political scene and a very legitimate one. People on both sides of this issue feel very, very strongly. And there are good people on both sides of this issue. So what needs to happen is it needs to be separated from national security legislation. It needs to be voted up or down, as we usually do on issues.

Senator GREGG. No; I have to disagree with you there. Because the way that Congress works, and you understand it, is that if you have the numbers in the Senate—and it only takes 40 people—you can stop anything. This issue is really between the White House and the group of folks who feel strongly on it. It does seem to me that if the White House and the group of folks sat down and resolved it, that is the way to get it going. There is no way to move this issue legislatively until there has been resolution.

Secretary ALBRIGHT. I think that because this is an issue of principle to both sides, it is harder to compromise on it. I think that there has been misunderstanding about what some of the com-

promises suggested last year really would have done. First of all, I think people should understand that no taxpayer money goes for promoting abortions.

Senator GREGG. I do not want to remake the case here.

Secretary ALBRIGHT. No; but I am just telling you that the compromises are compromises that basically are huge issues to both sides.

Senator GREGG. There has to be a balancing. Somebody down there has to decide, is it more important to have the U.N. arrearages, or is it more important to get the last T crossed and the last I dotted on the issue of Mexico City? I do not want to get into the specifics of the debate because that could take us the balance of our lifetime it appears, but I am just telling you that we are not going to get this U.N. arrearages issue moving unless we can resolve that issue.

Did you have further questions, Senator Campbell? We will go around again.

Senator CAMPBELL. Yes; I do not want to talk about abortion, I will tell you that.

#### UNSCOM OBSERVERS

I wanted to have you clarify something for me. Under the original agreement in 1991, Iraq guaranteed, as I understood it, unfettered access to the UNSCOM observers. I guess they defined what that meant—it is a matter of semantics—and they closed off the palaces. Would you tell me, Madam Secretary, the observers that are going to go with UNSCOM, what decisionmaking process will they go through? Do they have the authority to refuse UNSCOM's ability to inspect these so-called palaces now?

Secretary ALBRIGHT. Under what they signed they do not have the authority. Let me make something clear. This is the first time that Saddam Hussein has said unfettered, unconditional access to all sites. So that is for starters. They now have the authority, the UNSCOM inspectors, to go in. Whether he will allow them or not is the question.

Senator CAMPBELL. Basically then what is the job of the observers that are going to watch UNSCOM?

Secretary ALBRIGHT. They are basically going to have eyes moving in both directions. Which is they will watch to see if the Iraqis are actually allowing these various inspections to go on.

They also will be there with the UNSCOM inspectors. But they cannot stop the UNSCOM inspectors from doing anything. They are there as observers and UNSCOM will continue to have operational control, deciding when to go in and what kind of an inspection to do. So they will observe.

Senator CAMPBELL. I thank you for that clarification.

Thank you, Mr. Chairman.

Senator GREGG. We do have a vote on. I know that Senator Mikulski has a couple points she wants to make, but let me just say that I do not want to keep you here through votes.

There are a couple issues that we do need some more information on. No. 1, the Beijing Embassy. I cannot understand how we are going to spend \$200 million to build these facilities. We could probably rebuild the Capitol for \$200 million. Somehow we have to get

more specifics on that and get control over that so we do not end up with something like the Reagan Building.

The year 2000 issue, which you alluded to, is a big issue which we need to get some more information on. And I also want to talk to you at some point about language study. Obviously your expansion in the area of capital activity is something this committee basically initiated for next year in the area of acquisition of technology. We are very committed to that. I want to go over some of those specifics, too. But I do not want to tie you up here all day.

Secretary ALBRIGHT. We will get you answers on all of those, Senators.

Senator GREGG. Barbara.

#### RUSSIAN SCIENTIFIC COMMUNITY RELATIONSHIP

Senator MIKULSKI. Madam Secretary, I will not keep you. There is one area that I would like to be able to pursue, perhaps not at this hearing with the vote. But I am concerned about the issue of Russian missile technology specialists being in Iran, and the whole issue of the United States' relationship with the Russian scientific community.

Let me be clear. I am a strong supporter of the space station, and under the administration we moved to include the Russians in the space station and supported that, for two reasons: their technical expertise and their contribution to a scientific mission, and also that the missile technologists would be involved with the Americans in civilian-based technology and not selling their expertise around the world. They now are fading in meeting their responsibilities to the space station. For those of us who fund NASA, we are deeply concerned about that. You need to be aware of it. That could sink the space station this year.

#### RUSSIAN MISSILE TECHNOLOGY SPECIALISTS

No. 2, we are concerned then that their missile technologists are going around the world, and the most notable now is their involvement in Iran. We would like to know where they are, what they are doing, and what are we doing to bring them back into, one, their agreement on the space station and really meeting their responsibilities. And No. 2, that they are not exacerbating this proliferation of not only making weapons of mass destruction, but developing the technology to deliver it.

Now we were a lot on Iraq today, but no conversation about Iran. I am not sanguine about Iran, and I am also not sanguine about the Russian involvement. So perhaps we could talk with your team about that, unless you wanted to comment now?

Secretary ALBRIGHT. Let me say that the issue of Russian relations with Iran on missile technology is something that concerns us a great deal. Whether it is in conversations that President Clinton has with President Yeltsin, or Vice President Gore with Prime Minister Chernomyrdin, or I with the foreign minister, this is a subject of constant discussion.

We developed a good channel to deal with a lot of these problems and the Russians have, in fact, now put out an executive order to limit transfers. We are looking to see how all that is being carried

out. There is a review process in place and it will be the subject when the Gore-Chernomyrdin Commission meets in March.

I think this is a key problem. It is very difficult, actually, with pieces of equipment. It is obviously even more difficult when people are involved. So we need to focus on it more and more. The major threat of the 21st century is the proliferation of weapons of mass destruction, whether it is internally here as you mentioned or countries or people. We are focusing on this in the most intense way and are dealing with it on a case-by-case basis.

But I agree with you, there has to be a more concerted effort on it, especially in the people part. The people part is very difficult because of the knowledge that people have in their heads, which is harder to monitor. We will work with you on that.

Senator MIKULSKI. Let us keep working on it.

Secretary ALBRIGHT. Yes.

Senator MIKULSKI. Thank you, Mr. Chairman.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. I also need to mention that we do want to do some followup questions on protecting family members and also, obviously, people who are working at the various delegations around the world from terrorist acts, and our concern about making sure that we give their families adequate protection.

I will be submitting questions for Senator Lautenberg and Senator Domenici.

[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 TED STEVENS

##### UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA [UNCLOS]

*Question.* Since the beginning of this year, representatives for the State Department and the Department of Defense have met with a number of Senate offices to discuss the United Nations Conference on the Law of the Sea (UNCLOS) and to encourage Senate advice and consent to UNCLOS.

Madame Secretary, for the record, I would appreciate your explanation of the implications for the United States delaying in becoming a party to UNCLOS. I would also appreciate your estimate of the costs associated with being a party to UNCLOS. Lastly, I would appreciate any brief responses that you may have to other common concerns that have been expressed about UNCLOS in recent years, such as seabed mining concerns.

*Answer.* The Administration has placed the Law of the Sea Convention on its treaty priority list in the highest category of treaties for which it believes there is urgent need for Senate approval. A comprehensive and widely accepted Law of the Sea Convention has been an important and bipartisan objective of United States foreign policy throughout the last several decades. The Convention advances the interests of the United States as a coastal nation and as a global maritime power.

In 1999, I signed an agreement on deep seabed mining which addressed satisfactorily each of the concerns that led to the United States decision in 1982 not to sign the Convention. One hundred and twenty-four governments, including all major OECD countries, are now Parties. Becoming a party to the Law of the Sea Convention will provide us with an important tool to protect our national security and other ocean interests.

Non-accession by the U.S. would undermine U.S. leadership in pursuing market-oriented approaches to deep seabed mining activity as well as in protecting the substantial precedent setting gains we have made through weighted decision making. Nonaccession by the U.S. may also inadvertently push U.S. companies to overseas operations. It is important to note that under the 1994 Agreement, the United States is a provisional member in the International Seabed Authority until Novem-

ber 16, 1998. But that provisional membership, and our ability to participate in drafting the rules and regulations governing deep seabed mining will expire if we are not a Party by November.

The costs of participation are low. The Convention establishes two institutions:

*International Seabed Authority (ISA).*—The 1998 budget for Authority amounts to \$4.8 million, about half of which pays for Conference servicing expenses for the meetings that are drafting the mining code. The United States share of this amount is \$1.2 million. In addition, the U.S. is responsible for 24 percent or \$49,000 of the \$196,000 Working Capital Fund. We do not anticipate that the budget for the Authority will need to increase in any substantial amount for the next few years, and the Authority has already reduced the length of its meetings in an effort to keep costs to a minimum.

The ISA is responsible for administering the regime governing mineral resource development in areas beyond national jurisdiction. The U.S. obtained substantial concessions in the area of weighted voting to assure a voice commensurate with the investment made by U.S. companies. U.S. mining consortia invested nearly \$400 million in developing deep seabed mining technology and the U.S. is interested in protecting this investment. The 1994 Agreement successfully addresses the issues raised in the 1980 Deep Seabed Hard Mineral Resources Act, which called for interim arrangements pending a global agreement. We are confident that the ISA will assure non-discriminatory access for U.S. citizens, under reasonable terms and conditions that do not impose significant new economic burdens.

The ISA has successfully established a decision making arm of the Authority, known as the Council. Substantive decisions are made by a chambered voting arrangement, the effect of which is to allow the United States and two other industrialized countries acting in concert to block decisions. The United States was elected to the Consumer Chamber of the Council. The United States was also elected to the 15 member Finance Committee, which has jurisdiction over all budgetary and financial matters and must decide on issues by consensus. Unless we join the Convention, however, this participation is available only until November, 1998.

*International Tribunal for the Law of the Sea.*—This Tribunal which is located in Hamburg, Germany, opened for business on October 1, 1996. It has decided its first case and is currently working on a second case. The budget for the Tribunal is approximately \$6.2 million for calendar year 1998. The U.S. share would be approximately \$1.5 million. Again, we would not expect this number to increase substantially in the out years.

#### U.N. STUDIES/PROJECTS ON FIREARMS

*Question.* With regard to the work of the United Nations studies now proceeding through: (i) the U.N. Commission on Crime Prevention and Criminal Justice; and (ii) a panel established out of the New York U.N. headquarters entitled the "Panel of Government Experts on Small Arms"; and (iii) the United Nations Institute for Disarmament Research ("UNIDR") project and study on light weapons controls, please fully explain the U.S. role regarding each study or project, and whether or not the U.S. supports financially or otherwise U.N. efforts to regulate civilian ownership of firearms on a global level.

*Answer.* A fundamental underlying premise to U.S. participation in all matters relating to firearms is that the U.S. will not support or accede to any agreement which conflicts with U.S. domestic law. In all matters involving firearms, the U.S. position is that civilian ownership of firearms is a domestic issue for each country to decide. The U.S. interest in firearms from a global perspective is to prevent illicit trafficking in firearms by criminals and by criminal organizations.

The U.N. Commission on Crime Prevention and Criminal Justice has held several regional workshops in which the U.S., as well as U.S. non-governmental organizations, participated. The U.S. is considering how the product from those workshops can best be applied to the problem of illicit trafficking in firearms by criminals and criminal organizations, in a manner that does not conflict with U.S. domestic law.

The U.S. did participate in the Panel of Government Experts on Small Arms, which produced a consensus report last summer. The U.S. Arms Control and Disarmament Agency provided the U.S. expert. The Panel's recommendations dealt with measures to reduce the excessive and destabilizing accumulations and transfers of small arms and light weapons in specific regions of the world where such accumulations and transfers had already taken place, and measures to prevent such destabilizing accumulations and transfers in the future. Many of the specific measures recommended by the Panel relate to proposed national and international efforts to address illegal trafficking.

The U.N. Institute for Disarmament Research (UNIDIR) is an independent research arm of the U.N. supported by voluntary contributions. It is based in Geneva and supported by U.N. member states' voluntary contributions and foundation grants. UNIDIR recently completed a multi-year study on Disarmament and Conflict Resolution (DCR) focusing on the experiences of eleven multilateral peace operations missions under the auspices of the U.N. or regional organizations in managing and controlling arms in the possession of warring parties (e.g., Somalia, Angola, Liberia, Cambodia, El Salvador, former Yugoslavia). The results of the project were published in a series of UNIDIR publications.

Additionally, I would note that the U.S. participated in negotiating the first international instrument to combat illicit trafficking in firearms by criminals in the Organization of American States. The U.S. worked closely with U.S. non-governmental organizations throughout these negotiations to insure that U.S. domestic policies were fairly reflected in this international instrument.

#### UKRAINE

*Question.* Has the Ukrainian Government reformed its trade policies as conditioned in the fiscal year 1998 Commerce, Justice, State Appropriations bill? If not, do you think the release of the remaining \$225 million for fiscal year 1998 to the Ukrainian Government is warranted?

*Answer.* The Foreign Operations Appropriation Act for Fiscal Year 1998 required that we withhold approximately half of the \$225 million earmarked for Ukraine unless I certified that Ukraine had made significant progress toward resolving investor complaints. On April 29, 1998, I decided to certify that the Government of Ukraine has made significant progress toward resolving U.S. investor complaints. We have worked very closely with the Government of Ukraine over the past year to push for resolution of investor complaints, including the twelve specific complaints covered by the legislation. Seven of the cases were resolved or there was significant progress toward their resolution.

Since I announced my decision to certify, the Government of Ukraine has continued to work with us to resolve the remaining cases, and we continue to make progress.

We remain concerned, however, about the remaining investor problems, and more generally about Ukraine's poor investment climate and the slow pace of economic reform. In conjunction with my decision to certify I directed the withholding of certain assistance funds to the Government of Ukraine in areas where reforms have stalled and such assistance cannot be used effectively. These funds will be redirected to the private and non-governmental sectors in Ukraine unless the Government of Ukraine implements the necessary reforms in these sectors and takes additional steps to resolve outstanding business cases in Ukraine.

#### UKRAINE MINIMUM CUSTOMS VALUES

*Question.* Do you agree that minimum customs valuation is specifically prohibited under the WTO? Do you believe the Ukrainian Government is singling out products of specific U.S. companies by brand name, and valuing the products of those companies at amounts greater than similar products for other countries? Is this type of practice GATT legal or acceptable to the U.S. Government?

*Answer.* Imposition of a minimal customs valuation not based on the actual value of the product is specifically prohibited under Article 7 of the WTO. Because Ukraine is not yet a member of the WTO, it is not legally required to adhere to the Article 7 requirement. However, Ukraine is pursuing negotiations to join the WTO, and is expected in that process to follow WTO guidelines as closely as possible and implement WTO norms and procedures. We have urged Ukraine to implement the WTO Agreement on Customs Valuation, which is a transparent, rules-based regime.

We have raised these concerns with the Government of Ukraine, both in the context of WTO accession negotiations and in bilateral trade talks, and we will continue to do so. We are especially concerned that Ukraine has applied minimum customs values in ways that are discriminatory and harm U.S. products.

#### UKRAINE

*Question.* What actions do you plan to take to let the Ukrainian Government know of the State Department's concerns with these or other Ukrainian trade policies?

*Answer.* During my March 6 visit to Kiev, I met with a group representing the U.S. business community in Ukraine, including a number of businesses that have raised with the U.S. Government problems they are having in Ukraine, such as

Gala Radio and R&J Trading. The businessmen reviewed for me both company-specific problems and broader systemic obstacles to doing business in Ukraine.

Earlier during my visit to Kiev, I raised with President Kuchma our concern over the treatment of U.S. businesses and investors. I emphasized the need for vigorous, effective action to improve the investment climate.

We will continue to pursue this issue energetically with the Ukrainian government.

#### STATE'S PERFORMANCE GOALS

*Question.* How are the agency's annual performance goals linked to the agency's mission, strategic goals, and program activities in its budget request?

*Answer.* We structured the Performance Plan with an explicit link between strategic goals and performance goals. There is not, however, the same direct connection to the account and activity structure in the budget justification. Given the difficulties of linking the existing budget structure to our strategic goals, this is unavoidable. Each goal is supported by several appropriations, and each appropriation supports multiple goals. Our ultimate objective is to identify both the appropriations and the dollar amount they contribute to the specific goals. The Congressional Presentation for the fiscal year 1999 international affairs (Function 150) budget links resources, including State's, to the international affairs strategic goals by region. This is a first step toward performance budgeting.

*Question.* Could you describe the process used to link your performance goals to your budget activities?

Does the agency's Performance Plan link performance measures to its budget?

*Answer.* We are linking our budget activities to our performance goals, not the other way around. In the Performance Plan, we have listed the appropriations supporting each strategic goal. Please see also the answer to the previous question.

*Question.* Does each account have performance measures?

*Answer.* Most Department of State accounts have performance measures which are discussed in State's fiscal year 1999 Congressional Presentation Document. As described above, we structured the overall Performance Plan with an explicit link between strategic goals and performance goals.

*Question.* To what extent does your performance planning structure differ from the account and activity structure in your budget justification?

*Answer.* The structure of the Performance Plan does not directly link to the account and activity structure in the budget justification. As mentioned in the answer above, we structured the Performance Plan with an explicit link between strategic goals and performance goals. Given the differences between the existing budget structure and our strategic goals, it is difficult to link them directly.

*Question.* Do you plan to propose any changes to your account structure for fiscal year 2000?

*Answer.* At this time, we have no plans to propose changes to the account structure for fiscal year 2000, although this is an issue we will want to discuss with the appropriate committees.

*Question.* Will you propose any changes to the program activities described under that account structure? How were performance measures chosen?

*Answer.* As mentioned in the previous answer above, we have no plans at this time to propose changes to program activities or the account structure for fiscal year 2000, although this is an issue we will want to discuss with the appropriate committees.

The team charged with drafting the Performance Plan formulated the original performance measures, using the individual performance plans State bureaus prepared last year and other information prepared more recently by the bureaus for the CPD. The team referred the entire draft Performance Plan on two separate occasions to all bureaus for their review and advice. In many cases the performance measures were refined based on the comments team received.

*Question.* How did the agency balance the cost of data collection and verification with the need for reliable and valid performance data?

*Answer.* To avoid imposing new reporting burdens on bureaus, the team charged with drafting the Performance Plan sought to identify indicators that were based on data or information already collected by the Department itself, other agencies, or non-governmental organizations. As mentioned in the previous answer above, the team referred the entire draft Performance Plan on two separate occasions to all bureaus for their review and advice. In many cases the measures and indicators were refined based on the comments the team received.

*Question.* Does your plan include performance measures for which reliable data are not likely to be available in time for your first performance report in March 2000?

*Answer.* Most of our performance measures are based on qualitative assessments, not quantitative results. We believe that for now they and the data upon which they depend are adequate, representing as they do our first attempt to create a performance plan. We do not, however, consider them satisfactory for the long term. We will continue to assess how we can improve both our performance measures and their data. In fact, we are developing a software tool that will help gather data along strategic and diplomatic readiness categories. We welcome the assistance of OMB and the Congress in this difficult undertaking.

*Question.* What are the key performance goals from your fiscal year 1999 Annual Performance Plan that you recommend this subcommittee use to track program results?

*Answer.* Our preference would be for the subcommittee to track the whole Performance Plan during the appropriations process as a good way to review State's performance on the range of its responsibilities for conducting U.S. foreign policy. Short of that, we would suggest focusing on the performance goals from one or two of the seven national interests, such as "national security" and "American citizens and border security."

*Question.* For each key annual goal, indicate whether you consider it to be an output measure ("how much") or an outcome measures ("how well").

*Answer.* We have tried throughout the course of our strategic planning effort to focus on outcomes and not outputs. In preparing the Performance Plan, we made a conscious effort to emphasize specific fiscal year 1999 actions that will produce outcomes. It is of course, impossible to exclude all reference to output measures, which include matters as important and diverse as passport issuance and demining operations.

*Question.* State the long-term (fiscal year 2003) general goal and objective from the agency Strategic Plan to which the annual goal is linked.

*Answer.* We derived the performance goals directly from the International Affairs Strategic Plan, which sets out the national interests and long-range goals we are pursuing in international affairs on behalf of the security, prosperity, and values of the American people. The Performance Plan clearly identifies which strategic goal each performance goal supports.

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

*Answer.* Please see the answers to previous two questions above.

*Question.* Do you have the technological capability of measuring and reporting program performance throughout the year on a regular basis, so that the agency can be properly managed to achieve the desired results?

*Answer.* We have alerted responsible managers to the need for employees to understand the Performance Plan's contents, especially those areas for which they have primary responsibility; for bureaus to have the baseline information in place against which progress will be measured; and for bureaus and employees to be prepared when fiscal year 1999 begins to collect the data necessary to track and document performance throughout the year. This is, however, a new way for us to operate. We cannot state conclusively one way or the other how well or quickly we will be able to report on performance throughout the year. Our focus with systems in the immediate future is to ensure they are Year 2000 compliant.

*Question.* If so, who has access to the information—senior management only, or mid- and lower-level program managers too?

*Answer.* The Performance Plan is built from individual Bureau Performance Plans. We are relying on mid- and lower-level managers as well as senior management to take primary responsibility for building and carrying out their own plans. They originated and have access to the available performance information.

*Question.* Are you able to gain access easily to various performance-related data located throughout your various information systems?

*Answer.* Tracking our progress against a Performance Plan represents a new way for the Department of State to operate. We do not yet know how easily we will be able to access and report performance-related data.

#### GOVERNMENT PERFORMANCE AND RESULTS ACT

*Question.* The Government Performance and Results Act requires that your agency's Annual Performance Plan establish performance goals to define the level of performance to be achieved by each program activity set forth in your budget.

Many agencies have indicated that their present budget account structure makes it difficult to link dollars to results in a clear and meaningful way. Have you faced such difficulty? Would the linkages be clearer if your budget account structure were modified?

*Answer.* In the Performance Plan, we have listed the appropriations supporting each strategic goal. There is not a one-to-one correlation between goals and appropriations. Each goal is supported by several appropriations, and each appropriation supports multiple goals. Our ultimate objective is to identify both the appropriations and the dollar amount they contribute to the specific goal, although completing that objective is still some years away. Until we have some more experience in linking dollars to results, we are not planning to propose changes to the account structure.

*Question.* If so, how would you propose to modify it and why do you believe such modification would be more useful both to your agency and to this committee than the present structure?

*Answer.* At this time, we have no plans to propose changes to the account structure.

*Question.* How would such modifications strengthen accountability for program performance in the use of budgeted dollars?

*Answer.* At this time, we have no plans to propose changes to the account structure.

#### MANAGERIAL COST ACCOUNTING

*Question.* What is the status of your agency's implementation of the Managerial Cost Accounting requirement, and are you using Activity-Based Costing?

*Answer.* The Department of State has begun to identify actions needed to comply with Managerial Cost Accounting requirements. The Department's Strategic Plan under the Government Performance and Results Act has been finalized and the Department is working on the methodologies to assess achievement of Department goals and objectives under the plan. Price Waterhouse has been retained to provide an assessment of the work required to implement the Statement of Federal Financial Accounting Standard Number 4, "Managerial Cost Accounting Standards and Concepts for the Federal Government." Concurrent with this initiative, cost accounting requirements are being incorporated into the Resource and Budget Integration Tool (RABIT) which will be used to identify cost data for future budget presentations; the International Cooperative Administrative Support Services (ICASS) system for inter-agency support functions at the post level; the Central Financial Management System; and integrated feeder systems that support our centrally managed financial management and program management needs. The Department has not determined if it will use Activity Based Costing.

#### MEASURING ACTIVITY COSTS

*Question.* Will you be able in the future to show this committee the full and accurate cost of each activity of each program, including in those calculations such items as administration, employee benefits, and depreciation?

*Answer.* As cost accounting requirements become fully integrated into Department systems and management process, the Department will be able to accurately identify the costs of individual programs and activities. Current systems and data capabilities are heavily stressed and the Department's primary focus is on year 2000 compliance. As part of our initiative to implement the Federal Financial Management Improvement Act, the Department will implement standard cost accounting data structures and capabilities that will meet the Joint Financial Management Improvement Program system requirements as well as the Statement of Federal Financial Management Number 4 "Managerial Cost Accounting Standards and Concepts for the Federal Government."

#### MEASURING PROGRAM PERFORMANCE

*Question.* By doing so, would we then be able to see more precisely the relationship between the dollars spent on a program, the true cost of the activities conducted by the program, and the results of these activities?

*Answer.* The Department's initiatives under the Government Performance and Results Act (GPRA) strategic planning process and the implementation of Statement of Federal Financial Accounting Standards under the Federal Financial Management Improvement Act (FFMIA) are directed at determining the efficiency and effectiveness of the Department of State identified programs and activities. Budget and other performance targets will be established under the strategic planning process and the Department plans to measure performance. However, precise measure-

ment of our programs may still be many years away given the condition of our current systems and logistical problems around the world.

GOVERNMENT PERFORMANCE AND RESULTS ACT

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that:

To what extent are your performance measures sufficiently mature to allow for these kinds of uses?

*Answer.* We have made a good start with strategic planning and performance measurement in the past 18 months, but we are still far from having a fully functioning performance planning system. We have made great progress in creating an effective planning system by developing software that distributes resources (both people and money) by strategic goal, and by revamping annual Mission and Bureau Program Plans. Our performance measures are embryonic, and we are in the first year of associating dollars with goals. Developing a solid set of performance measures and indicators for our complex activities will take a good deal of effort and will entail close coordination with other agencies. We expect that the experience gained in the next several years as we refine our strategic planning and implement the fiscal year 1999 Performance Plan will better position us to take actual performance into account in making resource decisions.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that:

Are there any factors, such as inexperience in making estimates for certain activities or lack of data, that might affect the accuracy of resource estimates?

*Answer.* We have made great progress in creating an effective planning system by developing software that distributes resources (both people and money) by strategic goal, and by revamping the annual Mission and Bureau Program Plans. We are still far from having a fully functioning performance planning system, however. Our performance measures are embryonic, and we are in the first year of associating dollars with goals. In addition, we are continuing to develop and refine data sources and baselines against which to measure progress. Developing a solid set of performance measures and indicators for our complex activities will take a good deal of effort and will entail close coordination with other agencies. We expect that the experience gained in the next several years as we implement the fiscal year 1999 Performance Plan will allow us to make better estimates of funding requirements to achieve desired results and take actual performance into account when making resource decisions.

STATE'S PERFORMANCE GOALS

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions in your strategic plan issued on September 30, 1997?

*Answer.* Our experience with the Performance Plan does not suggest any need for a substantive revision to the Department of State Strategic Plan we submitted last September. We do intend to refine the International Affairs Strategic Plan based on feedback we have received since its release. This will in turn result in some adjustments to the State Strategic Plan.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

CERTIFICATION DECISIONS

*Question.* Could you provide the Committee with an idea of how the State Department reaches its decision to recommend that the President certify a particular country?

*Answer.* In the fall, the Department of State's Bureau for International Narcotics and Law Enforcement Affairs (INL) reviews and revises the "majors" list as appropriate. The list is based on the previous spring's "International Narcotics Control and Strategy Report" (INCSR)—produced by INL—and from other U.S. government sources. This proposed list is then cleared within the State Department and coordinated with other interested agencies. The Secretary transmits the proposed list to the President, who makes the final decisions regarding the list. The White House then transmits the "majors" list to the chairmen of the Senate Foreign Relations Committee, House International Relations Committee, and the respective appropriations committees. The due date for the "majors" list is November 1.

Between December and mid-February, the INL Assistant Secretary coordinates an interagency decision-making process to recommend whether countries should be certified fully based on their counternarcotics performance, denied certification, or

granted a vital national interests certification. These recommendations are then presented to the Secretary of State for her consideration. By mid-February, the Secretary sends her recommendations to the President.

#### U.S. LAW ENFORCEMENT AGENCIES AND CERTIFICATION

*Question.* What role do U.S. law enforcement agencies play in the certification process?

*Answer.* The Departments of Justice and Treasury, as well as other agencies involved in foreign counternarcotics law enforcement efforts (such as the U.S. Coast Guard), provide much of the information used in the certification process. These law enforcement agencies participate in the interagency discussion and recommendation process beginning with the development of criteria and continuing through the analysis of performance leading to the Secretary's certification recommendations to the President.

#### MEXICO DRUG CERTIFICATION

*Question.* How many man-hours did the State Department spend this year on the Mexico certification decision?

*Answer.* We do not have a tracking mechanism for hours spent by individual Department of State personnel on specific issues, such as certification. We take the certification process very seriously and many people—from desk officers and support staff to the Secretary of State—are involved.

Our staff members spend considerable time conducting research, analyzing data, preparing statistical summaries, consulting with other agencies, drafting, clearing and editing the International Narcotics Control Strategy Report, preparing Congressional testimony, answering inquiries from the Congress and the media, and so forth. Department principals actively participate in reviewing the findings, making recommendations, and, ultimately, implementing the President's decisions. Considerably more time is invested, however, in establishing the benchmarks or criteria for certification, preparing and conducting demarches and follow-up meetings with foreign government officials, providing program support to other governments to aid them in reaching these objectives, and reporting on the results.

Because of the complexity of the drug situation in Mexico, and the fact that its anti-drug effort is so crucial to the success of our own national effort, more "man-hours" are probably spent on the Mexico review than any country other than perhaps Colombia.

#### IMPROVING THE CERTIFICATION PROCESS

*Question.* What are your views on the best way to improve the certification process? Is the process fatally flawed, or can you offer Congress a way to fix it?

*Answer.* The State Department has already implemented a number of procedural changes to the certification process which are specifically designed to improve cooperation and reduce acrimony on key narcotics control objectives. The new mechanisms in place are designed to draw upon the wide expertise of our intelligence and law enforcement communities to ensure that the governments of these countries have a sense of ownership for key counternarcotics objectives.

From the overseas perspective, we are keeping our embassies and host governments abroad engaged from the start in the certification process. Through our embassies, we have redoubled diplomatic efforts to engage host governments actively in finding the best means to meet our certification objectives. As the lead agency in the certification process, the Department is also reviewing the law for possible recommendations to improve it.

Moreover, we are making a greater effort to utilize multilateral mechanisms such as the OAS drug body (known by the Spanish acronym CICAD) and the United Nations to advance certification goals, which are, after all, tied to the 1988 U.N. Drug Convention.

#### MULTILATERAL DRUG TREATY

*Question.* Do you support the notion of a multilateral drug treaty for the Western Hemisphere? If so, would the treaty involve supply reduction, demand reduction or both? How would such a treaty be enforced?

*Answer.* The Department of State does not support the notion of a multilateral drug treaty for the Western Hemisphere. We believe that the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the "Vienna Convention"), to which all the countries in the Western Hemisphere are parties, provides an adequate framework for establishing international obliga-

tions for narcotics control. The Vienna Convention addresses the entire range of drug issues from supply reduction to demand reduction, including related matters such as money laundering, asset forfeiture, controlling precursor chemicals, extradition, and judicial assistance.

The Department, however, does support the need for enhanced multilateral cooperation to overcome some of the limitations associated with bilateral antidrug efforts. Accordingly, we have proposed, and the countries of the hemisphere have endorsed, the idea of creating a multilateral counternarcotics monitoring and evaluation mechanism in the hemisphere. Among other objectives, the mechanism could be used to assess compliance with the Vienna Convention, strengths and weaknesses in antidrug programs, and where assistance could best be focused. This mechanism can be established without resorting to a treaty and we are working with all the countries in the hemisphere through the good offices of the OAS's Inter-American Drug Abuse Control Commission (CICAD) to develop this concept. This mechanism would not replace our most effective bilateral initiatives, but could go a long way towards filling some of the gaps they do not cover.

#### OVERALL BUDGET REQUEST

*Question.* The Budget Request for 1999 asks for \$1.3 billion more than this level [\$18.6 billion] even excluding the arrears to these organizations [e.g., U.N.] and the IMF supplemental request. Since the Administration agreed to the \$18.6 billion level in 1999 and made this level a priority, why is the Administration now asking for \$1.3 billion more?

*Answer.* We share your interest in economy, and we continue to press our international affairs budget for efficiencies.

At the same time, our highest priority is to look after American interests abroad. This budget represents an appeal for bipartisan consensus to provide the funding we need to defend U.S. interests in the world.

Our interests are changing in important ways. They are becoming more complicated and they are touching the lives of more and more Americans.

Our International Affairs Strategic Plan is the definitive guide to how we are serving America's interests and how we are spending the funds we receive from Congress:

*Protecting the national security interests of the country.*—This includes an approximate increase of \$175 million for Bosnia. Last year's agreement assumed that our role would diminish. This is not yet possible.

This category also includes an increase of approximately \$85 million to promote political and economic reform in NIS countries to ensure that we do not slip back into nuclear confrontation.

*Promoting America's prosperity.*—Exports are an increase pillar of our prosperity. A portion of the \$150 million increase in funding for Africa will promote trade. Part of the \$41 million increase for the Peace Corps will also help develop new markets over the long term.

*Protecting American citizens abroad and defending America's borders.*—This is an ongoing priority for everyone at the State Department.

*Protecting Americans from international narcotics trafficking, terrorism, and crime.*—Our request includes a modest \$41 million increase building on our recent successes in the Andes.

*Promoting democracy, human rights, and the rule of law.*—Part of the Africa increase will also support this goal. Other funding increases in many regions support this goal.

*Providing humanitarian assistance.*—A good portion of the \$125 million increase in NADR funding will enhance our demining initiatives around the world.

*Combating disease, environmental destruction, and excessive population growth.*—This is part of our work in all regional areas. I look for it to receive even higher strategic and budgetary priority in the years ahead.

In addition, our budget request includes an approximate increase of \$412 million for diplomatic activities and infrastructure to support work toward all our goals. We have urgent funding requirements of \$250 million for the construction of new embassy buildings in Berlin and Beijing. We also face major expenditures to make our computers year-2000 compliant.

I urge the Congress to provide the funding we need to defend American interests in an increasingly complex world, as it did last year. We ask for the minimum we need to keep our country safe and prosperous. We must lead in making the world a better place for our own good.

## ARREARAGES TO INTERNATIONAL COPPER STUDY

*Question.* Madame Secretary, I was recently concerned to learn that the State Department remains in arrears on dues the United States must pay to participate in certain international organizations. On February 13, I wrote to the Assistant Secretary for International Organizations to urge the Department to honor its participation in the International Copper Study Group. My information is that the U.S. Government is \$9,950 in arrears on its 1997 dues, and that in January it received its assessment of \$60,000 for 1998 dues.

The United States is scheduled to chair the International Copper Study Group this coming year, but if our dues are not current, the chairman will have to step down from his post and the U.S. will lose its voting rights with eventual expulsion from the group.

Has the State Department paid the \$9,950 in arrears for the 1997 dues for U.S. participation in the International Copper Study Group?

*Answer.* Due to a shortfall of funding in 1997 of approximately \$85 million, we were regrettably forced to cut funding for virtually all international organizations including the International Copper Study Group (ICSG).

Our fiscal year 1997 arrears to the ICSG total approximately \$12,000. Our recent payment of our 1998 assessment ensures our full participation in the activities of the ICSG until June 30, 1999. Legislation to pay our arrears did not pass the Congress last year and is still pending. We are currently exploring whether we have the authority, and sufficient funds to pay our arrears to the ICSG.

*Question.* Madame Secretary, in the conference report accompanying the 1998 Commerce, Justice, State, and the Judiciary Appropriations bill, the conferees highlighted their concern about these arrears, and "agreed that the Department of State should take action to maintain the U.S. Government's vote in these organizations and should expeditiously submit a reprogramming to pay off shortfalls, if necessary."

Has the Department prepared a reprogramming request to address the arrears for the International Copper Study Group and organizations in a similar situation?

*Answer.* No, the State Department has not yet prepared a reprogramming request to address the arrears for the International Copper Study Group and organizations in a similar situation. Since we have been unable to secure an arrears funding package from the Congress, we must examine whether we have the authority to pay arrears under current legislation and to see if there are sufficient funds to reprogram monies from within the current fiscal year budget.

*Question.* If not, how does the Department intend to satisfy the arrears for the Copper Study Group?

*Answer.* We are currently reviewing the issue and would hope to make a proposal on this matter in the near future.

*Question.* The conferees on the 1998 bill also provided funding equal to the latest estimate of the cost of assessments for U.S. participation in international organizations provided by the State Department. The conferees expected this amount to be sufficient to fully fund current year assessments for U.S. membership in these organizations.

What is the Department's intention with the payment of the 1998 dues for the Copper Study Group now owing \$60,000?

*Answer.* The Department recently paid, in full, its 1998 assessment to the International Copper Study Group.

*Question.* Does the Administration intend to honor its commitment to participate in these international organizations by paying its share of the dues?

*Answer.* The President is committed to paying our assessments in full as demonstrated by the fiscal year 1999 budget request and paying our arrears to international organizations as demonstrated by the fiscal year 1998 supplemental request. Our ability to pay our share of the dues depends on full funding of the President's request which is based on estimated assessments.

## BOSNIA FUNDING

*Question.* Do you believe the American people will continue supporting the U.S. presence in Bosnia or Iraq or the next country in crisis if the world also looks to us to pay a major share of the costs?

*Answer.* The American people will continue to support U.S. engagement in regions such as Bosnia and Iraq because they understand we have strong strategic interests in these regions.

We are gratified by the support we have received from nations around the world.

Our European allies are shouldering a significantly larger part of the burden than the U.S., in terms of money and troops, in the international effort to promote peace and stability in Bosnia.

Our allies and partners in many parts of the world do share the burden of costs and risks. We will continue this policy but we will also judge when our own nation's interests require intervention.

#### FUNDING THE WORLD'S SECURITY NEEDS

*Question.* Is the U.S. responsible for funding the world's security needs?

Answer. Each year, the President submits as part of budget Function 150 a request for international security assistance. The level of funding requested—\$6.158 billion in fiscal year 1999—reflects the amount needed to assist our friends and allies in addressing those requirements that help improve not only their security, but also that of the United States. The assistance we provide through the Foreign Military Financing (FMF) program, peacekeeping operations (PKO) funds, the International Military Education and Training (IMET) program, the Economic Support Fund (ESF), and the Nonproliferation, Antiterrorism, Demining and Related (NADR) programs account are the tools used to do this. These accounts fund programs which, among other things, develop stable bilateral and multilateral security relations; help prevent, manage, and diffuse regional tensions; prevent and resolve crises; promote regional cooperation; and help prevent the spread of weapons of mass destruction and their delivery systems. Our international security assistance funds are designed to meet only those discrete needs that the Administration deems to be in the U.S. national interest.

#### MIDDLE EAST PEACE PROCESS

*Question.* Could you discuss the military balance in the region, and how the efforts by Iran, Iraq, Syria, and Libya to get weapons of mass destruction factor into that? What more can we do with Israel to bolster its qualitative edge?

Answer. We remain very concerned about the large imbalance in the size and military capabilities of Iraq and Iran compared to those of our friends in the Gulf. Having militaries many times larger than those of the Gulf Cooperation Council (GCC) countries, Iran and Iraq are in a position to use their forces or to threaten that use to apply strong coercive pressures contrary to U.S. interests. The presence of U.S. forces in the region and the strong cooperative relationship with the United States, including strong military sales and training programs, are essential elements in helping the Gulf states resist such coercion, and in also ensuring the security of other friends in the region, such as Israel, Egypt and Jordan. The prospect of the acquisition of weapons of mass destruction by Iran and Iraq, and by others such as Libya and Syria, would materially affect the regional balance contrary to U.S. interests across the entire region and would strengthen the coercive pressures any of these states could bring countries friendly to the U.S. beyond it. We are also concerned prospect of Syrian acquisition of could have on the Middle East peace.

We are committed to doing all we can to help reduce the real threat posed to Israel and our other regional partners by WMD and advanced delivery systems. The United States helps Israel meet this threat as part of our commitment to Israel's security and to sustaining military edge. The U.S. helps Israel address strategic threats through a combination of actions and policies, including provision of \$1.8 billion annually to Israel for defense. Our active role in the Middle East Peace Process seeks, in part, to enhance Israel's security by reducing the regional threat and promoting dialogue. We are also involved with Israel in joint research projects to develop weapons systems, such as the Arrow anti-tactical ballistic missile system and the Tactical High Energy Laser, to counter the missile threat. The administration's nonproliferation and export control policies also serve to enhance the security of Israel and our other regional partners by seeking to control the spread of dangerous weapons and technologies in the Middle East and throughout the world.

We are committed to continuing to support and cooperate with Israel on security matters in order to preserve Israel's qualitative military edge and to reduce the serious threat posed by WMD and missile systems.

#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHORSE CAMPBELL

##### GOALS OF MILITARY STRIKE AGAINST IRAQ

*Question.* What exactly do we expect to achieve by launching such an attack?

Answer. The goals of air strikes would have been to diminish the threat posed by Iraq's weapons of mass destruction program and reduce Iraq's capacity to threat-

en its neighbors. Although military operations could not have destroyed the entire WMD program, they would have left the program significantly worse off.

*Question.* If the U.N. settlement does break down and the U.S. launches an air strike against Iraq, what will be the comprehensive exit strategy to ensure not only Iraqi UNSCOM compliance, but also to ensure that this operation does not turn into another Bosnia? How then do we sell such an attack to the American people?

*Answer.* I would prefer not to speculate about the details of military operations we might undertake if Iraq interferes with UNSCOM inspections in the future. If air strikes alone were directed against Iraq, the exit strategy needed would be very different than if ground forces were also involved.

We will continue our long standing military cooperation with our Gulf allies. Our concern for the security of the nations of the Gulf is ongoing. Our forces will remain deployed there at currently augmented levels so long as they are needed to ensure Iraqi compliance with the relevant U.N. Security Council resolutions. Once Iraqi compliance is assured, we will consider whether we can reduce the augmented level of forces deployed in the Gulf.

We believe that a majority of the American people would have supported air strikes, had the President ordered them. We continue to believe that the American people would support air strikes in the future, should they become necessary.

*Question.* How does allowing Saddam Hussein to sell oil help our position in this situation when it is entirely probable that he will use these monetary returns to purchase new and improved weapons systems?

*Answer.* Under UNSCR 986 and subsequent "oil-for-food" resolutions, the Government of Iraq does not touch the revenues paid for the oil sold. That money is put into an escrow account controlled by the United Nations, and is used solely for the purchase of humanitarian goods. There is thus no way for Saddam Hussein to get at it for the purchase of weapons.

The humanitarian program established by resolution 986, and subsequent resolutions, is the largest U.N.-operated humanitarian program in the history of the United Nations. It serves an important goal of the international community: to demonstrate concretely that the United Nations, and in particular the members of the Security Council, remain committed to meeting the essential humanitarian needs of all Iraq's people. The United States strongly supports this program, of which it was one of the principal authors.

*Question.* If an American air strike is launched on specific chemical and biological targets, what is the potential for collateral damage as a result of the release of these agents?

*Answer.* If we knew where Iraq might be hiding chemical and biological agents, we certainly would ask UNSCOM to go there and destroy them safely, demanding with the rest of the Security Council that the Government of Iraq not block UNSCOM yet again.

On the question of potential damage resulting from hypothetical bombing, this technical answer is not within the competence of the Department of State.

#### ANTICORRUPTION: UKRAINE

*Question.* What steps is the State Department taking to assist American companies and investors in this region?

*Answer.* American firms operating in Ukraine expect their government to do its utmost to ensure a level playing field for their businesses, and the State Department and the U.S. Mission in Kiev are actively engaged in assisting American companies and investors in Ukraine in order to achieve that goal. Ukraine has been going through enormous changes from planned to market economics. Along the way there have been many problems, and corruption is one of them. The Ukrainian government needs to do more to reduce regulation, bureaucracy and inconsistent enforcement of laws and administrative requirements. All these contribute to corruption by creating opportunities for selective enforcement.

The U.S. Government has in place a number of initiatives to try to assist the Ukrainians in dealing with such systemic obstacles to a more open and fair investment climate. One such program is our "Transparency Initiative," which targets certain areas of direct relevance to the difficulties faced by U.S. businesses. Another area is law enforcement cooperation, which, among other things, includes efforts to help put into place reliable legal and enforcement structures to combat official corruption. We have also concluded a Bilateral Investment Treaty (BIT), which obligates Ukraine to provide our investors fair and equitable treatment in compliance with international law. Investors who encounter difficulties in Ukraine have several remedies open to them under the BIT, one of which is international arbitration.

Ukraine has consented in the BIT to such arbitration, which is a powerful remedy for investors.

In Ukraine itself, the U.S. Mission, including State Department, Commerce Department and USAID officials, has worked since the establishment of our relations with Ukraine to encourage the systemic and structural changes that will improve the investment and business climate. At the most senior policy levels, for example in the U.S.-Ukraine Binational Commission (Gore-Kuchma), we are doing our utmost to impress upon the Ukrainian leadership the critical need, in Ukraine's own best interest, of completing the development of a transparent, modern market economic system with reasonable opportunities for all. This has included raising, where appropriate, the problems faced by specific U.S. companies and investors.

*Question.* In your opinion, Madame Secretary, should the Ukraine be certified this year to receive foreign aid in light of its record of treatment of U.S. companies?

Answer. I have not yet reached a decision on that issue. Between April 1-9, senior officials from both governments will meet to review the business disputes that fall within the definition of the certification provision of the Fiscal Year 1998 Foreign Assistance Appropriations Act. When our review of all the facts is complete and I have received a recommendation, I will make a decision in accordance with the law.

*Question.* Could you please have the State Department look into the situation of Gala Radio and report back to this subcommittee?

Answer. The State Department, Commerce Department, and the U.S. Embassy in Kiev have been very actively engaged in efforts to assist in resolution of Gala Radio's problems. This is an extremely difficult and complex case. Gala Radio has recently filed a request for arbitration of its dispute with the Ukrainian government with the International Center for the Settlement of Investment Disputes' Additional Facility, as provided for in the U.S.-Ukraine Bilateral Investment Treaty (BIT). We are very pleased that the BIT provided the U.S. investor with this valuable remedy.

Now that the case is in arbitration, we are working to ensure that the Ukrainian government understands the arbitration process and its obligations under it, including the obligation to refrain from any conduct that could undermine the fair and just resolution of the investor's claim. Our Embassy and the Department remain in regular contact with the investor, and we will continue to follow the situation closely and to take any appropriate steps toward the goal of the investor obtaining the full protection afforded by the BIT.

I have personally raised this case with President Kuchma and have urged him to see to its resolution. This case, and those like it, which do so much to deter foreign investment in Ukraine, represent the most serious impediment to Ukraine's economic recovery.

*Question.* What is your view on this proposed legislation?

Answer. The Administration will continue to work with Congress on improving international free market conditions, especially as it pertains to opportunities for American business investments and operations. The issues involved, however, are complex and have major ramifications. In many of these countries, political and economic reform is undergoing an evolutionary process which, although progress is being made, it is sporadic and long term.

The Administration has made good governance and transparency a primary goal in its foreign economic policy. We have been pleased that the international financial institutions have embraced this goal as their own. U.S. assistance and that of the international financial institutions play a key role in promoting good governance, accountability, a free and fair market and a level playing field for all investors.

#### UNITED STATES ROLE IN ASSISTING ISRAEL

*Question.* What do you see as the State Department's primary role in assisting Israel to achieve its goal of peace with security?

Answer. The U.S. welcomes its role in assisting Israel to achieve its goal of peace with security. The U.S. has an unshakable commitment to Israel's security. We have maintained and sought to strengthen that commitment even further.

Our efforts to directly assist Israel in meeting its security needs are complemented by our efforts to promote a lasting peace between Israel and her Arab neighbors. In Israel's interests and at Israeli request, the U.S. is playing the role of honest broker. Nothing we have done or tried to do in the peace process would ever undermine Israel's vital security interests. Indeed, the best way to enhance that security is to produce a real peace through negotiation. At each step of the process, we have acted to minimize the risks Israel takes for peace.

In its role as honest broker, the U.S. has called on both parties to make the tough decisions, because that is what is needed to get this process back on track and create the environment for the resumption of permanent status talks which Israel

wants and which could foster peace and security. Our role has included putting forth some of our own ideas to break the current stalemate, in the interests of both peace and security. We are also pressing the Palestinians to do all they can to fight terror 24 hours a day, seven days a week. The Administration will seek to deepen our powerful bonds with Israel, while pursuing a lasting peace with security in the Middle East.

#### MIDDLE EAST PEACE PROCESS

*Question.* The Israeli government has recently put forth its initial thoughts about reducing economic assistance from the U.S., with the 10–12 year goal of phasing economic assistance to zero. Would you please comment on the Israeli proposal?

*Answer.* In late January, Israeli Finance Minister Yaacov Ne'eman began discussions with Members of Congress and Administration officials on a proposal that would gradually reduce Israel's annual \$1.2 billion economic assistance to zero, while phasing in an increase in military assistance over the same 10–12 year period.

We welcome Minister Ne'eman's initiative and note that it follows the initial efforts suggested by the Administration in fiscal year 1997 and fiscal year 1998 to begin to adjust traditional bilateral assistance levels to the Middle East. We have asked the Israeli government for clarification of certain aspects of its offer, and are still formulating our response. We have also asked the Government of Egypt to provide its views on future U.S. bilateral economic assistance. We hope to work out a formula for fiscal year 1999 assistance to the Middle East that meets our full range of regional requirements.

#### NATO EXPANSION

*Question.* What sort of financial safety net will secure the cost balance so that the U.S. is not forced to shoulder an unfair burden, should any of our EU allies decide that they are unable or unwilling to maintain their fair share of funding for NATO enlargement?

*Answer.* We are confident that our European allies will pay their fair share of the costs of NATO enlargement. Our confidence is based on an established track record of nearly fifty years during which our allies consistently fulfilled their NATO financial obligations. We are further encouraged by the fact that NATO political leaders, both in Madrid and in Brussels acknowledged that there will be costs associated with NATO enlargement, and confirmed their nations' willingness to meet these costs.

The fact is that the allies already pay 75 percent of NATO common costs year in and year out. According to NATO's estimates, the cost of adding these three states is expected to amount to less than 10 percent of NATO's annual budget, and there is no reason to believe that such a slight increment would not be met by both current and new members. While the U.S. pays about 25 percent of NATO common costs, our European allies pay the remaining 75 percent of those costs, which amounted to approximately \$1.3 billion last year. Based on past performance and recent pledges to provide the resources to support a successful enlargement effort, we have every reason to be confident that our European allies will continue to fulfill their financial obligations to the Alliance.

*Question.* What steps are being taken to ensure the new members, if ultimately approved, pay their full share.

*Answer.* The three invited nations have publicly affirmed their willingness and ability to contribute fully to the Alliance, and we believe that they will do so.

Between September and November of 1997, NATO held four rounds of accession talks in Brussels with Poland, and five each with Hungary and the Czech Republic. These discussions examined in detail the three states' military capabilities, their willingness to contribute forces to NATO activities, and their readiness to accept the political and legal obligations of NATO membership.

These discussions led to acceptance by the Czech Republic, Hungary, and Poland, of NATO's proposed cost shares of 0.9, 0.65, and 2.48 percent respectively. All three countries have also stated their willingness to meet target force goals which are currently being jointly developed by NATO and the three invited nations.

All three invited countries also have plans for defense budget increases. For new members, the costs of NATO enlargement will be a manageable percentage of their planned military budgets.

The Czech government, for example, has approved plans to increase their 1998 national defense spending to about \$1.1 billion, which represents about 1.88 percent of projected GDP. The Czech Republic plans to link defense spending growth to the rate of GDP growth and to increase the percentage of GDP dedicated to defense by

0.1 percent annually for the next 3 years which will raise the percentage from the current 1.7 percent in fiscal year 1997 to 2.0 percent in 2000.

The Hungarians have increased their 1997 national defense budget to about \$800 million, which represents about 1.8 percent of projected GDP. Hungary also plans to link defense spending growth to the rate of GDP growth and to increase the percentage of GDP dedicated to defense by 0.1 percent annually for the next five years. This will translate to an increase in Hungarian defense spending in real terms by 3 to 8 percent annually during the next four years.

Poland spent 2.3 percent of GDP on defense in 1996. Poland's 15-year modernization plan calls for annual increases in defense spending which are pegged to the rate of GDP growth. Based on a conservative estimate of a 4.2 percent annual growth rate, Polish defense spending should increase approximately 3.2 percent annually.

The facts described above show a firm commitment on the part of the three invited countries to pay their full share of NATO costs.

*Question.* Could you please provide this subcommittee with the most recent cost estimates of the NATO enlargement proposal?

*Answer.* The Administration's February 1998 Report to Congress on the Military Requirements and Costs of NATO Enlargement is the most recent U.S. government statement on NATO enlargement cost estimates.

The Administration's Report endorses the NATO Cost Study assessment that the common-funded costs of enlargement will be about \$1.5 billion from 1998 through 2008. The U.S. share of these common-funded enlargement costs is estimated to be around \$400 million over this period. The General Accounting Office also validated these conclusions in its 6 March, 1998 Report to Congress, NATO Enlargement: Requirements and Costs for Commonly Funded Budgets.

The NATO study and the earlier, February 1997 U.S. estimate came to different conclusions because they were different in several key areas. First, the portion of the Administration's earlier U.S. cost estimate that addressed what the Alliance would collectively pay is \$4.9 to \$6.2 billion (not \$27 to \$35 billion), and should be compared to the \$1.5 billion NATO estimate.

Second, prior to NATO's identification of new members, the Administration outlined general requirements and an illustrative cost estimate for four potential new members; after the July 1997 Madrid Summit at which NATO named the three invitees, NATO identified detailed military requirements and a common-funded cost estimate for three new members.

Third, NATO's studies were based on more recent and detailed data on new members' infrastructure (e.g., airbases, road and rail networks), including site visits, that revealed better conditions than the Administration had previously assessed. Other factors included the following. The Administration assumed common funding for some requirements (e.g., airfield off-loading equipment) that NATO determined are nationally funded. The Administration also used higher cost factors for needed upgrades (e.g., air defense C<sup>2</sup>) in some instances.

Finally, there were modest differences in requirements with a significant cost impact. While some military requirements differ, the differences are modest and not operationally significant. Both studies use the same reinforcement strategy and developed broadly similar military requirements, including the number and types of reinforcing forces and reception facilities. However, the Administration's study included some requirements that NATO did not include (e.g., more ambitious upgrades to airfields and training facilities).

The Administration's review concluded that NATO developed a sound and reliable cost estimate, provided that the specific facilities to be selected during NATO's ongoing force planning process have essentially the same characteristics as those visited by the NATO International Staff during development of its cost estimate. The Department has every reason to expect that this will be the case, thus we are confident that NATO's estimate of \$1.5 billion over ten years is an accurate assessment of enlargement common-funded costs.

#### INTERNATIONAL CRIME INITIATIVE

*Question.* Madame Secretary, during a hearing about one year ago, you and I discussed serious new developments in international crime and its effect on Americans here at home and abroad. The Appropriations Committee, in its fiscal year 1998 Foreign Operations Committee report, expressed concern about the increase in crime abroad and its direct and indirect impact on the United States. The Committee also requested that you convene a new Secretaries, Task Force on International Crime, in cooperation with the Attorney General, the Secretary of the Treasury, and

the ONDCP Director, and report to Congress by March 26, 1998 on specific issues which the Committee outlined.

What is the status of your work on this Task Force?

Answer. The Administration's International Crime Control Strategy, which will be released soon, addresses the issues we discussed and which were raised in the Committee report to which you refer. Please note that the Administration has meanwhile taken various steps to coordinate our foreign policy, national security and international law enforcement objectives along the lines of the Task Force described in the Committee report. For instance, the Special Coordination Group (SCG) for International Crime functions like the cabinet level working group to coordinate international crime control activities recommended by the Committee report. SCG is chaired by the Senior Director for Global Issues and Multilateral Affairs of the National Security Council and includes representatives from all relevant agencies in the Executive Branch.

The SCG works to develop policies and programs to promote the Administration's entire range of law enforcement goals abroad. This includes, for example, the advancement of specific criminal cases and police training and other initiatives to build and strengthen judicial systems and institutions. An interagency working group chaired by the State Department's Bureau for International Narcotics and Law Enforcement Affairs coordinates specific training issues.

#### PRELIMINARY FINDINGS

*Question.* Are there any preliminary findings you could share with us today prior to submission of your final report next month?

Answer. The Administration views the International Crime Control Strategy as a fundamental plan of action. It will articulate eight broad goals accompanied by detailed objectives as a blueprint for an effective, long-term attack on the international crime problem. The Strategy is also designed as an expression of national will and a cohesive statement that the nation is resolved to reduce substantially international crime and its adverse impact on American people.

Law enforcement concerns, always a factor in our foreign policy, have taken on fresh importance in the face of powerful and fast-moving criminal elements which harm the interests of the United States and its citizens, even when those elements operate well beyond our national boundaries. As we seek to minimize the threat with practical policies and programs, we welcome Congressional interest and ideas which redound to the common benefit of all Americans.

#### NEW STEPS TO FIGHT INTERNATIONAL CRIME

*Question.* Do you have an update since last year's hearing on what new steps the State Department is taking to fight international crime?

Answer. The President's forthcoming International Crime Control Strategy, which we will provide you upon publication, describes the many aggressive steps the State Department, and other agencies, have taken to organize and support U.S. efforts to fight international crime. In addition to sustaining on-going efforts, new initiatives to highlight from our \$20 million program over the past year include the following:

- Stronger and more focused international cooperation to attack money laundering. We have conducted major training seminars in Russia and Latin America; have negotiated a Caribbean training project with the EC; participated in multilateral anti-money laundering assessments in Cyprus, Romania, and several of the NIS; and supported the anti-money laundering alliance the President signed with Venezuela.
- Stronger international anti-crime regimes. We have signed or are negotiating stolen car treaties with some 11 Latin American and East European countries; put in place a worldwide program to fight alien smuggling; led negotiations in the OAS on the recently signed treaty to control trafficking in firearms; and presided over the G-8 experts group on international crime where we were able to launch a new initiative against high-tech crime, worked toward a multilateral agreement against firearms trafficking modeled on the OAS treaty. We are working in the G-8 and elsewhere to deny criminals safe haven by improving cooperation on extradition and asset forfeitures.
- Enhanced law enforcement and judicial institution building. To advance police cooperation, we are pursuing efforts to establish International Law Enforcement Academies (ILEA) in Latin America and Southeast Asia.
- Identification and raised profile of emerging types of international crime. We have worked through G-8 and other fora to foster greater information sharing and international cooperation to combat environmental crime, theft of intellec-

tual property rights, and other forms of international crime that harm America's consumers and investors and threaten our economic and security interests.

#### IRAN WEAPONS TECHNOLOGY ACQUISITION

*Question.* Over the past few years, Russia has been the major source of missile technology to Iran. News reports indicate that if the flow continues unabated, Iran may have the indigenous capability to assemble and test missiles within a year. The Senate is considering the Iran Missile Proliferation Sanctions Act, which has already passed the House. This Act would sanction entities—not the Russian government—involved in the transfer of missile technology to Iran.

Do you agree with estimates of Iranian capabilities?

*Answer.* Iran is pursuing a multi-track effort to develop both liquid and solid-propellant missile systems. We believe Iran possesses an extensive inventory of 300-kilometer range and 500-kilometer range Scud missiles. Iran purchased Scud missiles and related technology from North Korea and is probably close to achieving Scud production capability, if it has not already done so. Iran also is developing a medium-range ballistic missile. Once Iran's indigenous missile production capability is fully developed, Iran would pose a new proliferation risk if it were to begin to export Iranian produced Scuds and production technology.

*Question.* Do you support the Iran Missile Proliferation Sanctions Act?

*Answer.* No, the Administration does not support this bill. Current law provides an adequate basis for the United States to impose sanctions on foreign entities that contribute to Iranian ballistic missile capabilities. The Administration is committed to fighting terrorism and taking steps to halt the transfer of missile technology to countries of concern, such as Iran. We believe, however, that the bill in its current form would weaken the U.S. ability to persuade the international community to halt such transfers to Iran. Because of the bill's requirement to impose sanctions based on an unworkable, low standard of evidence, its broad scope of covered transactions and lack of a meaningful waiver provision, we believe the President would be required to impose sanctions worldwide in a manner likely to undermine U.S. non-proliferation goals and objectives. We believe the bill would be counterproductive to convincing foreign governments to control missile-related trade with Iran. For example, the standard of evidence is so low it could result in the imposition of an untold number of erroneous sanctions on individuals or business entities. Imposition of erroneous sanctions on a large scale could dissuade foreign governments or persons from cooperating with the U.S. to prevent the transfer of missile technology to Iran and harm U.S. foreign policy goals and U.S. commercial interests with other nations.

Although the proposed law is of global scope, it is intended to deal with Russian entities involved with Iran's missile program. We have made progress with the Government of Russia on key aspects of its companies' cooperation with Iranian missile programs. Then Prime Minister Chernomyrdin signed an executive order on January 22 substantially strengthening the Russian export control process, providing new authority to stop transfers of dual-use goods and services to missile programs and programs for weapons of mass destruction. We have been discussing with the Russians steps necessary to implement the order and ideas for U.S. Russian cooperation in the development of export control systems. We have received assurances that the new government will honor this commitment. Some concerns remain and we will continue to press our case at the highest levels of the Russian government.

*Question.* The GAO has completed two reports commissioned by Members of Congress which address the issue of support by the International Atomic Energy Agency for programs in rogue states such as Iran and Cuba through the largely U.S. supported Technical Cooperation Program. U.S. contributions to the IAEA have been going to complete the Bushehr Nuclear Power Facility in Iran. The U.S. has explicit objections to the completion of this plant because it may advance Iran's nuclear weapons program. Should the United States continue to provide voluntary contributions to this program if it supports programs which do not coincide with U.S. nuclear non-proliferation and safety goals?

*Answer.* The International Atomic Energy Agency (IAEA) has not contributed to the construction of the nuclear power plant at Bushehr. Currently, the IAEA is funding only safety-related projects for the Bushehr reactor under its Technical Cooperation (TC) Program. The U.S. is opposed to the Bushehr project because the project will provide Iran with a rationale to acquire more sensitive nuclear facilities and with commercial channels that Tehran can use to pursue more sensitive nuclear technologies.

The U.S. voluntary contribution to the IAEA technical assistance program is an important way the U.S. meets its commitment under Article IV of the Treaty on the NonProliferation of Nuclear Weapons (NPT) to "facilitate \* \* \* the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Many developing countries party to the NPT view IAEA technical cooperation programs as a tangible benefit of their Treaty membership.

Approximately 90 countries, including Iran and Cuba, are recipients of IAEA technical cooperation. The United States has made clear its opposition to nuclear cooperation with Iran and Cuba, but we believe that seeking to terminate all IAEA-sponsored TC with countries such as Iran and Cuba could undermine our overall approach to nonproliferation worldwide and even our efforts to ensure effective safeguards in those and other countries.

That is because international political and financial support for the Agency's safeguards depends on adequate support for its TC program. Efforts to stop all TC to countries that have not been found to have violated their international obligations could jeopardize support for strengthening safeguards worldwide and especially for getting countries such as Iran to accept the Agency's strengthened safeguards system, which will improve our ability to detect any undeclared nuclear activities.

#### MASSACRE IN CHIAPAS, MEXICO

*Question.* Can you comment on the results of the visit to Mexico by Special Envoy for Latin America, Thomas McLarty, to investigate the status of this situation?

*Answer.* Counselor to the President and Special Envoy to the Americas McLarty visited Mexico in January to become acquainted with new key members of the Mexican cabinet, meet the new City mayor, and discuss with them a broad multilateral issues. He also paid a courtesy call on President Zedillo and met with representatives of human rights NGO's and the National Human Rights Commission. The situation in Chiapas was one of the subjects covered in some of his conversations.

Mr. McLarty's interlocutors outlined the complexity of the conflict in Chiapas and emphasized the difficulty in finding a peaceful solution to the situation. The Mexican officials recognized the international impact of events in Chiapas and discussed the Mexican Government's reinvigorated efforts to seek a negotiated settlement to the conflict. In addition, there was some discussion of the future need for economic and social restructuring in Chiapas.

Mr. McLarty expressed our concern about the situation in Chiapas, especially the human rights aspects of it, and offered appropriate support for the Government of Mexico's efforts to find a peaceful, negotiated settlement to the conflict.

*Question.* Could you please provide the subcommittee with a report on the current situation in Chiapas?

*Answer.* The massacre of 45 indigenous peasants in Acteal, Chiapas last December 22 apparently was carried out by armed civilians (a paramilitary group), probably linked to local government and public security officials. Mexican President Zedillo quickly recognized the dimensions of the problem and took the investigation out of the hands of state officials who may have been compromised.

The investigation so far has resulted in the issuance of over 120 arrest warrants in connection with the massacre. More than 80 persons have been detained, including the mayor of the municipality where the massacre took place and a state police chief. Prosecutions of a number of individuals are underway.

As a result of the massacre, the Chiapas state governor, the Gobernacion (Interior) Secretary, and the Government's special negotiator for Chiapas all were forced to resign. The new Chiapas team indicated renewed interest in dialogue and a political solution to the conflict in Chiapas. In mid-March, the Government sent draft legislation to the Mexican Congress to amend the Mexican Constitution in the areas of indigenous rights and culture.

This move has been criticized by other parties and Zapatista insurgents as unilateral. The opposition National Action Party has its own draft bill, while the Party of the Democratic Revolution favors continuing work towards resolution of the situation through the Peace and Conciliation Commission (COCOPA) and inclusion of the Zapatistas in the terms of any settlement.

The Institutional Revolutionary Party (PRI) and the National Action Party may cooperate to pass a version of this legislation, but a way must still be found to resolve the conflict with the Zapatistas. The absence of a peace and conciliation settlement in Chiapas continues to impede social and economic reform and development in the state.

We are following the investigation very closely through periodic special briefings by the Mexican Attorney General's Office. We tell the Mexican Government that we

look forward to prosecution and punishment of those responsible, and to a long term, peaceful resolution of the situation in Chiapas.

#### MICROCREDIT

*Question.* What is the State Department doing, particularly in the Newly Independent States (NIS) and Africa, to support the goal of the 1997 Microcredit Summit to provide access to microcredit programs for 100 million of the world's poorest families?

*Answer.* The State Department provides support for this goal in a variety of ways.

First, through our embassies in the NIS countries and in Africa, the State Department works closely with USAID to implement USAID's Microenterprise Initiative. Since 1991, USAID has allocated about \$175 million for microenterprise funding in Africa. Since 1994, when programs began in a few NIS countries, about \$39 million has been provided. Assistance is provided through enterprise funds, NGO intermediaries, loan guarantees, and technical assistance. USAID assistance has already paid off in Africa with programs such as Kenya's Rural Enterprise Program, Senegal's Agence de Credit Pour L'Enterprise Privee, and Niger's Bankin Raya Karkara. In the NIS, the poor are being served through such programs as USAID-funded FINCA International's Village Banking model. Since 1995, more than \$1.7 million has been disbursed with defaults of only \$600. Eighty-nine percent of recipients are women. Another highly successful program supported by USAID funds is that of Opportunity International in Russia.

A second avenue of support is through the Ambassador's Special Self-Help (SSH) Program which funds a variety of projects at our embassies in Africa. Examples of projects supported by the SSH include purchase of a grain mill for a community of 50 women in Uganda, start-up funds provided to a 45 woman tailoring project in Kenya, and money to purchase stalls to house pigs for a farmers association in Ghana.

A third way in which State Department supports the goal of the Microcredit Summit is through our support for programs and projects at the Multilateral Development Banks (MDB's).

The World Bank-administered Consultative Group to Assist the Poorest (CGAP) is increasingly active in the microenterprise lending in Africa and the NIS. World Bank funding for microenterprise grew from \$11.5 million in 1994 to \$87.8 million in 1996, with Africa and the NIS being leading recipients. The Bank is continually working to improve the effectiveness of its programs to reach those most in need.

The African Development Bank launched its Microfinance Initiative for Africa at the end of 1997. The Initiative has initial funding of \$21 million and is designed to improve the performance of existing microfinance institutions by upgrading their technical and organizational capacity. In addition, the Bank often includes microfinance components in poverty alleviation project loans. A recent loan to Cameroon, for example, included support for small scale enterprises and self-employment for women.

The European Bank for Economic Cooperation and Development (EBRD) is also supporting microlending activities, including through the very successful Russia Small Business Fund (RSBF), which was initiated in partnership with the G-7. The RSBF operates in 19 Russian regions and has received \$30 million in support from the U.S. Technical and financial support is provided to Russian banks to offer small and micro loans. By the end of 1997, the RSBF banks had provided nearly 14,000 micro loans totaling about \$97 million. Using the RSBF model, the U.S. and EBRD are working together to create a microlending program in Ukraine. The State Department and other U.S. agencies work closely with the MDB's in support of these efforts.

The State Department also works closely with the African Development Foundation, which was established by the U.S. Congress in 1980 to support the self-help initiatives of grassroots communities in Africa. During fiscal year 1994-1996, the Foundation assisted 79 micro and small enterprise projects in Africa.

#### INTERNATIONAL EXCHANGES PROGRAMS

*Question.* The Administration's budget proposal shifts \$7.5 million from USIA's overall International Educational and Cultural Exchange account to the Fulbright program under USIA. This is certainly great news, but it seems like the perfect case of robbing "Peter to pay Paul" as this increase will come at the cost of the other programs in the Educational and Cultural Exchange account.

*Can you please comment on this proposal?*

*Answer.* USIA's budget submission noted that built-in requirements, mainly price increases and Federal pay raises, will cost \$5,873,000 in the Exchanges Programs

account. In order to meet these cost increases and provide the Fulbright program with a modest increase within the Administration's overall budget limits, USIA had to make difficult decisions with regard to other exchange programs.

The Fulbright program is the U.S. Government's oldest and most prestigious academic exchange program, offering a range of academic experiences. Having recently celebrated its 50th anniversary, the program is a vibrant multi-national partnership supported by more than fifty foreign governments as well as our own. In 1997, a report was issued by the National Humanities Center and strongly endorsed by the President. This report made numerous recommendations to strengthen the program for the future. One of these recommendations was to "reaffirm federal support for Fulbright and the U.S. commitment to leadership in international educational exchange" by restoring the "recently reduced" Fulbright budget to \$125 million. Implementation of several of the other recommendations, such as improving record keeping, expanding the use of new technologies and broadening partnerships with foreign and U.S. institutions will also require budget increases for Fulbright.

We are especially eager to initiate a program for American graduate students in Russia and to expand opportunities for Americans to study and do research in China and Vietnam. We intend to enlarge the specially designed exchanges which promote the Middle East peace process. In South Africa, we will soon have a new commission which has the potential to significantly impact educational reforms taking place in that country. We also plan to reward commissions which have demonstrated initiative in raising funds from host country and private sector sources such as the Philippines, Korea, Jordan, Morocco and Argentina.

*Question.* What impact will this shift of funds have on the international Education Program?

*Answer.* The shift of funds will cause some reductions in international and Cultural Exchange programs, particularly on USIA's contacts with American community organizations which support or are involved with international exchanges. Fewer Citizen Exchange grants will be completed in fiscal year 1999. The precise effect on community organizations is difficult to estimate since Citizen Exchange grants are defined during the fiscal year through consultations with geographic area offices and an analysis of overseas USIS post requests. However, overall Citizen Exchange grants will probably be reduced from a total of 60 in fiscal year 1997 to about 45 in fiscal year 1999.

Fewer International Visitors also will result in less financial support to community organizations that support the international Visitor program. Local organizations are likely to experience reductions, since USIA's community support grants may be negatively affected by these budget reductions.

Educational advising, which assists and prepares future foreign leaders to undertake study in the U.S., continues to play an important role in furthering U.S. public diplomacy objectives. However, hard budget decisions had to be made to meet built-in cost increases and provide the Fulbright program with a modest increase within overall budget limits. We gave priority attention this fiscal year to augmenting the Fulbright program budget to address its most pressing challenges and opportunities. Unfortunately, that meant reductions in other programs.

USIA is working with private sector constituencies in local and state governments, corporations, and institutions of higher education to enlist them in providing support for the overseas advising centers. We also have projects underway to increase private sector and user-based cost-sharing, to partially offset some of the operational costs of running advising centers. However, private sector funding or fee recycling is unlikely to fully offset the cut in appropriated funds.

FUNDING FOR WAR CRIMES TRIBUNALS

*Question.* Please provide a summary chart of all funding from the U.S. provided to the International Criminal Tribunal for the Former Yugoslavia and Rwanda since their inception. Please indicate the amount of in-kind contributions as well. How much funding does the U.S. provide to the Trust Fund established to support the tribunals?

*Answer.* Of the amounts in the attached table, "U.S. Government Funding for War Crimes Tribunals," the in-kind and Trust Fund distributions break down as follows:

Trust funds:

Yugoslavia:	
Fiscal year 1994 PKO .....	\$700,000
Fiscal year 1997 SEED .....	500,000

Fiscal year 1998 ESF .....	400,000
Total .....	<u>1,600,000</u>
Rwanda:	
Fiscal year 1994 IO&P .....	500,000
Fiscal year 1995 ESF .....	900,000
Total .....	<u>1,400,000</u>
In-kind contributions:	
Yugoslavia:	
Fiscal year 1993 DOD .....	300,000
Fiscal year 1994 PKO .....	2,300,000
Fiscal year 1996:	
ESF .....	1,000,000
SEED .....	136,000
Fiscal year 1998 ESF .....	<u>1,675,000</u>
Total .....	<u>5,411,000</u>
Rwanda:	
Fiscal year 1996:	
DOD .....	900,000
IDA .....	1,240,000
Fiscal year 1997 ESF .....	194,000
Fiscal year 1998 ESF .....	<u>456 000</u>
Total .....	2,790,000

## U.S. GOVERNMENT FUNDING FOR WAR CRIMES TRIBUNALS

[In millions of dollars]

Contribution source	Fiscal year—					Cumulative Totals		
	1993 actual	1994 actual	1995 actual	1996 actual	1997 actual		1998 estimate	1999 request
<b>Former Yugoslavia</b>								
Assessed contributions:								
Contributions for Intl. Organizations (C/O) .....				5,498	10,327	6,544	12,500	34,869
Cont. for Intl. Peacekeeping Activities (CIPA) .....				( <sup>2</sup> )	( <sup>2</sup> )	6,544	12,000	18,544
Voluntary contributions:								
Economic Support Funds (ESF) .....						2,075		2,075
Intl. Organizations and Peacekeeping (IO&P) .....	1,500			1,000				1,500
Support for Eastern European Democracy (SEED) .....				0.136	0.500			0.636
Voluntary Peacekeeping Operations (PKO) .....		3,000						3,000
Defense Department (excess property) .....	1,030							0,300
Employees Detailed (State, DOD, DOI, USAID) .....		1,500		1,500	0,750	2,000		7,250
Subtotal .....	0,800	4,500	1,500	8,134	11,577	17,163	24,500	68,174
<b>Rwanda</b>								
Assessed contributions:								
Contributions for Intl. Organizations (C/O) .....				1,683	7,317	7,092	12,500	28,592
Cont. for Intl. Peacekeeping Activities (CIPA) .....				( <sup>2</sup> )	( <sup>2</sup> )	6,577	12,000	18,577
Voluntary contributions:								
Economic Support Funds (ESF) .....				0.900	0.194	0.456		1,700
Intl. Organizations and Peacekeeping (IO&P) .....		0.500						0,500
USAD/OTI—International Disaster Assistance .....				1,240				1,240
USAD/AFR—Development Fund for Africa .....				0,900				0,500
Defense Department (excess property) .....				0,900				0,900
Employees Detailed (DOD) .....				0.105	0.600	0.200		1,705
Subtotal .....		0,500	1,005	5,273	8,111	14,325	24,500	53,714

<sup>1</sup>Funding went to the U.N. Commission of Experts whose investigation led to the formation of the War Crimes Tribunals.<sup>2</sup>The U.S. provided no CIPA funds for these years because the U.N. covered the peacekeeping share of tribunals costs from unencumbered balances from peacekeeping operations in Rwanda and Yugoslavia.

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## CHINA FACILITIES—NEW EMBASSY BUILDING SCHEDULE

*Question.* What is the schedule for building this new Embassy?

*Answer.* Assuming the fiscal year 1999 appropriation request is enacted, the estimated schedule is as follows:

Complete site acquisition .....	November 1998.
Award design contract .....	April 1999.
Complete design .....	May 2001.
Award construction contract .....	June 2001.
Complete construction .....	October 2004.

## CHINA FACILITIES—HOUSING

*Question.* What are we going to do about the housing situation?

*Answer.* We have already taken a number of steps to improve the substandard conditions but much remains to be accomplished. The most serious problems are conditions in Beijing and exceptionally high lease costs in Shanghai, but all China posts except Hong Kong have some housing concerns. Meeting these concerns is a long-term effort to which we are fully committed.

*Beijing.*—Embassy Beijing is engaged in a program to upgrade its poorest quality housing units. As a first step in that program, we acquired 21 new leased units earlier this year that are closer to Western life-safety and seismic standards and provide greater control over maintenance. We are also engaged in a phased effort to completely renovate a number of existing apartments. Because windows were leaking soot and grit-laden air, we recently installed new windows and air conditioning units in all apartments leased in the diplomatic compound. These apartments will also receive electrical and plumbing rehabilitation, making them safer and more functional for residents. For the longer term, the focus is on acquiring additional suitable housing—through lease or purchase—as units become available in Beijing. For example, we are considering the purchase of 28–32 residential units in a Western-standard apartment building now under construction in an excellent location. In addition, we plan to construct, on a U.S.-owned site, 66 new apartments that will meet U.S. seismic, fire, life-safety, and security requirements.

*Shanghai.*—We are ready to award the design contract for the construction of a new 31-unit housing compound on U.S. Government land that will reduce the need to pay exorbitantly expensive leasing costs.

*Guangzhou.*—We are in the process of selecting one of two sites, available to us under the China Property Agreement, on which to construct residences and office space to replace inadequate existing space. Residences and offices are now collocated in a seismically and structurally deficient tower of a hotel which we lease.

*Chengdu.*—Our plan is to exercise an option to purchase currently leased apartments and bring them up to standard.

*Shenyang.*—With the fixed-rent schedule for the apartments and an option to purchase the building expiring in 2001, the goal is to exercise that option and provide extensive renovations.

## CHINA FACILITIES—HOUSING RENOVATIONS

*Question.* How much of the \$19 million we gave you was spent to renovate housing in the meantime?

*Answer.* The Department intends to earmark \$3.4 million of these funds for specific use in China, such as for correcting life-safety deficiencies in the Beijing Chancery and upgrading staff housing. This \$3.4 million will be in addition to other funds appropriated under the Security and Maintenance of U.S. Missions, plus available asset management funds, to carry out housing improvements in China in fiscal year 1998 and beyond.

The remainder of the \$19.6 million will be used for critical facility rehabilitation projects in Dhahran, Jeddah, Kampala, Manila, Suva, and Vientiane that would otherwise be delayed, and to ensure the timely replacement of overseas telephone systems that are not Year 2000 compliant.

## STATUS OF JERUSALEM EMBASSY ACT IMPLEMENTATION

*Question.* What is the status of the effort to conduct architectural and engineering plans to move the U.S. Embassy from Tel Aviv to Jerusalem?

*Answer.* There is no issue related to the negotiations between Israel and the Arabs that is more sensitive and volatile than Jerusalem. The President has made clear that he would take no action to undermine the peace process.

Accordingly, we did not think it would have been prudent to expend the taxpayers' money on construction-related activities in light of uncertainties about timing and final decisions. Let me stress, however, that this does not prejudice our ability to establish an embassy in Jerusalem should that decision be made.

In the meantime, we continue to pursue non-construction options to do so, and we are now better prepared, for example, to promptly lease space in Jerusalem. We are also working to preserve our options for constructing an embassy, in part by trying to ensure that ongoing construction by other developers near the site be in conformity with previously established requirements worked out between the U.S. and the Israeli government.

#### SELECTING AN ARCHITECT FOR DESIGN OF EMBASSY IN JERUSALEM

*Question.* When will an architect be selected and these funds be obligated?

*Answer.* Given the sensitivity of the Jerusalem issue to the ongoing peace negotiations and the agreement by Israel and the Palestinians to consider Jerusalem in their permanent status talks, the President feels strongly that no action should be taken which would undermine the peace process. We did not think it would have been prudent to expend the taxpayers' money on construction-related activities in light of uncertainties about timing and final decisions. In the meantime, we have positioned ourselves better to move on nonconstruction options to establish an embassy, should that be the decision.

#### OCEANS AND ATMOSPHERE

*Question.* Given that it has been more than 30 years since we looked at U.S. ocean policies, don't you agree that this legislation is necessary and timely?

*Answer.* I believe we share a common view of the importance of the United States playing a leadership role in the protection and preservation of the world's oceans, including the traditional uses, such as navigation and fishing. From our standpoint, the single most important action that the Senate could take with respect to the oceans would be to give its advice and consent to accession to the 1982 United Nations Convention on the Law of the Sea and ratification of the accompanying agreement fixing the deep seabed mining portions of the Convention.

This year—the International Year of the Ocean—represents an excellent opportunity for the Nation to initiate a major review of its ocean policies and to take actions to improve our understanding of ocean resources and systems. The Administration supports enactment of an oceans bill that will contribute to the preservation of the Nation's ocean and coastal areas and does not infringe on the prerogatives of the President and the Executive Branch.

We remain available to work with the relevant Committees to ensure that a final bill clearly and specifically reflects our mutual priorities.

*Question.* Can I count on your help to get the S. 1213 enacted into law?

*Answer.* The Department of State supports enactment of an Oceans Act of 1998. Enactment of such a bill can play a significant role in mobilizing public support for the review and implementation of an effective oceans and coastal policy for the United States, and in ensuring that the most expert advice would be available to government officials from the private sector, academia and other organizations. As I have noted, one guiding principle is a bill that will contribute to the preservation of the Nation's ocean and coastal areas and does not infringe on the prerogatives of the President and the Executive Branch.

We look forward to continuing to work constructively with you on this matter.

*Question.* When can we expect to see the top ocean-related policy positions at State filled (Under Secretary for Global Affairs and Assistant Secretary for Oceans, International Environment and Science)?

*Answer.* We appreciate your interest in having the Administration fill these two key positions at the Department. We are facing daunting global challenges maintaining peace and security, protecting the environment, promoting democracy and increasing respect for the rule of law—that must be addressed with strong leadership from the Department and Congress.

Toward this end, the Administration is working assiduously to fill these positions on a permanent basis. We intend to submit the names of highly qualified and distinguished leaders for the advice and consent of the Senate shortly.

*NOTE.*—On April 2, the President nominated Mr. Frank Loy to be the Under Secretary for Global Affairs at the Department. Mr. Loy previously served in the Department as Deputy Assistant Secretary in the Bureau of Economic and Business Affairs and as Director of the Bureau of Refugee Programs. He is currently serving as chair of the Foundation for a Civil Society.

## U.N. ARREARAGE

*Question.* With respect to the U.N. arrearage issue, what reforms would the U.S. not achieve at the United Nations if we provide the funding now as you have requested?

*Answer.* We are committed to a strong reform program in the U.N. independent of our arrears payments. By paying our arrears we will be able to continue to lead and drive an even more effective reform effort. However, even if monies were appropriated for arrears now, our conversations with U.N. member states indicate that we will not be successful in achieving an assessment rate reduction to 20 percent in the time frame envisaged in the Helms/Biden legislation.

*Question.* If we provide the \$921 million that you have proposed in the Supplemental at this point in time, aren't we simply providing Representative Smith and the House with more leverage over the Administration on the "Mexico City" issue?

*Answer.* We continue to believe the "Mexico City" issue should stand on its own and not be linked to arrears payments to the U.N. and other international organizations, either in the authorizing or appropriations legislation. Therefore, we would hope that you would consider favorably the President's supplemental request for \$921 million without reference to "Mexico City".

*Question.* But, your budget does not assume consolidation if you support the change, why not?

*Answer.* Because of the absence of Congressional authorization to do so, the budget did not assume consolidation. The Department strongly supports the consolidation and is prepared to submit consolidated budgets in the future, when Congress grants us reorganization authority.

## PLANNING FOR CONSOLIDATION OF THE FOREIGN AFFAIRS AGENCIES

*Question.* Where do you stand in all your planning for consolidation?

*Answer.* Last year the President decided that the Arms Control and Disarmament Agency (ACDA) would be merged with the State Department within one year, and the United States Information Agency (USIA) within two years. The President also decided the Agency for International Development (AID) would remain a distinct agency with a separate appropriation, and the AID Administrator would be under the direct authority and foreign policy guidance of the Secretary of State and certain of AID's administrative functions would be shared with the Department. This decision reflects the fact that non-proliferation and arms control, public diplomacy, and international development are at the heart of American foreign policy. Under the guidance of the Reorganization Steering Committee, interagency task forces did an enormous amount of preparatory work on reorganization planning last year. ACDA Director John Holum has already been "double-hatted" as the Acting Under Secretary of State for Arms Control and International Security Affairs, and we have begun reorganizing office space in the State Department in a way which supports the consolidation of ACDA and the Bureau of Politico-Military Affairs. In personnel assignments we are also actively exploring combined assignments with USIA for administrative and secretarial personnel.

Our approach on all aspects of this merger and reorganization is to create a structure which addresses the substantive issues responsibly, eliminates unnecessary duplication and avoids unproductive disruption for the dedicated personnel of all the agencies involved. Recently I also asked Under Secretaries Bonnie Cohen and Tom Pickering to examine other issues related to the reorganization, including internal State Department streamlining and restructuring. Depending on the passage of reorganization legislation, we are generally ready to begin implementing the President's decision.

Where we have been able to move ahead, as in the double-hatting of ACDA Director Holum as Acting Under Secretary, we have. But the bottom line is that we still need legislation from the Congress before we can move much beyond planning to implement the reorganization. I will continue to make sure that the State Department works closely with other foreign affairs agencies and Members and staff of the Congress so that the final reorganization product is one which serves the best interests of the country.

## INTERNATIONAL AFFAIRS AGENCY REORGANIZATION

*Question.* Why shouldn't this subcommittee provide all fiscal year 1999 appropriations for USIA and ACDA to the State Department? Wouldn't this facilitate consolidation while we wait for the House firebrands to stop holding the legislation?

*Answer.* The reorganization legislation as currently drafted provides for consolidation of ACDA into the State Department by the end of fiscal year 1999 and USIA

into State by the end of fiscal year 2000. If reorganization authority is enacted along these lines, the Congress could in fact provide ACDA's fiscal year 1999 appropriation to the Department of State. Separate appropriations for USIA would continue for fiscal year 1999, but would be part of the Department's budget request for fiscal year 2000. Appropriating all funding to the Department of State in the absence of authorizing legislation would result in a confusing and legally uncertain situation, and could compromise the ability of the foreign affairs agencies to function efficiently—potentially creating a resource and administrative crisis.

#### INTERNATIONAL RUBBER ORGANIZATION

*Question.* You know Madame Secretary, when you push for International Organizations funding you are talking about groups like the United Nations, but there are a lot of other organizations, some of which are extremely important, directly related to American economic interests. For example, the International Natural Rubber Organization (INRO) which is of interest in the Southeast and Midwest which seeks to hold down the price of rubber to consumer nations or the International Copper Study Group which is important to Senator Domenici and Western States. In working with the State Department these groups feel they get the short-shrift while "humanitarian organizations" are given priority. Yet these organizations are about jobs here at home.

Our conference report asked the Department to reprogram funds to ensure that the United States retained its vote in the INRO. Even though this only cost \$100,000, I had to start objecting to other Department reprogrammings to get this bill paid. But your Department only paid up until April, and on June 30 we will lose our vote and all rights of participation in the organization after August 30.

Why is it so difficult to get your assistance for an issue that costs so little? This is important to both Chairman Helms and me.

*Answer.* The Administration shares Congressional concerns over arrears to INRO as well as to all international organizations and have spoken out strongly in support of these and other organizations. As you know, legislation authorizing payment of arrears has not passed the Congress. We are examining whether the Administration has the authority under current legislation, and whether there are sufficient funds appropriated for current assessments to allow us to do so in the case of INRO.

#### INTERNATIONAL COOPERATIVE ADMINISTRATIVE SUPPORT SERVICES (ICASS)

*Question.* Can you give us a status report on how this "ICASS" system is working?

*Answer.* The International Cooperative Administrative Support Services (ICASS) system, has truly resulted in a revolutionary change in the way we manage the delivery of shared administrative support services and distribute the associated costs (approximately \$600 million) to U.S. Government agencies located at our diplomatic missions abroad. Fully implemented at 162 posts on October 1, 1997, ICASS is a remarkable interagency accomplishment that took just 30 months to go from initial concept to an operational reality.

While in its earliest stages, ICASS will change for the better the way administrative services are delivered at each mission. ICASS has established locally empowered Councils representing all agencies at post to manage and evaluate all shared administrative services. Focusing on the needs of the customer, the Councils have clear financial and performance information to evaluate service alternatives, and share responsibility with the service provider for providing the most cost effective and responsive administrative support services.

ICASS is still a work in progress as it evolves towards a system that "allocates to each department and agency the full cost of its presence outside the United States." Now that the basic mechanisms of ICASS are in place, surpassing most Washington expectations, the emphasis needs to shift to the central management aspects of ICASS that will lead to improved services and lower costs.

As the Department of State's OIG stated, "Although it appears that ICASS is functioning successfully as an instrument for better cost allocation and enhanced financial management, it is only beginning to show some cost savings and efficiencies and has yet to prove itself as an instrument for reducing overall administrative costs overseas, or for effecting significant change in the delivery of administrative services." Progress has already been made in achieving this goal. Department of State procedures for providing overseas support are being systematically reengineered to improve their efficiency and effectiveness. Post ICASS Councils are reviewing their local services and recommending changes designed to improve quality and lower costs. Leadership, communication, sharing best practices, training, incentives, and increased accountability are all contributing to ensure ICASS' ultimate success.

*Question.* Are the other agencies paying their bills?

*Answer.* Agencies will receive ICASS bills in early April during the first year of actual ICASS operation, and we anticipate having no problems with the bills.

The ICASS billing process is a marked change from the previous billing method. Two ICASS bills are sent to the ICASS agencies' headquarters each fiscal year. The initial ICASS bill is based on the initial ICASS budget submissions from posts. At this point, agencies are asked to pay eighty percent of their ICASS bill in order to capitalize the ICASS Working Capital Fund (WCF) and in recognition of the fact that the ICASS bills will change before the end of the fiscal year. ICASS agencies have been informed of the need to make payments as quickly as possible to keep the ICASS WCF solvent and have worked with the Office of Management and Budget to apportion their funds in order to make this eighty percent payment.

The final ICASS bill is based upon the ICASS mid-year budget submission from posts. Agencies will be asked to pay the incremental difference between their initial payment and their final bill. The final payment will be due before the end of the fiscal year.

#### NAFTA

*Question.* Recently, the press has been filled with reports that NAFTA has increased the amount of drugs flowing from Mexico to the United States. A task force of border law enforcement officials charged that drug traffickers are exploiting increased commercial links under NAFTA. In addition, a spokesman for the Drug Enforcement Agency ("DEA") said NAFTA is "basically opening up the door for illegal drugs." Do you believe that NAFTA has increased the amount of drugs in the United States?

*Answer.* The flow of illicit drugs from and through Mexico is a longstanding and serious problem, which predates the North American Free Trade Agreement (NAFTA) by many years. NAFTA reduced tariffs and trade barriers, but it did not relax customs inspections.

NAFTA has not resulted in a significant increase in the flow of illicit drugs to the United States. In fact, recent statistics indicate that the overall flow of illicit drugs from or through Mexico to the United States in 1997 declined somewhat. World production of cocaine is down by 100 metric tons, Mexico's cocaine seizures rose last year by over 10 metric tons, and we have detected fewer cocaine shipments through Mexico over the past year. Likewise, we believe that drug production in Mexico has declined.

Decisions made by drug traffickers about production levels and smuggling routes and methods are most affected by the level and intensity of law enforcement efforts and by the level of drug consumption in their target markets, not by levels of legitimate commerce. Mexico's cooperation is essential to an effective U.S. anti-drug program, so we are working very hard to continue to build strong working relationships between U.S. and Mexican law enforcement agencies, as well as to encourage cooperation with legitimate Mexican exporters. The spirit of cooperation generated by NAFTA has enhanced anti-drug cooperation.

#### WEATHER SATELLITES

*Question.* Madame Secretary, I understand that an agreement with the Europeans critical to the success of U.S. civil/military polar satellite convergence—with savings to us on the order of \$2.1 billion—is being held up in the State Department with lawyers unwilling to clear on language agreed to by all involved USG agencies in June 1996 and vetted back then through NATO. What's the holdup, given the urgent nature of this cooperation?

*Answer.* The agreement in question was negotiated by NOAA and DOD with the European Meteorological Satellite Organization (EUMETSAT). The Department's review of the final text of the agreement revealed a possible inconsistency between the data denial annex, which contains important provisions on denying critical data to adversaries in crisis or war, and the Presidential Directive on "Convergence of U.S.-Polar-Orbiting Operational Environmental Satellite Systems" (PDD/NSTC-2 of May 5, 1994). We have suggested to NOAA and DOD various ways of resolving this issue, and we remain hopeful that a solution can be found. To allow crucial cooperative activities to go forward in the meantime, we approved an interim agreement with EUMETSAT.

*Question.* Can you assure us that State will commit to resolving the issue to allow the NOAA Administrator to sign the agreement when the Director of the European Weather Satellite Agency comes to Washington in early May?

Answer. We hope that NOAA and DOD will agree to a satisfactory approach for resolving this issue in time for the agreement to be signed in early May. The Department is committed to working with them toward that end.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

EAST-WEST CENTER FUNDING

*Question.* Might I request that you share with me the thinking behind the disparate treatment of the East-West Center?

Answer. The East-West Center has not been singled out by the State Department for less favorable treatment than the North-South Center or the Asia Foundation. USIA's fiscal year 1999 request to OMB sought an East-West Center appropriation of \$12.3 million, a slight increase of the enacted fiscal year 1998 level. The State Department concurred in that request, taking note of such factors as those cited by Senator Inouye during the hearing, including the great importance we attach to the region and the value of the exchanges and research undertaken by the East-West Center. The East-West Center and North-South Center requests were initially rejected in their entirety. In the final stages of the appeals process, however, USIA and the Department intervened to secure \$5 million for the East-West Center. Similarly, we were successful, on appeal, in obtaining a \$2.5 million appropriation for the North-South Center.

The Department requested an increase for the Asia Foundation specifically to accommodate the President's \$5 million China Rule of Law Initiative. The activities envisioned in the initiative—field work, legal education, judicial training and exchanges of technical experts—fall more squarely within the experience and competence of the Asia Foundation and justified its selection to administer the initiative.

Given the nature of deficit reduction pressures, we feel that the exchange centers did as well as could have been hoped and gains by one did not come at the expense of the others.

PALESTINIAN EFFORT AGAINST TERRORISM

*Question.* Would you characterize the Palestinian effort against terrorism and violence as meeting this standard? How would you describe the current state of Israeli-Palestinian security cooperation?

Answer. Our standard for Palestinian compliance with its security commitments remains 100 percent effort, 24 hours per day, 365 days per year, both in terms of the Palestinians' unilateral actions to fight terror, and in their cooperation with Israel. From the beginning of the Oslo process, we have emphasized to the Palestinian leadership that maximum efforts on security were critical to sustaining the negotiating process. The ideas we are currently discussing with the parties would create a structure to ensure that the fight against terror will not be episodic, but will be comprehensive, systematic and enduring.

We have seen, especially over the past several months, a concerted Palestinian effort against those who would threaten peace with terror and violence. The Palestinian Authority moved quickly to announce that it had concluded that the late March killing of a HAMAS bomb maker was the result of an internal HAMAS dispute, thus undercutting public accusations that Israel was responsible. This helped defuse real potential dangers for violence and terrorism. The PA has taken a range of actions against the HAMAS leadership and infrastructure, including widespread arrests of HAMAS activists and leaders. These steps, undertaken in the face of criticism from the Palestinian street over the ongoing impasse in the peace process, are significant and positive. Indeed, Prime Minister Netanyahu described the PA actions as important.

This improvement needs to be sustained and further steps need to be taken. We will continue to press the Palestinian Authority to exert all possible efforts to prevent terror.

SECURITY COOPERATION AND PEACE

*Question.* Do you still believe that without security cooperation, the peace process will ultimately fail? If so, then how can the people of Israel be expected to support giving even more land to the Palestinian Authority if they are convinced that the Palestinian Authority is sincere in meeting its most fundamental responsibility?

Answer. Maximum Palestinian efforts on security—unilaterally and in cooperation with Israel—remain essential for success of the peace process. That is why we have consistently pressed the Palestinians for 100 percent effort and why the U.S. ideas

we are currently discussing with the parties includes stepped up security actions on the part of the Palestinian Authority.

The Oslo process is one of partnership, each side meeting its commitments and addressing each other's concerns. This is a reciprocal process. The Palestinians must meet their commitments on security and non-security issues. The parties' meeting their commitments—including Israel's commitment to the principle of land for peace—remains the best hope for reaching further agreements between Israel and the Palestinians, and paving the way for a comprehensive peace. That comprehensive peace, in turn, provides the best guarantee of the long-term peace with security in the region that the people of Israel and the peoples of the entire region deserve but have too long been denied.

#### PLANS FOR MOVING THE U.S. EMBASSY FROM TEL AVIV TO JERUSALEM

*Question.* Being less than a year and a half away, what plans have been made for the Embassy move? Will it be possible to open an embassy by the required time? If not, since it is almost three years since the bill's passage, what steps can we see demonstrating that the process has begun?

*Answer.* There is no issue related to the negotiations between Israel and the Arabs that is more sensitive and volatile than Jerusalem. The President has made clear that he would take no action to undermine the peace process. Accordingly, we did not think it would have been prudent to expend the taxpayers' money on construction related activities in light of uncertainties about timing and final decisions.

The State Department has just submitted its report to Congress on the Jerusalem Embassy Act. Even from the beginning of the Act's entry into force, it would not have been possible to construct a new embassy within the time frame called for in the legislation. However, we have worked to ensure that it would be possible to open an embassy in Jerusalem quickly through non-construction options. As a result of our efforts such as real estate surveys, we are now better prepared to promptly lease space. We are also working to preserve our options for constructing an embassy, in part by trying to ensure that ongoing construction by other developers near the site be in conformity with previously established requirements worked out between the U.S. and the Israeli government.

#### NOTING BIRTHPLACE OF JERUSALEM IN U.S. PASSPORTS

*Question.* Please comment on the fact that the passports of American children born in Jerusalem say "Jerusalem" as place of birth, instead of "Israel," when everywhere else in the world the country is listed? Does the U.S. Administration recognize any part of Jerusalem as being part of Israel?

*Answer.* The practice of entering "Jerusalem" only in the passport is a long-standing one. This is a very difficult issue.

However, given the agreement by Israel and the Palestinians themselves to leave discussion of Jerusalem to the permanent status talks and our determination not to take steps that could undermine permanent status negotiations between the parties, we do not believe that this is an appropriate time to change that practice.

Israel and the Palestinians have agreed that Jerusalem is one of the issues to be discussed in the permanent status negotiations. It would be counter-productive for the U.S. to take any actions that could be interpreted as prejudging this sensitive issue.

#### ARCHITECTURAL DESIGNS FOR AN EMBASSY IN JERUSALEM

*Question.* In fiscal year 1998, \$9.5 million was appropriated for the architectural designs for the embassy in Jerusalem. Has the money been used? For what? If not, do you plan on using those funds for the architectural designs? When?

*Answer.* There is no issue related to the negotiations between Israel and the Arabs that is more sensitive and volatile than Jerusalem. The President has made clear that he would take no action to undermine the peace process.

Accordingly, we did not think it would have been prudent to expend the taxpayers' money on construction-related activities in light of uncertainties about timing and final decisions. Let me stress, however, that this does not prejudice our ability to establish an embassy in Jerusalem should that decision be made. In the meantime, we continue to pursue non-construction options to do so, and we are now better prepared, for example, to promptly lease space in Jerusalem. We are also working to preserve our options for constructing an embassy, in part by trying to ensure that ongoing construction by other developers near the site be in conformity with previously established requirements worked out between the U.S. and the Israeli government.

## AID TO ISRAEL

*Question.* The Israeli government has recently put forth its initial thoughts about reducing economic assistance from the U.S., with the 10–12 year goal of phasing economic assistance to zero. The proposal fulfills a promise made by Prime Minister Netanyahu to a joint meeting of Congress in 1996. Would you please comment on the Israeli proposal?

*Answer.* In late January, Israeli Finance Minister Yaacov Neteman began discussions with Members of Congress and Administration officials on a proposal that would gradually reduce Israel's annual \$1.2 billion economic assistance to zero, while phasing in an increase in military assistance over the same 10–12 year period.

We welcome Minister Ne'eman's initiative and note that it follows the initial efforts suggested by the Administration in fiscal year 1997 and fiscal year 1998 to begin to adjust traditional bilateral assistance levels to the Middle East. We have asked the Israeli government for clarification of certain aspects of its offer, and are still formulating our response. We have also asked the Government of Egypt to provide its views on future U.S. bilateral economic assistance. We hope to work out a formula for fiscal year 1999 assistance to the Middle East that meets our full range of regional requirements.

*Question.* Please talk about the military balance in the region, and how the efforts by Iran, Iraq, Syria, and Libya to get weapons of mass destruction factor into that. What more can we do with Israel to bolster its qualitative edge?

*Answer.* We remain very concerned about the large imbalance in the size and military capabilities of Iraq and those of our friends in the Gulf. Having militaries many times larger than those of the GCC, Iran and Iraq are in a position to use their forces or to threaten that use to apply strong coercive pressures contrary to U.S. interests. The presence of U.S. forces in relationship with the United States, including strong military sales and training programs, are essential elements in helping the Gulf states resist such coercion, and in also ensuring the security of other friends in the region, such as Israel, Egypt and Jordan. The prospect of the acquisition of weapons of mass destruction by Iran and Iraq, and by others such as Libya and Syria, would materially affect the regional balance contrary to U.S. interests across the entire region and would strengthen the coercive pressures any of these states could bring to bear against any of the countries friendly to the U.S. in the region and potentially beyond it. We are also concerned about the negative impact the prospect of Syrian acquisition of weapons of mass destruction could have on the Middle East peace process.

We are committed to doing all we can to help reduce the real threat posed by Israel and our other regional partners by WMD and advanced delivery systems. The United States helps Israel meet this threat as part of our commitment to Israel's security and to sustaining and enhancing its qualitative military edge. The U.S. helps Israel address strategic threats through a combination of actions and policies, including provision of \$1.8 billion annually to Israel for defense. Our active role in the Middle East Peace Process seeks, in part, to enhance Israel's security by reducing the regional threat and promoting dialogue. We are also involved with Israel in joint research projects to develop weapons systems, such as the Arrow anti-tactical ballistic missile system and the Tactical High Energy Laser, to counter the missile threat. The administration's nonproliferation and export control policies also serve to enhance the security of Israel and our other regional parties by seeking to control the spread of weapons and technologies in the Middle East and throughout the world.

We are committed to continuing to support and cooperate with Israel on security matters in order to preserve Israel's qualitative military edge and to reduce the serious threat posed by WMD and missile systems.

## ISRAELI WEOG MEMBERSHIP AT THE UNITED NATIONS

*Question.* Israel is the only country in the U.N. system denied access to a regional grouping—the mechanism through which countries are chosen to sit on the U.N.'s powerful committees, including the Security Council.

What are we doing to correct this? What is holding up Israel's efforts to gain admittance into the Western European and Others Group (WEOG)? Which countries are opposed to Israel's admittance to WEOG? What more can we do to increase our efforts to get Israel into WEOG?

*Answer.* The United States strongly supports Israel's efforts to be included as a member of the WEOG at the United Nations. We believe that Israel, as a long-standing member of the U.N., should be granted the same privilege of belonging to a regional grouping and to participate fully in all activities of the U.N., as have all other members of the United Nations. Because of its geographical location, Israel

would naturally belong to the Asia regional grouping, but this has not proved possible to date because of the strong opposition of Arab and other members of the Asia group. As a result, Israel and the United States have sought Israel's temporary admission to the WEOG until such time as Israel's formal admission to the Asia group becomes possible.

Over the past several years, the United States has actively pushed Israel's candidacy for temporary WEOG membership through repeated bilateral contacts with other WEOG member governments. In 1996, multiple demarches and consultations were undertaken with foreign ministers in WEOG governments, including the United Kingdom, Austria, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, Norway, Portugal, Madrid, Sweden, Turkey, Belgium, Australia, and New Zealand. As a result of joint efforts by the U.S., Israel, and Belgium, Israel's bid to join WEOG received support from some of WEOG's members at that time. Initially, the United Kingdom and Germany were opposed to Israeli membership in WEOG, but persistent efforts by the U.S. eventually garnered support from both governments. In addition, several WEOG members, while never expressing outright support for Israel's bid, indicated after talks with the U.S. that they would go along with an EU consensus in support of Israel's candidacy. In 1997, Administration officials have continued to press WEOG members bilaterally and through regional groupings on this issue.

The WEOG has yet to reach a consensus on Israeli membership due to continuing internal disagreements. Opponents of Israeli membership have repeatedly said Israel belongs only in the Asian regional group; they are also concerned that temporary membership will evolve into permanent membership affecting already tight WEOG competition for regionally allocated seats in U.N. bodies. In addition, opponents are worried about setting a precedent and opening the door for WEOG membership to Baltic and Central European countries. Moreover, some of the stated reluctance on the part of WEOG members has stemmed from perceptions of Israel's role in the stalemate in the peace process.

Israel is now advocating a temporary membership in WEOG that includes a two-year moratorium on Israeli candidates for WEOG seats in U.N. bodies. The United Kingdom and Germany continue to support Israel; primary opponents are Austria, Denmark, Finland, France, Ireland, Italy, Spain and New Zealand.

On November 21, 1997, the United States Permanent Representative to the United Nations, Ambassador Bill Richardson, met with WEOG members in New York to reaffirm U.S. support for admitting Israel on a temporary basis. Ambassador Richardson said that three and a half years after WEOG first considered the question of Israel's temporary membership, Israel remains the only member state of the United Nations that is denied membership in a regional group. He noted that Israel is singled out for discriminatory treatment and that the isolation of Israel in the U.N. is not in the interests of the Western Group, Israel, or the Middle East peace process. Ambassador Richardson stressed that Israel's eventual goal is membership in a regional grouping with its neighbors; however, as a democratic Westernized country with a market economy, Israel is completely compatible with the WEOG. He noted also that Israel has offered not to compete with other WEOG members for regionally-allocated seats in U.N. bodies for the first few years of its membership, and that Israel has significant expertise to contribute to the U.N. He urged WEOG members to welcome Israel's bid for temporary membership.

In response, Australia, Canada and Norway spoke in favor of Israel's admission; Luxembourg, speaking on behalf of the EU, stated the EU as a group had determined that the time is not right to grant Israel's request. Luxembourg underscored, however, that Israel's candidacies to U.N. bodies where there is no WEOG competition, and where the candidacy is not allocated to another regional group.

During his recent visit to Israel, U.N. Secretary General Kofi Annan voiced his support for Israel's inclusion in one of the regional groups and full participation thereby in the U.N.'s several bodies. Although the decision on membership in a regional group rests upon the countries, not with the U.N., we welcome the Secretary General's public support of Israel's cause.

The United States will continue to exploit every available diplomatic opportunity to engage the EU, its individual members, and other members of WEOG on behalf of Israel's temporary membership. As in the past, we will continue to coordinate our diplomatic efforts closely with those of the Government of Israel.

## QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

## NEW AGREEMENT WITH IRAQ ON WEAPONS INSPECTIONS

*Question.* Why should we believe that he [Saddam Hussein] will honor a new agreement?

*Answer.* We are highly skeptical that Saddam Hussein will fully honor this or any other agreement signed by his government—experience clearly indicates that he has little if any regard for international law, and that his word is not good.

That is precisely why we, UNSCOM, the other members of the Security Council, and the Secretary General are united in our insistence that Iraq's commitment to provide immediate, unconditional, and unrestricted access to UNSCOM and the IAEA must be tested thoroughly and completely. U.N. Security Council Resolution 1154, which we supported, states clearly that the "gravest consequences" will follow if Iraq continues its past practices of obstruction, deception, and concealment. We hope Saddam Hussein heeds this clear warning.

## RESPONSE TO IRAQI VIOLATIONS

*Question.* If Saddam Hussein again puts up obstacles to weapons inspectors or bars them from facilities, what will the Administration's response be?

*Answer.* U.N. Security Council Resolution 1154 states clearly that a violation of Iraq's obligation to provide immediate, unconditional, and unrestricted access to UNSCOM and the IAEA would have the "severest consequences" for Iraq.

The Administration has also repeatedly stated that it is prepared to use military force to compel Iraqi compliance with its obligations, and to diminish Iraq's ability to threaten its neighbors or reconstitute its Weapons of Mass Destruction and prohibited missile programs. U.S. and coalition forces remaining in the region are prepared to carry out such action if necessary.

## IRAQ: LONG-TERM PLANS

*Question.* What is the Administration's long-term plan? Do we explore ways to weaken Hussein by, for example, dramatically increasing support for opposition movements? Do we maintain a strong military presence in the Gulf forever? Are we planning for a day when Hussein is no longer in power? How?

*Answer.* As long as Iraq continues to pose a threat to its neighbors in the region, to international peace and stability, and to our own vital interests, we will act to contain and diminish that threat using the most effective tools at our disposal.

For the past seven years, we have successfully contained the threats posed by Iraq by: Enforcing multinational sanctions on Iraq, which denies Saddam Hussein the resources he would need to reconstitute his WMD and conventional military forces; supporting the efforts of UNSCOM and the IAEA to detect and destroy all aspects of Iraq's prohibited WMD and long range missile programs; and maintaining a significant military presence in the region to deter Iraqi aggression, and to enforce U.N. resolutions.

We intend to continue efforts as long as necessary until Iraq demonstrates its peaceful intentions by complying fully and completely with all its international obligations, as laid out in more than 40 U.N. Security Council Resolutions.

Over the past seven years, we have also worked with human rights organizations and, as appropriate, Iraqi opposition elements to draw attention to the human rights abuses of the Baghdad regime and to develop a viable alternative to Saddam.

In my March 26, 1997 remarks at Georgetown, I made clear that a change in government in Iraq could lead to a change in U.S. policy. We stand ready, in coordination with our allies and friends, to enter rapidly into a dialogue with a successor regime.

## BOSNIAN SERB ISSUES

*Question.* Do you agree that facilitating the voluntary surrender or transfer to The War Crimes Tribunal of the indictees reportedly living in Banja Luka would make an important political statement about Prime Minister Dodik's commitment to ensuring implementation of the war crimes provisions of the Dayton Agreement?

*Answer.* Yes. The U.S. has consistently called upon all parties to the Dayton Peace Accord to live up to their commitment of full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague.

The new, strongly pro-Dayton government of the Bosnian Serb entity has publicly stated it is willing to facilitate the surrender of indictees, and has taken concrete steps to improve cooperation with the ICTY. It has allowed ICTY investigations in the Republika Srpska, including the search of government facilities, and it has sup-

ported the establishment of an ICTY office in Banja Luka. These actions already have induced a number of persons publicly indicted by the ICTY to turn themselves in. We fully expect that as pro-Dayton forces consolidate their rule in the Bosnian Serb entity, their cooperation with the ICTY will broaden and improve further.

*Question.* Did the Prime Minister indicate that he would put a priority on facilitating the voluntary surrender or transfer of the indictees living in Banja Luka and all 43 indictees when you met?

Answer. Yes. Prime Minister Dodik agreed on the need to prosecute war criminals, both in terms of compliance with Dayton and to bring a sense of justice to the RS. He has publicly stated that indictees should surrender and has actively facilitated the surrenders of several indictees since taking office.

*Question.* Is the State Department providing such evidence to Prime Minister Dodik, and are we expecting any changes in his cabinet?

Answer. We have discussed with Prime Minister Dodik the need to distance himself unequivocally from persons suspected of war crimes. To that end, we have shared with him information on a member of his cabinet about whom I have concerns regarding his activities and associations during the war (Justice Minister Petko Cancar).

Mr. Dodik promised to investigate the matter. We have made it clear to him that the U.S. could not actively support a Bosnian Serb government that includes persons indicted or strongly suspected of war crimes. Prime Minister Dodik understands our position fully. He has promised to remove any member of his cabinet found to have committed war crimes.

*Question.* Prime Minister Dodik now has a Finance Minister who is not loyal to Karadzic. Can you assure us that in the future those loyal to Karadzic and the Pale government—including the Bosnian Serb Co-President of the Federation—will not be involved in determining where any portion of loans goes within Republika Srpska?

Answer. Pale and Karadzic have never been involved in determining where any portion of IFI loans goes within Bosnia and Herzegovina, and they will not be in the future.

Our assistance, and that of other international donors, strengthens the moderate, pro-Dayton government of Prime Minister Dodik. This assistance and Mr. Dodik's reform measures will continue to break the political control of the Pale hard-liners in the RS, who already have no say regarding the allocation of our assistance in the RS.

As an additional measure, U.S. and international experts are currently helping improve Bosnian—including Bosnian Serb—customs and fiscal procedures in order to render the Bosnian public finance system more efficient and curtail possibilities for corruption. Consequently, the Pale hard-liners' control over public finances is rapidly decreasing. They no longer hold key positions in the entity government, and the system is less and less open for them to abuse. Continued support for this reform process—and explicitly for Dodik—is the best way of ensuring that a pro-Dayton Serb is elected to replace Bosnian Presidency Member Momcilo Krajisnik in September.

#### FUNDING REQUESTED FOR YUGOSLAVIA WAR CRIMES TRIBUNAL

*Question.* How will the increase in funding being requested in fiscal year 1999 be used? What are the top funding priorities for the Tribunals? Do they need prosecutors? Investigators? More judges? Courtroom space? Equipment? Supplies? Please indicate how much or many they expect they will need.

Answer. The United States expects that during 1998 and 1999 there will be an increasing number of indictees awaiting trial at both Tribunals. The Tribunals will need additional resources to try arriving indictees and to pursue a number of major investigations that the Tribunals must complete to fulfill their mandates. For 1999, this will require a significant increase in their workload and, hence, their budget.

The Tribunal's budget is set by the United Nations on a calendar year basis and is not public until October or November. Based on this process, the United States will not know the precise Tribunal budget needs for CY 1999 until after the start of the U.S. fiscal year. For example, it is not possible to know now the right mix for 1999 between prosecutions (including costs of trial support) and investigations.

We believe that the Tribunals' needs for CY 1999 will include additional judges, prosecutors, investigators, courtroom support personnel, expenses of investigations, expenses associated with trials, courtroom space, translation and interpretation capacity, and witness transportation and security.

*Question.* How will the additional assistance help expedite trials?

Answer. The additional assistance requested will help alleviate capacity constraints now facing the Tribunals, which is important to allow suspects to be tried in a reasonable amount of time. The length of time an indictee must await trial is an important factor in facilitating further voluntary surrenders for both Tribunals.

Constraints on the capacity of the Tribunals to try suspects in custody include (a) the number of physical courtrooms available to hold trials, (b) the number of judges who can hear trials and deliberate on cases already heard, (c) courtroom staff, including victim and witness unit staff to handle the logistics of bringing witnesses to the court, housing them safely, and arranging for their return to their homes, (d) investigators to locate and interview witnesses who have previously given statements to ensure that those witnesses are available to give evidence at trial, and (e) prosecution and defense counsel to prepare cases for trial and to appear in court. The additional assistance requested will expand the Tribunals' capacities in these areas, thereby reducing the length of time it will take to resolve the cases of all those now in custody.

*Question.* Both Tribunals received large increases in their budgets from the U.N. in fiscal year 1998. Please indicate what the U.N. has budgeted for each tribunal in fiscal year 1998. Is this assistance adequate for them to carry out their responsibilities fairly and in an expeditious fashion?

Answer. The ICTY's budget for calendar year 1998 is \$68.83 million gross and \$62.33 million net. The ICTR's budget is \$58.99 million gross and \$50.88 million net. (The United States' share of the tribunals' budgets is based on the net figure.)

We believe both tribunals will carry out their responsibilities fairly. We are concerned, however, that if trials proceed at the pace some have so far, and if additional resources are not made available, some trials of accused now in custody might not begin until the year 2000. This is an obvious deterrent to further voluntary surrenders, and both we and the Tribunals are looking into ways to address this situation. A number of the options under consideration, such as increasing the number of courtrooms or increasing the number of judges, will require additional resources.

#### FUNDING FOR WAR CRIMES TRIBUNAL

*Question.* Ambassador Gelbard reportedly said at a public forum organized by the U.S. Institute of Peace, "The United States believes that a significant number of indictments will not stand up in court. We will not risk the lives of any soldier or anybody else to try to apprehend indicted war criminals if we believe that the cases are weak."

If this is the position of the U.S. government, what is the rationale for increasing funding for the International Criminal Tribunal for the Former Yugoslavia?

Answer. The Hague Tribunal's need for additional resources reflects the dramatic increase in the number of persons in custody—an increase largely due to U.S. government and Ambassador Gelbard's efforts to facilitate the surrender of indictees. Indictees include, but are not limited to, the use of troops. We remain committed to seeing that all indictees have their day in court.

To assist with the backlog of cases before the ICTY, the Dutch, the U.S. and the United Kingdom have contributed funds for two new courtrooms. We are considering other proposals to make the Tribunal's work even more efficient. We do not want undue delays to be a disincentive to persons indicted by the Tribunal to turn themselves in. We need to provide the ICTY with the resources to administer justice speedily and fairly.

There is no doubt that war crimes have been committed in Croatia and in Bosnia and Herzegovina during the war. In order to overcome ethnic tensions and establish a lasting peace, these crimes must be made public, the perpetrators brought to justice, and individual guilt allocated.

This does not mean that every case investigated by the International Criminal Tribunal for the Former Yugoslavia (ICTY) will lead to an indictment, or that every trial will result in a conviction. The Hague Tribunal applies the most stringent standards of rule of law, including the presumption that a defendant is innocent unless proven guilty beyond a reasonable doubt.

#### IMF/U.N. ARREARS/POPULATION ASSISTANCE

*Question.* In light of the Asian financial crisis and the recent confrontation with Iraq over its failure to comply with U.N. resolutions on its weapons of mass destruction program, I think it's irresponsible to hold funding for the IMF and U.N. hostage to restrictions on private family planning organizations, especially when U.S. law already prohibits the use of taxpayer funds to perform or lobby for abortion. Our decisions should be based on an evaluation of their importance to U.S. economic and security interests.

What is the reaction of countries abroad when the Congress doesn't consider policies on their merits and links vital national security issues with unrelated issues? How does this impact on your work?

Answer. I share your commitment to advancing U.S. economic and security issues. Our actions around the world show a consistent determination to foster security, economic stability and human rights and democracy.

Our actions in the Asian Financial Crisis demonstrate our determination to honor our commitment. From Indonesia to Korea we have stepped forward in support of the IMF to assist countries hit by economic difficulties. At the same time, we have stressed that our support of regional security and of human rights remain unchanged.

When other countries do not agree with our policies, or with concerns raised by the United States Congress, we undertake to explain the concerns which motivate these policies and concerns.

Nonetheless, it is difficult to explain concerns of the Congress when we refuse to meet essential international obligations. We must, for example, make good on our debt to the U.N. As the President said in his State of the Union Address, "More and more, we are working with other nations to achieve our common goals. If we want America to lead, we've got to set a good example." We will soon confront another challenge to our leadership.

We must provide the \$18 billion for our IMF quota increase and NAB or risk undermining our leadership position in an organization critical both to our prosperity and security.

#### ALGERIA

*Question.* What steps is the U.S. currently taking to support such a mission?

Answer. The Department of State has on several occasions publicly condemned the atrocities being committed in Algeria. We deplore violence from any quarter and have urged strict respect for human rights by all parties. Our Ambassador to Algiers, Cameron Hume, recently visited the site of one of the massacres in solidarity with the victims.

We have repeatedly asked the Algerian government to facilitate visits by international non-governmental organizations (NGO's) to Algeria in order to inquire into the human rights situation there and correspondingly we have urged these organizations to go to Algeria to perform such fact-finding missions.

We also continue to urge the Algerian government to accept a visit by the U.N. Special Rapporteur on Summary, Extrajudicial and Arbitrary Executions or the U.N. Special Rapporteur on Torture.

The real issue, however, is increased transparency which cannot be obtained without the willing cooperation of the Algerian government and even then, objective reporting will be difficult. We continue to maintain our focus on transparency and the quality of information gathered, rather than on the particular means by which that transparency is attained.

*Question.* Will the U.S. support a resolution about Algeria at the U.N. Human Rights Committee meetings in March of this year?

Answer. We continue to support any means of transparency which would serve to shed more light on the situation in Algeria, including increased access for foreign journalists, nongovernmental organizations (NGO's) and foreign parliamentarians. We are discussing ways to bring about more openness at the current session of the U.N. Human Rights Commission (UNHRC).

In our efforts towards furthering transparency in Algeria, we continue to encourage the Algerian government to facilitate visits by international NGO's, journalists and parliamentarians, as well as encouraging these groups to undertake such visits. We have determined to maintain our focus on transparency and the quality of information gathered, rather than on the particular means by which that transparency is attained.

#### TRAFFICKING IN WOMEN

*Question.* What steps is the U.S. taking to combat the growing problem of trafficking of women?

Answer. The U.S. is committed to combating trafficking in women and girls worldwide.

The President's Interagency Council on Women established a senior governmental working group on trafficking to coordinate the USG response on trafficking in women and girls. The group focuses on the areas of prevention, victim assistance and protection, and enforcement. The working group consults closely with NGO's and members of Congress.

—We are working jointly with the European Union, the Group of Eight, and the U.N., as well as the Governments of Israel, Italy, and Ukraine. For example, as directed by the President on March 11, 1998, we are responding to the Government of Ukraine's request to jointly develop and implement a comprehensive strategy to combat trafficking from and to Ukraine. This U.S.-Ukraine cooperation can be expanded to other countries.

—As directed by the President on March 11, 1998, the Interagency Council on Women will organize a conference for governmental and non-governmental representatives from source, transit, and destination countries and representatives from international organizations to call attention to the issue of trafficking in women and girls and to develop strategies for combating this egregious human rights violation.

—The USG trains foreign border control and immigration officials to enhance their ability to implement border security and to identify traffickers and victims of trafficking. We also train foreign judges and prosecutors on enhance enforcement of laws against trafficking.

—The State Department funded the development of a comprehensive database on U.S. and international legislation protecting women and children from commercial sexual abuse. The project analyzes laws, penalties, sentencing patterns, reporting requirements, law enforcement capabilities, extradition practices and victim assistance programs. An expected outcome of this project is prototype legislation and guidelines on enforcement and victim protection.

State Department consular presence worldwide works with source, transit, and destination countries to develop strategies for protecting victims and expanding and enhancing anti-fraud training to stop the international movement of trafficked women and girls.

The State Department developed a brochure targeted to potential victims of trafficking. The U.S. embassies in Poland and Ukraine distribute these brochures in the consular waiting areas and beyond. We plan to place the brochures in other U.S. embassies around the world.

*Question.* What level of budget resources are being devoted to address this problem by region?

*Answer.* Resources for combating trafficking in women and girls are woven into humanitarian assistance projects and law enforcement training programs around the world. Below are some examples in which resources for trafficking are clearly identifiable.

—The Bureau of Population, Refugees, and Migration (PRM) has allocated \$320,000 for a U.S. and European Union joint information campaign to combat trafficking in women and girls and to warn potential victims of methods used by traffickers. Our public awareness campaign is in Ukraine and the European Union supports a similar campaign in Poland. After July 1998, the U.S. will sponsor a seminar in Ukraine to evaluate the effectiveness of the dissemination campaign. If our campaign is deemed successful, it could be adapted and expanded to other critical source and transit countries worldwide. In the fiscal year 1998 budget request PRM has included funding to continue this prevention work.

—The Bureau for International Narcotics and Law Enforcement (INL) allocated \$2.18 million in fiscal year 1998 to the Immigration and Naturalization Service (INS) to conduct immigration training to deter migrant trafficking, including trafficking in women and children, in the former Soviet Union, Central America and South Africa.

—INL also allocated \$85,000 to the INS attachés in Vienna and Moscow to conduct two conferences for immigration officials in the region on migrant trafficking and trafficking in women and children.

—INL awarded a partial grant of \$233,000 in fiscal year 1997 to the University of Minnesota to develop a comprehensive database on U.S. and international legislation protecting women and children from commercial sexual exploitation.

*Question.* Does the State Department believe that public education/awareness programs can be effective in combating this problem?

*Answer.* Yes, the State Department believes that public education/awareness programs can be effective in combating trafficking in women. Following a Presidential directive on March 11, 1998, the State Department, the Department of Justice, and the President's Interagency Council on Women is working to increase national and international awareness about trafficking in women and girls. The State Department is working with USIA, as directed by the President, to expand public awareness campaigns targeted to warn potential victims of the methods used by traffickers.

In a March 11, 1998 Executive Memorandum the President declared that this type of public education will ensure young women and girls are educated about this problem so that they will not fall prey to traffickers' tactics of coercion, violence, fraud, and deceit.

*Question.* Does the U.S. government fund public education awareness programs? In which countries are they located?

*Answer.* The U.S. has an information campaign in Ukraine underway. In November 1997, the U.S. and the European Union formally adopted a joint initiative to prevent trafficking in women from and through Eastern Europe and the New Independent States (NIS). The U.S.-EU initiative features an information campaign aimed at warning potential victims of methods used by traffickers. Local border and consular officials are also reached with the information which can help them deter trafficking in women from third countries around the region.

The joint information campaign, which officially began on April 1, 1998, will be initiated in a pilot project in Poland and Ukraine, two countries whose governments have shown a commitment to confronting migration problems and working cooperatively to protect potential victims of trafficking. In July 1998, the U.S. will sponsor a seminar in Ukraine which will bring together all entities involved in disseminating the campaign message and key target groups to evaluate our progress. If our campaign is deemed successful, it could be adapted and expanded to other critical source and transit countries worldwide.

#### SUBCOMMITTEE RECESS

Senator GREGG. We very much appreciate your coming here today. Thank you, with your busy schedule and everything else going on.

Secretary ALBRIGHT. Mr. Chairman, I would like to say on behalf of all of us, how much we appreciate the interest and care you are taking with the State Department in terms of people. The kinds of questions that you have asked, I welcome so much because it shows a tremendous interest in the personnel of the State Department. What you have done to help us deal with, and sort through a lot of problems, by asking hard questions has really helped us to deal with many issues. So I am very grateful to you for everything.

Senator GREGG. Thank you. We stand in recess until next Tuesday when we will hear from the FBI, DEA, and INS.

[Whereupon, at 11:09 a.m., Thursday, February 26, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 3.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**TUESDAY, MARCH 3, 1998**

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

The subcommittee met at 9:59 a.m., in room S-146, the Capitol,  
Hon. Judd Gregg (chairman) presiding.

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

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

**STATEMENT OF LOUIS J. FREEH, DIRECTOR**

DRUG ENFORCEMENT ADMINISTRATION

**STATEMENT OF THOMAS A. CONSTANTINE, ADMINISTRATOR**

IMMIGRATION AND NATURALIZATION SERVICE

**STATEMENT OF DORIS MEISSNER, COMMISSIONER**

OPENING REMARKS

Senator GREGG. We are going to start the hearing on Commerce, Justice, State. We are joined today by the leaders of the law enforcement community that this committee has jurisdiction over, people who work very hard on behalf of our Nation to make sure that we are a safer place for our countrymen and our families. We appreciate the time and effort that they have put into that purpose, and we especially appreciate the fact that in every agency that we will be hearing from today, they have people who put their lives on the line every day so that we are a safer society. They are on the front lines of protecting our daily concerns.

We will go right down the line and start with the DEA and then go to INS and then to the FBI.

OK. Mr. Constantine.

OPENING STATEMENT—DEA

Mr. CONSTANTINE. Senator, I really appreciate the opportunity to be here today and thank you and other members of the committee

on behalf of DEA for the support that we have received for the past several years. The resources that have been appropriated for us have been put to use as we try to make American communities safer and to live up to our commitments to citizens across the country.

#### DRUG STRATEGY

We see the drug situation continuing to be extremely serious and affecting not only cities and urban areas but rural and suburban areas of the entire country. The cornerstone of DEA's strategy is really threefold. One element is what we call an investigation of the command and control of the international organized crime syndicates that are involved in the delivery of the cocaine, heroin, and most of the methamphetamine into the United States, with leadership based outside of the United States.

We work these major investigations in cooperation with virtually every other Federal and major State and local agency in the country. For example, this weekend alone, information from an alert FBI agent in the Miami area, provided to DEA and to the Coast Guard and to people in the Bahamas in an operation that we have called OpBat, led to the seizure of two ships coming out of Colombia into the Caribbean with over 4 tons of cocaine. In addition to the seizure, we can work backward to the major figures responsible for the shipment and for the reception of the shipment.

The second element is what we call major national organizations, which control heroin distribution and methamphetamine distribution, which are both increasing problems. The third, equally important element of the strategy, is trying to remove as much of the violence from the drug trafficking as we can. We do this with special programs such as our mobile enforcement team to assist smaller and mid-sized law enforcement agencies throughout the country.

#### INVESTIGATIONS OF MAJOR DRUG ORGANIZATIONS

Perhaps two investigations that occurred during the last 1½ years typify the investigations that we conduct against the leadership of major organizations. One was called Limelight, and one was called Reciprocity. They resulted in the arrest of over 100 people, the seizure of about 10 tons of cocaine, almost 11,000 pounds of marijuana, and about \$18 million in cash. We also were able to identify a major drug syndicate operating out of Juarez, Mexico from the Carillo Fuentes organization that had established tentacles throughout the United States, from Texas throughout the west coast, and for the first time in our experience, all the way to New York City.

Whenever we are able to do this, we can see that we have an impact on these organizations. When we arrest the key workers within the United States, they have to be replaced by the organizations in Colombia and Mexico. Over the past several years, we have arrested over 100,000 key felons working with other Federal agencies and State and local agencies.

Within the past 2 or 3 years, we have observed these organizations, one out of Juarez, Mexico, another out of Tijuana, as they have emerged as significant forces and changed their role from transporters of drugs for the Colombian organizations to independ-

ent operators who established their own programs within the United States. We have seen a similar problem in the Caribbean as groups from Colombia—like the seizure made over this weekend—are able to take those drugs, move them into the area of the Dominican Republic or Puerto Rico. From there, they try to get it into the United States for distribution at the midlevel by organizations out of the Dominican Republic.

#### DEA INITIATIVES

Our budget this year attempts to address those key issues. The first initiative would be a continuation of DEA's program to attack international organized crime through our liaison offices in other countries throughout the world. This is a followup to a number of years of such programs. We are asking for 17 additional special agents, most of them to buttress our support in the Caribbean as we are watching, again, the movement of cocaine through that area. We will be enhancing the support and the agents in Ponce, Puerto Rico; St. Thomas and St. Croix; Barbados; Curacao; Jamaica; Haiti; the Dominican Republic. In addition, we will be looking to open offices in Uzbekistan; in Hanoi, Vietnam, and in Trinidad and Tobago. Those will be a total of 17 agent positions. We also are asking for new intelligence analyst positions in Mexico to support the major investigations on traffickers from that country.

The second initiative is what we call attacking international organized crime distribution systems within the United States. Understanding that the command and control very often comes from Colombia and Mexico, these organizations also have major operations within the United States. These are much more viable targets for us in the long run. We seek to augment the resources mostly in offices on the east coast to address those groups out of the Caribbean that are distributing heroin and cocaine. The second emphasis is on the growing role of methamphetamine, mostly in the Southwest, the Rocky Mountain States, the Midwest, and some of the Southeast.

Forty-two of the 240 agent positions would be in those domestic offices that are affected by the influx of those violent groups coming out of the Caribbean. We would also be looking at their involvement in heroin trafficking.

#### METHAMPHETAMINE STRATEGY

The second part would be a followup for the methamphetamine strategy. Our methamphetamine strategy has been continuing for 2 or 3 years now. This is a drug that has taken hold in many communities on the west coast, the Southwest, the Rocky Mountain States, and the Midwest and increasingly in the Southeast, into Georgia, the Carolinas and into Florida. We were asking for 100 new agent positions to follow up on the positions we received over the last 2 or 3 years. We will be placing them in those offices that are distinctly affected by methamphetamine. Also, we are requesting funding to establish a methamphetamine intelligence center, the national clandestine laboratory data base at EPIC, for recording all of the laboratories that we are seizing. There are a number of these small laboratories that only account for 10 or 20 percent of the methamphetamine, but are very destructive to the commu-

nity. The other 80 percent of the methamphetamine is coming out of the Amezcua brothers organization out of Mexico. We target that as an international organized crime operation.

#### HEROIN

Our third priority area in this is heroin trafficking. I think anybody who has read the paper has noticed that heroin, which was once 7 percent pure, is now being sold on the streets of the United States at 70 to 80 percent pure. We have a number of cities that have experienced a rapid increase in overdose deaths. Individuals who are now using heroin are in communities that thought they had escaped the problem like middle class and upper middle class communities. Examples that you can see are Plano, TX, and Orlando, FL. Baltimore also has had a significant problem, with numbers of people who are dying as a result of this heroin, which is part of an organized distribution scheme. It is, for the most part, heroin coming out of Colombia, that is predominately supplying the east coast market.

Increasingly, what we call brown heroin or black tar heroin out of Mexico has gone from 5 percent of our seizures to 20 percent of our seizures in just a 1-year period of time. We have seen a relationship developing between the Colombian organizations and organizations in Mexico, sharing sophisticated chemists to improve the quality of the heroin out of Mexico.

I thought Plano, TX, was a classic example of how horrible the results can be when drugs become commonly used in a community, and the purity level and the international organized crime distribution system all come together. It is a city of considerable material benefits. It is a sought-after school system for people who move to the Dallas-Fort Worth area. The police chief, Bruce Glascock, is both a personal and professional friend of mine, one of the outstanding police leaders in the country and a vice president in the International Organization of Chiefs of Police.

In a relatively short period of time, 14 young people in Plano, TX—many of them with great potential in life—were found dead or taken to hospitals as a result of overdose of heroin. An even more significant number were just dropped off in the parking lots of hospitals without any identification or without any explanation of the circumstances. Fortunately they did not die and were able to survive the events.

We loaned out a number of DEA people to work with a special task force that was moving through the Plano area. We had our demand reduction experts meet with over 2,000 parents in special meetings in Plano, TX, for prevention programs. We eventually were able to identify the midlevel traffickers, who were people who lived in Texas. Their source was from Guerrero in Mexico. They knew when they were selling this heroin that it was high-level purity, and it was dangerous. It is my understanding that the local prosecutors are looking at it for possibly homicide statute implementation.

#### METHAMPHETAMINE

Obviously, as we look at the methamphetamine, which as I have talked about involves virtually every State. We have been able to

identify a major organization out of Dallas that controlled the methamphetamine trafficking out of California. It was a group associated and directed by the Amezcua brothers organization out of Mexico, who were responsible for this manufacture. Often, a laboratory is, unfortunately, very unsafe; sometimes located close to schools; once in an equestrian center where people were bringing their children for riding lessons, unknowing that there was this major laboratory conducted right back in the stables.

We were, as a result of a joint investigation with the FBI and Customs, able to make an arrest of most of the major principals since they were in the United States, all the way down into Georgia and into Florida. We are spending, as you know, a substantial amount of our available funding for training of local law enforcement. In 1996, we had trained 200 law enforcement officers in how to execute search warrants and conduct themselves at these very volatile chemical situation laboratories. Last year, we trained 900. We will train an additional 2,000 over the next 2 years, and we have produced a videotape for virtually every police officer in the country providing procedures for their own safety and evidence preservation.

We also will be, as a result of our request in this budget, if successful, able to forward-base throughout the United States trucks and a great deal of lab equipment which are needed for the entry into these facilities. All of that is part of our budget proposal.

#### PREPARED STATEMENT

I know your time is limited. That is a summation of our budget request this year.

Senator GREGG. Thank you, and I will get into questions in a second.

[The statement follows:]

#### PREPARED STATEMENT OF THOMAS A. CONSTANTINE

Mr. Chairman and Members of the Subcommittee: I appreciate this opportunity to appear before the Subcommittee today to discuss the Drug Enforcement Administration's fiscal year 1999 budget request. Before I provide you with details of this request, I first want to take the opportunity to express deep appreciation on behalf of the men and women of the Drug Enforcement Administration for the outstanding support you have provided to us over the past several years. The resources you have appropriated for DEA help us make American communities safer, and allow us to live up to our commitments to citizens across the nation who look to the government to rid their neighborhoods of drug trafficking and drug-related violence. DEA is working both domestically and internationally to target and arrest the most significant drug traffickers operating today, and we have had a number of successes within the past year, which I will discuss in some detail later in my statement.

The drug situation in our nation continues to be an extremely serious problem, one which affects not only our major cities, but also the suburban and rural areas of our country. Despite dramatic reductions in violent crime rates in recent years, the problems of drug trafficking and abuse continue to diminish the quality of life for many of our citizens. The primary role for DEA as a law enforcement agency is to identify, apprehend, and bring to justice those individuals and organizations who are responsible for drug trafficking. The most important targets are the major organized crime syndicates based in Colombia and Mexico.

No American citizen, whether living in Topeka, Kansas or in our nation's capital, is beyond the reach of these organized crime syndicates. Drug lords in Colombia and Mexico have created an infrastructure that enables them to manage drug-trafficking on an international scale. With a network of surrogates in the United States, international drug trafficking organizations have infiltrated and, subsequently decimated, far too many communities across the globe. They have become an occupying

force in the war on drugs: sparking violent turf wars between rival drug lords, corrupting nascent political institutions in Latin and South America, and extending the plague of drug abuse and drug-related crime to communities across the United States.

Although based abroad, organized crime syndicates have a direct and deleterious impact on Americans across the country. Drug trafficking unleashes a tidal wave of drug-related crime which overwhelms our judicial system and floods our prisons. Tens of thousands of homicides, assaults, and burglaries are committed each year by criminals as a direct result of drug abuse or drug gangs. The link between crime and drugs is clear: studies show that drug users are more frequently involved in crime and are more likely to have criminal records than non-users. Data collected in 1995 from male arrestees in 23 cities shows that the percentage testing positive for any drug ranged from 51 percent to 83 percent. Despite a five year decline in national violent crime rates, law enforcement officials made a record 1.5 million arrests for drug violations in 1996. As a consequence, organized crime syndicates can augment their organizations with an unprecedented pool criminals in the United States, who are completely ingrained in the drug culture. These criminals serve as a ready supply for the drug syndicates surrogate army in the U.S. The size of this surrogate army, and their violent commitment to maintaining the profitability of their boss' drug trafficking organization, pose a serious threat to law enforcement agencies across the country.

The costs of drug-related crime come not just from expenditures associated with defending our citizens from drug trafficking and related violence, but also with treating the victims of organized crime. Drug trafficking and abuse have generated an alarming increase in the number of drug-related emergency room episodes in recent years.

DRUG-RELATED EMERGENCY ROOM MENTIONS

	1990	1996
All drugs .....	635,480	860,260
Cocaine .....	80,355	144,180
Heroin .....	33,884	70,463
Methamphetamine .....	5,236	10,787
Marijuana .....	15,706	50,037

Drug-related crime and abuse exact a heavy toll on our society. Lost work productivity, juvenile delinquency, violent crime, automobile accidents, and a myriad of other social ills linked to illegal drug abuse cost our society an estimated \$67 billion last year, approximately \$1,000 for each family of four in the United States.

The drug trafficking operations of organized crime syndicates not only generate violent crime in our communities and burden the taxpayer with the costs, but they also carry the plague of drug abuse to the very core of American society, the family. The drugs consumed by a father of three in Manchester, New Hampshire can be traced from his local dealer, to a middleman from the Dominican Republic operating in New York City, to a drug lord safely ensconced in his lavish villa in Colombia. While the father pays cash for the drugs, his wife and children pay the price for his drug addiction. The statistics are overwhelming:

- One-quarter to one-half of all incidents of domestic violence are drug-related.
- A survey of state child welfare agencies found substance abuse to be one of the key problems exhibited by 81 percent of the families reported for child maltreatment.
- In 1996, 3.2 percent of pregnant women—nearly 80,000 mothers—were current drug users.

The cost to these children and to society as a whole does not stop at birth. Saving these children, and their peers who succumb to drug abuse later in their young lives, will cost society nearly a million dollars per child.

It is impossible to draw a line of demarcation between domestic drug abuse problems and international drug trafficking. The \$20 an American addict spends each day for crack cocaine is ultimately funneled, by an organized crime syndicate, back to a drug lord, in Colombia or Mexico. Likewise, it is impossible to distinguish between domestic and international drug trafficking. Both are dominated by the same organized crime syndicates which exist as a seamless continuum. Unlike governments and law enforcement, they do not recognize or respect international borders. Access to the most sophisticated technologies, a willingness to resort to violence and bribery and a well-organized infrastructure enables them to transcend such barriers.

Drug lords in Colombia and Mexico have established enterprises made up of networks of compartmentalized cells capable of extending drug trafficking operations into cities large and small within the United States.

The powerful drug syndicate leaders from Colombia and Mexico are merely modern day versions of the mobsters that law enforcement in the United States has fought during this entire century, except that modern organized crime syndicates are exponentially more wealthy, powerful, and violent than their predecessors. Organized crime has always been founded on these same key principles, whether it was Al Capone in the 1920's, the La Cosa Nostra families in New York in the 1950's and 1960's, or today's Colombian and Mexican syndicates. Successful organized crime syndicates utilize hierarchical control, secret communications, corruption and violence to create an infrastructure that both shields them from law enforcement and facilitates their criminal activity.

Over time, law enforcement in the United States has been able to effectively counter domestic organized crime by attacking the communications systems of the major crime syndicates. In the past, domestic organized crime was controlled by a few leaders who lived in the United States and were within reach of the U.S. criminal justice system. Today's syndicate leaders pose a more serious threat, operating from sanctuaries in Colombia and Mexico. They are outside the reach of U.S. law enforcement and, consequently, able to command their cells operating in the United States freely and effectively.

The cornerstone of DEA's national investigative strategy, therefore, is to focus on attacking the command and control functions of the organized criminal syndicates that control virtually all of the cocaine, heroin, and methamphetamine trafficking in the United States today. In addition to building cases against the leaders of international drug trafficking syndicates and their surrogates, DEA has a responsibility to protect the citizens of the United States from the violence that is attendant to the drug trade.

One of our major objectives is to lend support to those cities and towns in the United States which lack the resources to address these sophisticated and powerful drug trafficking groups. Many of the major cities in our country have recently reported dramatic reductions in violent crime. In New York City, an aggressive, zero tolerance campaign against crime has led to a sharp decrease in violent crime rates in a city once viewed as one of the most dangerous cities in the United States. Unfortunately, at the same time, violent crime rates have increased substantially in many smaller cities across our country. Later in this testimony I will detail for you some of DEA's efforts to address these issues with our Mobile Enforcement Teams and our REDRUM programs.

Operations such as Limelight and Reciprocity, which target major Mexican drug trafficking groups operating in the United States, have a lasting effect on organized crime. The arrest of what seems to be a never ending stream of surrogates sent by syndicate leaders to the United States not only causes a steady degradation of the syndicates' ability to recruit individuals who can effectively control enormous drug distribution networks in the U.S., but, when fully exploited, also enables law enforcement to build investigations to the syndicates' highest levels. Our focus on the Cali organization's command and control functions in the U.S. enabled us to build formidable cases against the Cali leaders, which allowed our Colombian counterparts to accomplish the almost unimaginable—the arrest and incarceration of the entire infrastructure of the most powerful crime group in history.

There have been many successes in our efforts against organized drug syndicates both here in the United States and abroad. DEA and our state and local task force partners have made more than 100,000 felony arrests for federal drug violations in the U.S. in the last four years. Many of those arrested were violent traffickers, who brought mayhem to the cities and towns where they ran their businesses. Their incarceration is in some part responsible for the decrease in crime in our major cities. A similarly increased focus of federal resources will have equal or even more demonstrable results in smaller cities.

Results against sophisticated, powerful crime leaders and their organizations come are hard fought. We are pitted against a foe that has resources that rival our own. Nonetheless, recent history demonstrates that organized crime syndicates can be defeated. The Cali syndicate virtually disintegrated under intense investigative pressure. Amado Carrillo-Fuentes died trying to change his appearance through plastic surgery because of the scrutiny he was receiving from U.S. and Mexican law enforcement agencies. Persistent pressure all along the drug trade spectrum, in concert with complete and unfettered cooperation from our foreign counterparts, will result in successes commensurate with the resources invested. In short, effective drug law enforcement, combined with an appropriate focus on demand reduction, and the

education of our youth will work and will result in far less crime in our communities and decreased drug use by our children.

*Mexico's Growing Role in the Cocaine Trade*

Trafficking groups from Mexico are a significant force in international organized crime. These organizations are no longer simply middlemen in the cocaine transportation business. With the disruption of the Cali syndicate, groups such as the Amado Carrillo-Fuentes organization, the Arellano-Felix organization, the Amezcua-Contreras brothers, and the Caro-Quintero group have consolidated their power and now dominate drug trafficking along the U.S./Mexico border and in many U.S. cities.

Mexican traffickers now control the cocaine trade west of the Mississippi River and are making significant inroads into the cocaine market in some eastern cities, including New York; they dominate the methamphetamine trade in California, along the Southwest Border, and in states such as Georgia and Iowa. Additionally, heroin from Mexico now accounts for one-fifth of the heroin seized within the United States, up from only five percent last year.

I have, on several occasions, provided the Congress with the names of those drug traffickers in Mexico who are directly responsible for a large share of the drugs and related violence that plague our cities and towns. I believe it is critical that we keep their names on the front pages so that there is no doubt about who supplies the drugs that addict and kill our children or our resolve to bring these individuals to justice.

*Amado Carrillo-Fuentes Organization*

Until July 4, 1997, when Amado Carrillo-Fuentes died in Mexico City after undergoing plastic surgery, he was considered the most powerful trafficker in Mexico. The Carrillo-Fuentes organization (ACFO), based in Juarez, is involved in the trafficking of cocaine, heroin, and marijuana. The ACFO's regional bases are in Guadalajara, Hermosillo, and Torreon, where the organization stores drugs for eventual shipment into the United States. After the death of Carrillo-Fuentes, gang warfare within Mexico and in U.S. border towns escalated, consuming individuals involved in the drug trade and innocents alike. As of this date, the ACFO continues to function effectively.

*Caro-Quintero Organization*

The focus of Miguel Caro Quintero's organization is on trafficking cocaine and marijuana. Miguel, with his two brothers Jorge and Genaro, runs the organization. They specialize in the cultivation, production, and distribution of marijuana, a major cash crop for many of the trafficking organizations from Mexico. This organization is believed to own many ranches in the Northern Border State of Sonora, from which drug smuggling operations into the United States are staged. In addition, like many of the other trafficking organizations in Mexico, they are also involved in the trafficking of cocaine and methamphetamine.

*Amezcua-Contreras Brothers Organization*

The Amezcua-Contreras organization is based in Guadalajara, Mexico and is headed by Jesus Amezcua, who is assisted by his brothers, Adan and Luis. They currently are the world's largest smuggler of ephedrine and clandestine producer of methamphetamine. The Amezcua organization obtains large quantities of the precursor ephedrine, through contacts in Thailand and India, which they then supply to methamphetamine labs in Mexico and in the United States.

*Joaquin Guzman-Loera Organization*

Although he is presently incarcerated in Mexico, Guzman-Loera is still considered a major threat by law enforcement in both the United States and Mexico. His brother, Arturo, has assumed the leadership role and the organization remains active in Mexico, along the Southwest border, in the Western and Midwestern regions of the U.S., as well as in Central America. The group transports cocaine from Colombia into Mexico and the United States for the remnants of the Cali and Medellin Cartels. The organization is also involved in the smuggling, storage, and distribution of Colombian cocaine, Mexican marijuana, and Mexican and Southeast Asian heroin.

*The Arellano-Felix Brothers Organization*

Benjamin Arellano-Felix is the head of this trafficking organization that operates in Tijuana, Baja California, and parts of the States of Sinaloa, Sonora, Jalisco, and most recently, Tamaulipas. Benjamin coordinates the activities of the organization through his brothers: Ramon, Javier, and Francisco. The Arellano-Felix organization, the most violent of the Mexican trafficking organizations and reportedly was involved in the murder of Cardinal Posadas-Ocampo at the Guadalajara Airport in

1993. The United States recently filed for a provisional arrest warrant and placed Ramon Arellano-Felix on the FBI's "Most Wanted" list. The Mexican Government has offered a \$1 million reward for information leading to the arrest of the Arellano-Felix brothers.

*DEA Organized Crime Enforcement Strategy.*—This strategy is demonstrated in Operation Reciprocity and Limelight, cases which clearly prove the interrelation between high level traffickers headquartered in Mexico and their organizations in many U.S. cities. The Amado Carrillo-Fuentes organization was deeply involved in a sophisticated drug operation that stretched from Mexico to New York, Chicago, Grand Rapids, Tucson, and other parts of the U.S. At one point, several independent and seemingly unrelated investigations were being conducted in Texas, Arizona, Illinois, Michigan, and New York. Eventually these separate cases were combined under the umbrella investigations known as Reciprocity and Limelight.

As is the case in most high-level international investigations that ultimately lead to the leadership of international organized crime rings, these investigations began with a seemingly routine event in the U.S. In late 1996, two troopers from the Texas Department of Public Safety stopped a van with New York plates on Interstate 30. They became suspicious when they learned that one man was from New York while the other was from El Paso, and they were not well acquainted. Neither man owned the van and their stories conflicted regarding where they were going and where they had been. The troopers found 99 bundles hidden in the vehicle's walls. They soon realized that the packages contained money, not cocaine.

It took three hours to count the \$1.3 million they had found. As the officers continued their search, they discovered another \$700,000, bringing the total to more than \$2 million. On December 3, 1996, after receiving an anonymous call, the Tucson Police Department and drug task force officers raided a warehouse containing 5.3 tons of cocaine. On December 13, 1996, the same Texas troopers stopped a northbound tractor trailer and seized 2,700 pounds of marijuana. Follow-up investigation connected this interdiction to their previous seizure of money, to the cocaine warehouse in Tucson, and to ongoing investigations in Texas, Arizona, Illinois, Michigan, and New York.

All of these investigations provided our Special Agents and federal prosecutors with the key to investigating the operations of the Amado Carrillo-Fuentes organization. This powerful Mexican syndicate was apparently using U.S. trucks and employees to transport huge amounts of cocaine to various U.S. destinations. The resulting investigation, Operation Reciprocity, secured 40 arrests, the seizure of \$11 million in cash, 7.4 tons of cocaine and 2,700 pounds of marijuana. A parallel investigation, Operation Limelight, resulted in the seizure of more than 4,000 kilos of cocaine, almost 11,000 pounds of marijuana, over \$7 million in cash, and 48 arrests. Evidence gathered in this investigation revealed that one driver alone had transported over 30 tons of cocaine into the United States and had returned over \$100 million in drug profits to Carrillo-Fuentes in Juarez, Mexico.

Mexican transportation groups have clearly added the East Coast to their sphere of influence and now deliver cocaine directly to New York City and other East coast markets. This role was once reserved for traffickers from Colombia and the Dominican Republic. These two operations, like their successful predecessors, Zorro I and Zorro II, show that law enforcement can strike major blows against foreign drug syndicates by targeting their command and control functions.

Another example of DEA success against the domestic operations of the major Mexican trafficking groups was the recent indictment, by a federal grand jury in San Diego, of 10 members of the Logan Heights Gang on charges of serving as paid killers for the Arellano-Felix organization. The hallmark of many of the Mexican trafficking groups, most notably the Arellano-Felix organization, is their use of violence as a means of intimidation against potential witnesses and organizational rivals in both Mexico and the U.S. The indictment charges the members of this gang with acting as body guards and participating in missions to eliminate adversaries of the Arellano-Felix organization. This indictment proved to be an important step in our Southwest Border efforts against the Arellano-Felix group and was instrumental in ridding this San Diego neighborhood of some of its most violent offenders.

Through our domestic drug investigations and with the assistance of our country office in Mexico, DEA has been able to build cases that have led to the indictment of the leaders of every major drug trafficking organization in Mexico. More than one-half of the priority requests for provisional arrest for extradition filed by the Department of Justice are for major drug traffickers. None of the leaders of the major drug syndicates were arrested in 1997.

*The Increasing Significance of the Caribbean.*—While it is true that the majority of cocaine entering the United States comes across the U.S.-Mexican border, traffickers are reactivating their trafficking routes in the Caribbean. Colombian traffick-

ing organizations dominate drug trafficking in the Caribbean. DEA has identified four major organizations based on the northern coast of Colombia that have deployed command and control cells in the Caribbean Basin to funnel tons of cocaine to the U.S. each year. Colombian managers, who have been dispatched to Puerto Rico and the Dominican Republic, operate these command and control centers and are responsible for overseeing drug trafficking in the region. These groups are also directing networks of transporters that oversee the importation, storage, exportation, and wholesale distribution of cocaine destined for the continental U.S.

Many Colombian groups, particularly those who have risen to power since the Cali syndicate's fall, have returned to the traditional Caribbean routes to move their product to market. As these Colombian groups re-establish their ties with their Caribbean confederates, increasingly larger shipments transit the Caribbean. Seizures of 500 to 2,000 kilos of cocaine are now common in and around Puerto Rico and the Dominican Republic.

The incarceration and death of the leaders of the Cali drug syndicate were the antecedents for the most significant change in the wholesale U.S. cocaine trade in the last two decades. This change has become particularly evident over the last 12 months. Just a few years ago, Miguel Rodriguez-Orejuela and his powerful Cali syndicate controlled as much as 80 percent of the cocaine distributed in the U.S. He completely controlled every phase of the drug continuum, from manufacturing to distribution in cities and towns throughout the United States as varied as Chicago, Illinois and Rocky Mount, North Carolina.

In the last year, however, criminals from the Dominican Republic have emerged as the dominant force in the wholesale cocaine and heroin trade on the East Coast of the U.S. Battered by the aggressive application of our organized crime enforcement strategy and the arrests of the syndicates' leadership in Colombia, many new Colombian drug traffickers have sought to pull back from the Cali syndicate's traditional modus operandi of ruling a monolithic organization and exercising complete control of the drug continuum: from cultivation and production, to the wholesale marketing of both heroin and cocaine. Instead, they have chosen to franchise a significant portion of their wholesale heroin and cocaine operations. The Dominican trafficking groups, already firmly entrenched as low-level cocaine and heroin wholesalers in the larger Northeastern cities, were uniquely situated to assume a far more significant role in this multi-billion-dollar business.

Trust, the essential ingredient in forging a successful business relationship in the drug underworld, had already been established between Dominican and Colombian traffickers through relationships formed during hundreds of smuggling ventures in the Caribbean and through their long established relationships in New York, Newark, and Boston. From Boston, Massachusetts to Charlotte, North Carolina, well-organized Dominican trafficking groups are, for the first time, controlling and directing the sale of multi-hundred kilo shipments of cocaine and multi-kilogram quantities of heroin. Their influence is now spreading beyond the big city landscape into the smaller cities and towns along the East Coast.

New England is now faced with numerous gangs from the Dominican Republic selling multiple kilogram amounts of cocaine and smaller amounts of heroin. For example, DEA and the Hartford Connecticut Police Department recently arrested 40 members of a Dominican trafficking group responsible for the sale of thousands of bags of heroin brought into Hartford from New York City. In New Haven, Connecticut, one Dominican trafficking group was responsible for about 90 percent of all the heroin being sold in the city. They have also participated in a variety of other crimes ranging from robbery to muggings, creating their own crime wave in the process.

This sea-change in the wholesale heroin and cocaine markets is not unique to New York and New England. The Philadelphia area also is saturated with Dominican traffickers looking to claim a larger portion of these markets, and the Washington-Baltimore area routinely receives heroin shipments from New York-based Dominican groups. The Dominican's reach even extends into southern states. In July 1997, a group of Dominican traffickers were arrested in Charlotte, North Carolina after an investigation revealed they were transporting heroin from New York City to supply guests at private rave parties in the Charlotte area.

At the same time, the increase in the flow of cocaine and heroin en route to the United States through the Caribbean has brought a new wave of drug abuse and attendant violence to the Caribbean. Approximately 70 percent of all documented homicides in Puerto Rico are now drug-related. As a result, the number of drug homicides has increased dramatically in the last decade. In 1984, homicides in Puerto Rico numbered 483; by 1994, this figure had more than doubled. Today, while the murder rate in Puerto Rico has stabilized, with 864 homicides in 1995 and 868

in 1996, it remains nevertheless, nearly twice as high as figures obtained prior to the invasion of major drug trafficking organizations.

In order to address the rapid growth of drug trafficking and violence in the Caribbean region, in fiscal year 1998, Congress provided DEA with a total of 60 Special Agents and \$34.2 million to build upon our successful Southwest Border Strategy and expand our operations into the Caribbean Corridor. In fiscal year 1999, we are requesting and additional 42 Special Agents and \$5.6 million to enhance our domestic offices in major cities along the East Coast which are being detrimentally affected by the influx of violent trafficking groups based in the Caribbean. With the addition of these resources, DEA will be in a position to more fully meet the challenge of the Colombian and Mexican drug trafficking groups operating along our Southern frontier.

*Heroin from Colombia and Mexico.*—The relatively recent influx of high quality, cheap heroin from Colombia and Mexico is a significant law enforcement and public health issue. During the past several years, South American heroin has accounted for the majority of DEA heroin seizures. In 1994, 32 percent of the heroin samples tested were of South American origin; in 1995, the total was 62 percent. In 1996, South American heroin continued to dominate the market, representing 52 percent of heroin seizures in the United States.

Cheap, high quality heroin—average purity of South American heroin in 1996 was 72.2 percent—continues to dominate East Coast markets including Boston, New York, Philadelphia, and Baltimore. The availability of South American heroin is not, however, limited to the Northeast; Orlando, Florida, for example, has been especially hard-hit by the drug. In 1995 and 1996, 48 individuals in this city died of heroin overdoses.

The most dramatic drug related statistical increase in 1996 was in the amount of Mexican-produced heroin seized in the United States. Mexican heroin accounted for 20 percent of all heroin seized in the U.S., a fourfold increase from 1995. Combined, Colombian and Mexican heroin accounted for almost three-quarters of all the heroin seized in the U.S. during 1996. The emergence of Mexico in 1996 as the second most common source of heroin is consistent with the expansion of the cocaine and methamphetamine distribution networks of the major Mexican organized crime syndicates. The city of Plano, Texas has suffered an epidemic of heroin abuse, an epidemic whose origins can be traced to the distribution of extremely pure Mexican heroin in the community. After fourteen Plano teenagers and young adults died using uncut Mexican heroin, DEA worked with the Plano Police Department to establish an ad hoc task force to identify the suppliers of this Mexican black tar heroin. In November 1997, a major heroin distributor from Mexico and his four associates were arrested by the task force. These drug traffickers did not “cut” their product to reduce its purity. As a result, the heroin supplied by this organization was between 50 percent and 76 percent pure and, consequently, killed several teens experimenting with the drug for the first time.

Mexican heroin has been available in the U.S. for many years, but the situation in Plano clearly illustrates the seriousness of the growing Mexican heroin problem. International organized crime groups from Mexico are directly supplying American communities with high purity heroin. In addition, the average size of Mexican heroin seizures has increased significantly, with some reflecting in the multi-kilogram range. These increases in seizure size reflect an increased availability of the product. These developments, increased purity and availability, will further spread the scourge which has already hit Plano to other communities, large and small, across the country.

While heroin produced in Mexico dominates the marketplace in the western U.S., heroin produced and controlled by Colombian groups is marketed aggressively throughout the Northeast, and more recently, the Midwest. These two areas of the country easily contain the largest portion of the heroin addicted population in the U.S. New York City, with roughly half of the country's heroin addict population, continues to be the largest heroin market in the United States. As a result, traffickers have made the city the most significant heroin importation and distribution center in the country.

In June 1997, DEA was able to strike a major blow against the New York City heroin operations of the Gamboa organization, a Colombian crime syndicate responsible for significant heroin and cocaine trafficking in the United States. The Gamboa syndicate was using South American smugglers to import eight kilos of heroin per month for its drug cell operating in New York City. In August 1997, a DEA investigation led to the arrest of Milton Gutierrez, the head of the New York City cell, and nine members of his organization and the seizure of 1.8 kilos of heroin and \$65,000 in assets were also seized.

Cases like this clearly illustrate increased heroin use in the United States. Coupled with the drug's low cost and deadly levels of purity, this is clearly cause for concern. Additional resources provided to DEA in fiscal year 1999 will allow us to continue to build upon our five-year heroin enforcement strategy, working to halt the continuing spread of this dangerous drug across the United States.

*The Spread of the Domestic Methamphetamine Market.*—Known on the street by names like “crank” and “speed,” methamphetamine is a dangerous stimulant which possesses the same addictive qualities similar to those of crack cocaine. According to statistics from the Drug Abuse Warning Network (DAWN), the U.S. experienced a 209 percent increase in the number of methamphetamine-related emergency room episodes between 1990 and 1995. Following a brief drop during the first half of fiscal year 1996, total methamphetamine episodes skyrocketed by 71 percent during the second half of the year.

Today, DEA is taking part in more methamphetamine-related arrests and is seizing more clandestine laboratories per year than ever before in our 25-year history. Since fiscal year 1993, DEA arrests in methamphetamine-related investigations have consistently risen. Methamphetamine arrests increased by 45 percent in one year, rising from 3,920 in fiscal year 1996 to 5,780 arrests in fiscal year 1997. During fiscal year 1997, DEA was involved in the seizure of more methamphetamine laboratories (1,272) than in the three previous fiscal years combined (combined total equals 1,256).

The illicit manufacturing of methamphetamine can occur anywhere an operator can set up laboratory equipment to synthesize the product (e.g., motel rooms, apartment complexes, industrial areas, farms, a neighbor's house, etc.). The caustic, flammable, and explosive chemicals required by “cooks” to produce methamphetamine endanger the lives of not only criminals, but innocent neighbors as well. The potential environmental damage caused by one clandestine laboratory can place an entire community at risk.

Methamphetamine trafficking and production in the U.S. is currently divided between the thousands of small, independent organizations, who run “mom-and-pop” labs and the major Mexican syndicates networks who produce methamphetamine in super labs in Mexico and California. Both groups are producing more methamphetamine than ever before. However, it is the emergence of the Mexican syndicates and their growing domination of methamphetamine production and distribution that has redefined the methamphetamine problem in the U.S.

The Mexican syndicates' dominance of the methamphetamine market can largely be attributed to two factors. First, Mexican organized crime has established access to enormous quantities of the precursor ephedrine from wholesale sources of supply on the international market. Second, these criminal groups regularly produce unprecedented quantities of high-purity methamphetamine in Mexican and Californian super labs. As previously indicated, the Amezcua-Contreras Brothers, operating out of Guadalajara, are the world's largest smugglers of ephedrine and clandestine producers of methamphetamine. The Amezcua Organization obtains large quantities of precursor ephedrine through contacts in Thailand and India, which they then use to make methamphetamine for subsequent distribution to Mexican trafficking groups operating in major U.S. population centers.

*Operation META.*—For the last several years, the influence of Mexican organizations trafficking methamphetamine in the United States has increased dramatically. Operation META demonstrated just how extensive their involvement in the methamphetamine trade is. This multi-agency wiretap investigation targeted traffickers associated with the Amezcua brothers' methamphetamine trafficking organization, a syndicate which supplied its U.S. cells with methamphetamine, precursor chemicals, and cocaine.

Amezcua cells manufactured methamphetamine in Los Angeles. In fact, during the META raids, operating methamphetamine labs were discovered near a day-care center and in an equestrian center where riding lessons were being conducted. This is typical of the disregard organized crime syndicates have for the safety and well-being of the American public. The labs discovered were capable of producing more than 300 pounds of methamphetamine.

Drug traffickers along the border, such as those associated with the Amezcua Organization, have a major impact on the drug trafficking and violent crime situation throughout the United States. The Southwest Border Strategy brings together many federal, state and local law enforcement agencies and prosecutors' offices in a coordinated effort to target major drug traffickers operating along the southwest border of the United States. Operation META, an OCDETF investigation conducted as part of this strategy, resulted in more than 100 key arrests.

Due to methamphetamine's increasing popularity in the West and its rapid spread eastward, an increasing number of independent trafficking and production networks

are also being established. They feed the habits of customers typically found outside the Mexican syndicates' predominant areas of influence. These independent networks, which have proliferated in the Midwest, and more recently on the East Coast, are selling to users in rural areas, middle class suburbs, and on college campuses. Surging demand and increased profit margins are driving increased drug production, and luring more traffickers and chemists into the methamphetamine trade. Often, a minimal investment of \$500 can yield profits as high as \$4,000 to \$18,000.

Fifty percent of the clandestine labs seized by DEA in fiscal year 1997 were located in the Midwest. States like Missouri, which four years ago experienced negligible clandestine laboratory activity, have become full-fledged production centers. Just last month, DEA, in cooperation with state and local law enforcement, seized its first major clandestine laboratory in the city of St. Louis.

States as far east as Georgia, Kentucky, and New York are also beginning to see the effects of growing methamphetamine production and distribution. In August of 1997, DEA, in cooperation with the FBI and the Northern Kentucky Drug Strike Force, arrested Mexican national Enrique Ochoa-Montanez and seized approximately 35 pounds of methamphetamine and \$14,000 in cash from a hotel in northern Kentucky. In December 1997, DEA's Atlanta Field Division was involved in the seizure of 10 pounds of methamphetamine being shipped via Federal Express from California, Texas and Mexico. The methamphetamine seized was linked to the drug trafficking operations of the Amezcua-Contreras Organization. Just last month, DEA Agents, again in cooperation with state and local law enforcement, arrested four people and seized 25 pounds of methamphetamine in Marietta, Georgia. This seizure—half a million dollars worth of methamphetamine—had been manufactured in Mexico and was intended for distribution in the Atlanta area.

*Marijuana Eradication.*—DEA is ardently striving to halt the continuing spread of marijuana trafficking and distribution across the United States. Marijuana is the most widely used and readily available drug in the United States and the only drug of abuse grown within our borders. Today, increasing numbers of our vulnerable, school age children have been misled to believe that use of marijuana is not harmful and that it should be used for medicinal purposes. In most instances, the call for the use of marijuana as a form of medical treatment is only a thin disguise, used by those who advocate the legalization of marijuana and other drugs. Although, in many circles, marijuana use continued to be viewed benignly, research suggests that the drug is harmful and is a gateway to the use of cocaine, heroin, and other drugs.

In 1997, DEA continued to improve upon the effectiveness of its marijuana eradication efforts across the country, spending \$13.6 million to support 88 state and local agencies that participated in our Domestic Cannabis Eradication and Suppression Program (DCE/SP). Funding increases in 1997 allowed these state and local agencies to enhance their already aggressive eradication enforcement activities and resulted in the eradication of 3,827,133 cultivated outdoor plants, 221,396 indoor plants, and 136,990 pounds of processed bulk marijuana. In addition, this program secured 17,070 arrests, and the seizure of 4,713 weapons, and \$39,562,165 in seized assets.

Through these efforts, we have made significant headway in curbing the availability of domestically grown marijuana. Operational plans submitted by the 88 state and local law enforcement agencies participating in the DCE/SP indicate that the aggressive eradication efforts undertaken by the states have caused the outdoor cultivators to move their operations indoors, abandoning their larger outdoor plots for the safety/concealment of smaller, limited indoor cultivating areas. This has made marijuana cultivation harder to detect.

*Mobile Enforcement Teams.*—Addressing the Issue of Violent Crime: DEA's Mobile Enforcement Team (MET) program was initiated in 1995 in response to the growing problem of drug-related violent crime that plagues neighborhoods and communities throughout our nation. The MET program represents the most ambitious domestic enforcement program that we have ever undertaken to attack drug-related violence in America. Through January 1998, our MET program was responsible for the completion of 122 deployments which resulted in 5,428 arrests and the seizure of 871 pounds of cocaine, 269 pounds of methamphetamine, 36 pounds of heroin, 726 pounds of marijuana, and \$7.9 million in assets.

At the request of a police chief, sheriff, or district attorney, a MET (comprised of eight to twelve DEA Special Agents) works in concert with local police to dislodge violent drug offenders from the community. It is DEA's goal to ensure that the state and local officials requesting the MET deployment feel completely comfortable in inviting the agency into their community. DEA does not seek credit for its MET deployments, but instead encourages state and local officials to handle all press relations and media events surrounding the deployments as well as to take full credit for the accomplishments of the MET.

DEA's MET's are primarily investigative in nature. Their mission is to dismantle drug organizations by securing the conviction and incarceration of those individuals dealing drugs and engaging in violence within a community. Evidence developed in the narcotics investigations may also be used to prosecute the same individuals for related crimes including murder, assault and/or other acts of violence.

It is important to recognize that the MET Program was designed to target violent drug trafficking organizations (as identified by the requesting agency) which contribute significantly to increases in the level of violence in a particular community. The two factors which provide the highest measure of effectiveness by a MET deployment include: (a) whether the MET successfully dismantled the targeted organization identified in the initial assessment, and (b) whether the requesting agency and the community are pleased with the enforcement effort and/or assistance provided by the MET.

The positive or negative outcome of these two primary factors are clearly outlined in the post-deployment reviews which are required six months after the completion of each MET deployment. These two factors, along with arrest and seizure statistics which document the number of violent drug traffickers removed from the streets, and pre and post-deployment area crime statistics, provide the most accurate measurement of the effectiveness of a MET deployment that can be obtained.

Over time, our MET deployments have resulted in significant decreases in crime rates in targeted communities across the country. For example, following our MET deployment to El Cajon, California and subsequent arrest of members of the "Orphans" street gang, there was a 66 percent reduction in overall reported area crime and an 87 percent reduction in reported violent crime. Following our MET deployment to Pinal County, Arizona and the dismantlement of the area's "Bloods" and "Crips" street gangs, calls for police service in the targeted areas dropped 60 percent and overall crime dropped a remarkable 43 percent in the six months following the deployment.

Other recent examples of successful MET deployments include:

*Louisville, Kentucky (July 1997-September 1997)*

This MET deployment was requested in response to a significant increase in narcotics trafficking and related violence occurring in the City of Louisville and surrounding communities, spurred by the operations of a large scale cocaine trafficking organization operating in the region. In April 1996, the violence associated with the operations of this trafficking group culminated with the murder of a DEA cooperating source. Immediately following the completion of DEA's MET deployment to Louisville, news reports indicated a nine to ten percent drop in area crime rates compared to the same period in 1996. In the particular section of the city where the MET concentrated its efforts, cocaine seizures increased by 40 percent, marijuana seizures increased by 60 percent and felony crimes were reported to have decreased by 21 percent.

*National City, California (October 1996-September 1997)*

This MET deployment was requested to assist National City in its efforts to address increasing violent criminal activity associated with members of the Old Town National City Gang (OTNC). The primary drugs distributed in the National City area include methamphetamine and heroin. At the conclusion of the deployment, 41 individuals were arrested, including 14 OTNC targeted members and associates. The deployment effectively dismantled the notorious OTNC gang and revealed a connection between the OTNC and Mexican trafficking organizations. As a result of the overwhelming success of this deployment, the Mayor of National City, California officially proclaimed October 7, 1997, as "DEA MET Day."

*Terrell, Texas (May 1997-November 1997)*

DEA's Dallas MET was requested to assist local law enforcement in Terrell in their efforts to address an epidemic of drug-related violence generated by three major crack cocaine distribution organizations operating in the area. These included the Keith Jackson Organization, the Robert Holliness/Maceo Haslip Organization, and Rebecca and Steward Womack group. The MET deployment resulted in federal and state charges being brought against 105 defendants for conspiracy and distribution of crack cocaine. This roughly one percent of the total population of the city of Terrell. With the exception of two remaining fugitives, all of the primary MET targets were arrested and each of the three trafficking organizations were effectively dismantled. The residents of Terrell and their City Council were extremely pleased with the effectiveness of the operation and expressed their gratitude to DEA officials.

By combining the efforts of federal, state, and local law enforcement agencies, the MET initiative is making a difference in neighborhoods throughout the United

States by restoring a sense of peace and order to communities formerly plagued by drug trafficking and its attendant violence. Today, we have a total of 23 MET's, established in 19 of our 20 domestic field divisions, with the exception of our newly established Caribbean Division. Of our 19 field divisions, four divisions have two MET's each, including Los Angeles, Miami, New Orleans, and Houston.

DEA'S FISCAL YEAR 1999 BUDGET REQUEST

In fiscal year 1999, we are requesting a total of 7,917 positions (3,692 Special Agents) and \$1.26 billion. This request represents an increase of 508 positions (257 Special Agents) and \$63.9 million over our fiscal year 1999 base budget. Program enhancements for fiscal year 1999 are contained within two strategic funding initiatives:

*Initiative I—Attack International Organized Crime through the Expansion of DEA's Overseas Presence*

Within our first strategic initiative, we are requesting a total of 37 positions (17 Special Agents) and \$8.7 million to work with our foreign drug enforcement counterparts in building cases against the leaders of international drug trafficking networks which have a direct impact on the U.S. This strategy will be accomplished by opening new offices overseas, adding personnel to existing foreign offices, and where necessary, making security improvements to our overseas locations.

New offices will be opened in Tashkent, Uzbekistan; Hanoi, Vietnam; and Trinidad-Tobago, and DEA will expand its existing presence throughout the Caribbean, Central America, and Asia by adding Special Agent and support personnel in Ponce; St. Thomas; St. Croix; Barbados; Curacao; Jamaica; Haiti; the Dominican Republic; and Manila, Phillipines. In addition, a total of five analyst positions for Mexico and an additional five positions and \$1.1 million are requested to support enforcement programs coordinated in our foreign offices.

*Initiative II—Attack International Organized Crime's Domestic Drug Distribution Networks*

Through our second strategic initiative, we are requesting a total of 471 positions (240 Special Agents) and \$53.1 million to fund a comprehensive approach to drug law enforcement within the United States by: (1) augmenting our resources in domestic locations affected by Caribbean-based drug trafficking organizations; (2) emphasizing the growing role of methamphetamine and heroin investigations in the U.S.; (3) improving federal, state and local law enforcement coordination across the country; and (4) providing the support infrastructure necessary to bolster agency enforcement operations throughout the U.S.

A total of 70 positions (42 Special Agents) and \$5.6 million are requested to enhance DEA domestic offices in cities that are being detrimentally affected by the influx of violent trafficking groups based in the Caribbean. DEA's implementation of the Caribbean Corridor Initiative coincides with its ongoing, and very successful, Southwest Border Strategy. It attacks the command and control functions of criminal organizations that import drugs across the Southwest border for distribution throughout the U.S. In an attempt to address the burgeoning flow of cocaine and heroin through the Caribbean Corridor, DEA's fiscal year 1998 appropriation provided the agency with 20 Special Agent positions for its Caribbean Field Division and 40 for its Miami Field Division.

DEA will direct these new resources against the Colombian cell managers' command and control functions and the network of Dominican traffickers sent to the U.S. to control the wholesale distribution of cocaine and heroin throughout the East Coast. Personnel enhancements will provide DEA with an increased ability to build prosecutable cases against the Colombian syndicates' leadership, while simultaneously allowing the agency to target their surrogates from the Dominican Republic and Puerto Rico who comprise the ever growing labyrinth of distribution networks on the East Coast.

Funding for the Caribbean corridor will enable DEA to focus resources on major groups trafficking through Puerto Rico. For example, Alberto Orlandez-Gamboa, closely associated with the Urdinola-Grajales family, controls the distribution of thousands of kilograms of cocaine into New York and New Jersey. While safely based in Colombia, Gamboa controls a syndicate which conceals drug shipments in containers of fruits and vegetables shipped to the U.S. through Puerto Rico. In March 1997, DEA arrested principal members of the Gamboa organization in Puerto Rico and seized over 600 kilograms of cocaine and \$3 million in assets. In another investigation, this one conducted against Celeste Santana, DEA determined that Santana's organization controlled a transportation group which used a cadre of

criminals at the Luis Munoz Marin International Airport to smuggle cocaine from Puerto Rico to New York.

A total of 223 positions, including 100 Special Agents and \$24.5 million are requested to implement a comprehensive approach for targeting and investigating methamphetamine trafficking, production and abuse across the U.S. As I previously testified, the emergence of the Mexican syndicates and their growing domination of methamphetamine production and distribution has redefined the methamphetamine problem in the U.S. In order to attacking these syndicates as well as address the growth of "mom" and "pop" clandestine laboratory operations across the country, we are requesting 156 positions (100 Special Agents) and \$13.7 million for the additional investigative resources necessary to target major methamphetamine trafficking organizations operating in the U.S. The primary purpose of these resources is to establish a sufficient level of Special Agent investigative strength to significantly reduce methamphetamine trafficking and production and ultimately, have an impact on the drug's availability on the streets of our communities.

Many state and local law enforcement agencies, where emerging methamphetamine markets and producers exist, lack the requisite training and experience to investigate and dismantle clandestine laboratories. In fact, a survey conducted at the Methamphetamine Conference in February 1996 suggested that two-thirds (64 percent) of state and local law enforcement are having difficulties conducting methamphetamine investigations. Although roughly half attributed their problems to limited personnel, others cited financial constraints, poor intelligence resources, and an overall lack of knowledge of the hazards associated with clandestine laboratories.

In an effort to address this problem, DEA has, to date, trained and certified a total of 2,016 state and local officers in clandestine laboratory investigative techniques. In our fiscal year 1998 appropriation, we received a total of \$4.5 million in reimbursable funding through the COPS Methamphetamine Program for additional clandestine laboratory training for state and local officers. With this funding, DEA anticipates training approximately 1,000 new state and local officers over the next two years. (Note: This funding was not part of DEA's direct appropriation, but was included in DOJ's COPS Program appropriation).

Included in DEA's fiscal year 1999 methamphetamine program enhancement is a total of \$392,000 to continue work to establish a National Clandestine Laboratory Database (NCLDB) at DEA's El Paso Intelligence Center. The NCLDB will give federal, state, and local drug law enforcement centralized intelligence on all clandestine laboratory seizures by collecting, storing, and processing information from approximately 3,000 law enforcement agencies located throughout the U.S. This database will provide a true national perspective on the clandestine laboratory problem, based on the information on laboratory operations received from all levels of law enforcement.

Currently, DEA, through the Asset Forfeiture Fund (AFF), is the sole federal law enforcement agency funding clandestine laboratory cleanup projects. In fiscal year 1996, DEA was provided \$2 million from the AFF to pay for clandestine laboratory cleanups. However, in response to the significant increases in clandestine laboratory activity, DEA obligated more than \$4 million over the course of the year, a 100 percent increase in expenses. In fiscal year 1997, DEA spent \$7.1 million on clan lab cleanups, as methamphetamine activity in the U.S. continued to gain momentum.

In fiscal year 1998, DEA anticipates requiring approximately \$9.6 million for clandestine laboratory cleanups. During fiscal year 1998, we will receive a one-time \$5 million reimbursement of funds from the COPS Methamphetamine Program for state and local clandestine laboratory cleanups. However, this funding must be used strictly for state and local clandestine laboratory cleanups; it cannot be used to offset the ever-increasing number of DEA case-derived clandestine laboratory seizures and related cleanups. DEA is therefore requesting a total of \$4.1 million in direct program funding for fiscal year 1999 to supplement anticipated agency resources. This being the case, along with the uncertainty of AFF funding from year to year (AFF funding decisions are based on the total value of assets seized each year, which can fluctuate significantly), DEA will continue to need to supplement its own base program funding for clandestine laboratory cleanups in the years to come.

In fiscal year 1999, DEA is also requesting 148 positions (95 Special Agents) and \$12.9 million to combat heroin trafficking, production, and distribution networks operating in the U.S. These additional positions are critical for DEA to maintain a heightened capability to address the growing availability of heroin in cities and towns, like Plano, Texas, across the country.

An additional 28 positions (3 Special Agents) and \$7 million are requested to improve cooperative drug law enforcement operations at the federal, state, and local level through enhanced coordination, information sharing and the minimization of duplicate efforts. This classified project, initiated in 1991, has been an immensely

successful cooperative venture between DEA, the FBI, and the Department of Justice's Criminal Division. It must continue to expand to provide unique real time intelligence data to federal counter-drug efforts. A classified briefing properly detailing this request can be scheduled for appropriately cleared individuals.

A total of 2 positions and \$3.1 million is requested to establish an alternate backup site for DEA's Network Control Center (NCC). The purpose of a backup site is to prevent a worldwide "shut down" of DEA's communications due to a catastrophic event at DEA's primary NCC. Failure to provide an alternate site for the NCC potentially jeopardizes all agency-wide operations.

Finally, as a separate program initiative, we are requesting an increase of \$2.1 million for our Drug Diversion Control Fee Account (DDCFA).

This enhancement request includes \$500,000 for the purchase of computers, technical equipment and contract support to address our drug diversion case workload, as well as funding for expansion of DEA's Computer and Drug Forensics Programs. In addition, \$1.6 million will be used for contract support, hardware, and software to re-engineer our Automated Reports and Consolidated Orders System (ARCOS) and Controlled Substances Act Systems (CSA).

Again, Mr. Chairman, I would like to thank you and the committee for your continued support. I want to assure you that I am making every effort to ensure the additional resources you have given to DEA are applied in the most effective and efficient manner. I also want to assure you that the men and women of DEA are working tirelessly to bring to justice those responsible for the spread of heroin, cocaine, and methamphetamine in our country.

As we saw with the Cali crime syndicate in 1995, effective drug law enforcement requires a commitment to years of painstaking investigation. The leaders of the powerful criminal groups who direct drug trafficking in our country issue their orders from the safety of sanctuaries in Mexico and Colombia. Without the complete cooperation and support of the governments in these countries, we cannot possibly hope to achieve the maximum benefit from the resources provided.

Thank you for providing me with the opportunity to update you on the status of our drug efforts within the United States and detail DEA's fiscal year 1999 request for resources. I would be happy at this time to take any questions you may have regarding current agency operations or our requested program enhancements.

#### STATEMENT OF DORIS MEISSNER

Senator GREGG. Commissioner Meissner.

Ms. MEISSNER. Thank you, Mr. Chairman, members of the subcommittee, for the opportunity to be here today on behalf of the President's fiscal year 1999 budget request for INS. Let me start by thanking you for the support that you have given us over the last several years. The resources that Congress has generously provided to INS are producing dramatic and concrete results. The administration and Congress have worked together to make more progress in immigration in the last 5 years than has been made in decades.

Through our joint efforts, we are addressing issues that had been ignored for years and are bringing vitality to a long-neglected agency. Our achievements are having a positive impact on communities around the country. In towns in the Nation's midsection, like Storm Lake, NE, where our efforts to identify illegal workers in meat packing plants have helped return \$11-an-hour jobs to American workers; and along the Southwest border, in places like Brownsville, TX, where the reduced crime rate has been attributed to Operation Rio Grande, which we launched in August to improve the quality of life in south and west Texas communities.

In San Diego, we have dramatically reduced illegal border crossings and pushed apprehensions to a 17-year low. In addition, last year, we removed 113,000 illegal aliens with criminal records or outstanding removal orders, 20,000 more than the goal that we had set. These removals ensure that criminal aliens are not released

onto our streets or incarcerated further at the expense of State or local governments.

We have also hired over 6,000 people in the last 2 years, including 1,000 Border Patrol agents each year, who were trained at facilities in Georgia and South Carolina. The list is far longer, and those examples are provided in our testimony. Once, we lacked the resources that we needed to do our job. Now, we are showing that, when given the staffing and the technology, combined with new strategies that we have developed, we can do the job. These milestones are being reached at a unique time in our Nation's history. Not since the turn of the last century has immigration offered so many opportunities and also posed so many challenges in the country and to the Federal Government.

The reality is that the pressure of illegal activity and the demands created by legal crossings of our shores and borders have never been greater. There are more people coming in and out of our ports of entry to be inspected; more pressure from smuggling of contraband and illegal aliens by organized crime syndicates; more people applying for naturalization and other immigration benefits than at any time in history. These external challenges have created an enormous impact on our work, but we have had internal challenges to address as well.

We have been addressing infrastructure issues, particularly questions of how to improve the performance of an agency that has two different but interdependent functions. The sheer growth of our agency demands that we examine how we are organized to carry out our mission and our responsibilities. In order to build on the results that we have achieved, we want to organize ourselves in a way which best achieves future success.

We are working with the Department of Justice and the administration on a plan for structural reform that would significantly restructure the way business is done at INS. In order to draw on the best practices used by corporate and other governmental entities, INS has hired a management consulting firm, Booz-Allen & Hamilton, to assist us. Our proposal will soon be finalized and will be delivered later this month.

Just as we are sparing no effort to apprehend or remove those who have no right to enter or remain in this country, we are also making every effort to serve those who have the right to be here, especially those who are eligible to become citizens. Our foremost challenge now is to improve the way that we provide our services to these individuals. Our Office of Naturalization Operations has built the foundation for an entirely new customer service orientation in the way that we handle not just citizenship but all immigration benefits.

We are currently creating what we call application support centers all around the country, which are responsible solely for providing fingerprint and related services to our constituents. Ninety-two percent of our customers will be within 25 miles of an application support center, while others who are homebound or in remote areas will be served by mobile vans.

Next fiscal year, we are seeking an increase of \$413 million and an additional 2,600 positions. What will we do with it? We will continue our efforts to make important differences at our borders, in

the interior of our country, and at our offices that serve our customers. Highlights of some of those initiatives are as follows: for the border, we are requesting 1,000 new Border Patrol agents to maintain the control we have gained in key areas and to continue deploying a significant number of new agents to Arizona, Texas, and New Mexico to further gain control there.

We also plan to add more state-of-the-art technology and to construct 8 new Border Patrol facilities and undertake 10 fencing and road projects. In order to address the fact that the incarcerated criminal population is outpacing INS resources for removing aliens from detention settings, we are planning to expand our staffing of the institutional hearing program at Bureau of Prisons release sites and at 12 of the county jails with the highest foreign-born populations. We also plan to add nine videoconferencing units at local jails throughout the country to enable us to more efficiently remove criminal aliens who might otherwise be released by local authorities.

We are also seeking increases in our own detention capabilities through the construction of four projects to be completed in fiscal year 2000. We are requesting funding for over 1,000 new detention beds, including an additional 126 juvenile beds as well as 122 new positions to support that space.

In order to launch a comprehensive antismuggling initiative, we are requesting 124 positions, including 53 special agents to concentrate on the staging areas in the interior of the country that are being used by smugglers. This will allow us to build on efforts like those in western Colorado, where we are intercepting dangerously overloaded and speeding vans containing aliens. To investigate a growing number of fraudulent immigration benefit applications, we request 70 positions to establish multidisciplinary fraud teams. To handle the complex tasks of moving legal traffic through and handling expedited exclusion of illegal traffic at the ports of entry, we are requesting 330 inspectors for the airports and 100 for the land ports of entry.

To enhance efforts with other law enforcement agencies, we are seeking \$17 million for JPATS, which is the air transport service with the marshals that returns deportable aliens to their home countries, and that will allow us to increase removal of criminal aliens and reduce commercial transport dependency; and 15 special agents for joint terrorism task forces to aid our Government's counterterrorism work.

#### PREPARED STATEMENT

In summary, we will continue to produce results and to build on the progress we have made in the last several years. We will use the money that you provide to continue to do what you and what the American people expect of us; that is, to protect our Nation's tradition of being both a nation of immigrants and a nation of laws.

Thank you very much.

Senator GREGG. Thank you, Commissioner.

[The statement follows:]

## PREPARED STATEMENT OF DORIS MEISSNER

## INTRODUCTION

Thank you Mr. Chairman, and Members of the Subcommittee, for the opportunity to appear before you today to discuss the President's fiscal year 1999 budget request for the Immigration and Naturalization Service (INS). Mr. Chairman, I appreciate your efforts and those of the other Members of the Subcommittee to provide continued support and increased resources to INS to strengthen and enforce our Nation's immigration laws.

Mr. Chairman, I have now been with INS for more than four years. It has been five years of constant change and unprecedented growth at INS. To paraphrase a recent article in *Newsday* (2/3/98), at times my experience here has been similar to managing in a storm. Since 1993, we at INS have been operating in a changing policy and statutory environment which includes significantly increased duties under new legislation, substantial staff and budget enhancements, and increased public demand for services. The new global economy is matched by global movements of people that are resulting in greater demands on the agency. Last year, 320 million people visited our country legally, compared to only 197 million ten years ago. We made 500 million inspections at our ports-of-entry last year, and turned back over half a million people at the ports-of-entry. In addition, INS formally or informally removed another 1.5 million who were not eligible to enter this country.

The agency's mission is a complex one, with many challenges and new demands facing us. Yet, we have made and will continue to make significant improvements to our enforcement of immigration law as well as to our ability to deliver services to eligible immigrants.

Mr. Chairman, the fiscal year 1999 budget I present to you today continues to build on our efforts to strengthen our borders, increase our enforcement efforts in the American workplace, remove record numbers of criminal and other deportable illegal aliens from America's streets and prisons, focus on customer service by processing applications for citizenship and legal entry into our country expeditiously, fairly, and with integrity, and enhance the professionalism of our workforce.

Before I begin discussing the fiscal year 1999 budget request, I would like to take a moment to tell you about the notable achievements we have made.

## BORDER ENFORCEMENT

First, I would like to thank the Members of the Subcommittee for working with the Attorney General and me to develop a deployment plan for the personnel enhancements needed to support the Administration's Immigration Strategy, and particularly for allowing us to continue to deploy new agents to Texas and New Mexico in support of our recent operations.

In 1994, the Attorney General and I announced a comprehensive border enforcement strategy, which balances enforcement efforts with improved facilitation of legal traffic. We continue to focus resources on critical operational areas of the southern border, in support of this strategy. We exceeded our fiscal year 1997 goal of 6,859 Border Patrol agents on-board by the end of the fiscal year, adding more than 1,000 new agents over the course of the year. As of February 14, we had 7,165 Border Patrol agents on-board. Since fiscal year 1993, we have almost doubled the number of Border Patrol agents. By the end of fiscal year 1998, we will have a total of 7,859 agents on-board (not including pilots). Border Patrol agent growth along the Southwest border will have increased by 71 percent over the same time period.

New Border Patrol agent classes are scheduled throughout the year and we have developed a comprehensive growth management plan to meet the fiscal year 1998 goal. As part of the plan, we have also strengthened recruitment efforts through more focused outreach activities. We have also taken measures to help ensure that we are producing the best qualified agents to supervise the new officers. A newly designed competency-based promotional assessment system is now in place for all Border Patrol agents seeking promotions to supervisory and managerial positions at the GS-11 through GS-15 grade levels.

In addition to providing the needed personnel enhancements for an effective border enforcement strategy, this Administration has outfitted agents with the equipment and technology necessary to perform their jobs more efficiently and safely. Focusing additional resources on new Border Patrol personnel and equipment has yielded significant results. Apprehensions have dropped dramatically in targeted areas. Operations such as "Hold the Line" and "Gatekeeper" have significantly diminished illegal immigration and alien smuggling in El Paso and San Diego. For example, in San Diego, historically the most heavily crossed area of the border, apprehensions are at a 17-year low. Another sign of our success is the shift of undocu-

mented alien movement and organized migrant trafficking over the U.S. Border from traditional crossing points to areas that are more difficult for illegal migrant crossings.

While our border management efforts from 1993 to 1995 focused on El Paso, San Diego and Arizona, beginning in 1997 we expanded our focus to South Texas and New Mexico. "Operation Rio Grande," launched in August 1997 in Brownsville, Texas, is a special multi-year operation designed to gain and maintain control of targeted border areas through a combination of new technology and additional manpower. An important feature of "Operation Rio Grande" is the integration of a broad range of INS enforcement operations. Border Patrol agents, Inspectors at ports-of-entry, Investigators, Intelligence analysts, and Detention and Deportation Officers are all contributing to the operation. As part of the operation, in August 1997, 69 Border Patrol agents were detailed to Brownsville to step-up enforcement efforts. In September, we began deploying special response teams to ports-of-entry where we expect increased numbers of fraudulent entry documents. We anticipate significantly lowered apprehension and local crime rates as a result of the operation.

One of the main goals of our border enforcement strategy is to improve the safety of American communities along the Southwest border. In the areas where we have launched major enforcement operations, we have heard from citizens about the improvements in their communities. We have seen a drop in crime rates in some of the areas. According to Assistant Chief David Bejarano of the San Diego Police Department, "Operation Gatekeeper continues to be a major factor in reducing border area crime. There has been such a significant decrease in border crime that we have deployed some of our border area officers to other areas of concern. Before Gatekeeper, we had to maintain a continuous presence in the border area to deal with the excessive levels of crime and violence. It is without question the quietest and safest the border has ever been in this area." San Diego District Attorney Paul Pfingst echoed this sentiment in a September 1997 article in the San Diego Union-Tribune: "The closer you get to the border, the more property crimes have dropped. That tells us that border enforcement is reducing crime."

Our progress along the border is also evident at the San Ysidro Port-of-Entry, which is one of the world's largest and busiest ports. Several years ago, commuters were forced to wait over two hours to cross the border into San Diego. Today, the average wait has been reduced to no more than 20 minutes. The Inspections staffs are working on incorporating the best practices from San Ysidro into other ports-of-entry. In fiscal year 1998, 281 additional Immigration Inspectors will be deployed to air ports-of-entry. The increased number of Inspectors will facilitate the travel of passengers and provide major improvements in meeting the processing time requirements at our international airports.

These accomplishments could not have been made without the continued support of the Subcommittee.

#### REMOVAL OF ILLEGAL ALIENS

The removal of criminal and other deportable aliens is one of the key components of INS' comprehensive strategy to prevent and deter illegal immigration. During fiscal year 1997, INS removed more than 113,000 criminal and other illegal aliens, an increase of more than 44,000 over last year's record and 20,000 over its target of 93,000 removals. Our target for fiscal year 1998 is a record 127,300 removals. We are well on our way to reaching this goal—according to our most current data, removals for first quarter of fiscal year 1998 totaled over 34,000; over 12,000 were criminal removals.

Criminal alien removals totaled about 51,000 for fiscal year 1997, 36 percent above the previous year. Of the criminal aliens removed, 61 percent had convictions for crimes considered aggravated felonies under immigration law. Drug convictions accounted for 52 percent of the criminal alien removals.

Removals of other deportable aliens reached almost 63,000 for last fiscal year, up 95 percent from fiscal year 1996. The expedited removal process, established by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), contributed to this increase, producing about 23,000 mostly non-criminal removals in its first six months of implementation.

In addition to the number of aliens formally removed, INS also removed almost 80,000 aliens without formal proceedings in fiscal year 1997. This category includes several methods of removal, but most are aliens who elect to waive any hearing before an immigration judge and voluntarily return to their home countries. When combined with the formal removals, INS identified, apprehended and removed almost 193,000 aliens in fiscal year 1997. This figure does not include an estimated 1.3 million aliens apprehended and returned at the border.

The INS removed a total of 14,851 criminal aliens through the Institutional Hearing Program (IHP), which involves identifying and processing deportable inmates prior to their release from Federal, State and Local institutions. Removals through the IHP program in fiscal year 1997 were 44 percent above fiscal year 1996 levels. During fiscal year 1997, four new sites were added to the Federal IHP, bringing the total number of sites to ten.

The INS' ability to detain aliens is directly linked to our ability to remove them from the United States. In fiscal year 1997, INS was allocated funding for an additional 2,700 beds, bringing total detention capacity to 12,050. As of September 30, the number of aliens occupying available beds was 13,491. Criminal aliens occupied about 59 percent of available detention beds through fiscal year 1997.

#### AUTOMATION AND TECHNOLOGY IMPROVEMENTS

Many of our initiatives would not be successful without concurrent technology improvements. One example is IDENT, our fingerprint identification system. In fiscal year 1997, we met 105 percent of our IDENT deployment goal. IDENT allows agents to identify criminal aliens and repeat crossers who were apprehended previously. We performed ten IDENT upgrades and deployed the system at 114 new sites, primarily in the southern border states of California, Arizona, New Mexico, Texas and Florida. IDENT has been installed at all major sites along the Southwest border and provides agents with a significant tool in securing our Nation's borders. IDENT deployment will continue in fiscal year 1998 at smaller sites as well as new sites along the Southwest border.

The INS also expanded the Datashare initiative with the Department of State (DOS). The increase in the exchange of data between DOS and INS has streamlined the Inspections and Immigration Adjudication process. A pilot program for Immigrant Visa automation and sharing of information is now in place at 15 consular posts and 16 ports-of-entry. About 53 percent of all Immigrant Visas issued have data transmitted through the Datashare initiative. We are currently working on the Non-Immigrant Visa phase of the Datashare program and plan to have a pilot running before the end of fiscal year 1998.

Progress was also made in fiscal year 1997 on the implementation of a new Border Crossing Card (BCC), mandated by Section 104 of IIRIRA. To implement this provision, as of April 1, 1998, adjudication responsibility for the BCC will shift to the Department of State (DOS), and INS will be responsible for production of the card. There are three BCC production machines that will be operational in May 1998. Two additional machines will be operational in September 1998. These five machines will enable INS to produce the total estimated number of BCC cards, as well as other INS cards.

As part of the mandate in Section 110 of IIRIRA to develop ways to automatically gather entry and exit information at all ports-of-entry in the United States, during fiscal year 1997, INS began testing an automated arrival and departure Form I-94 in the airport environment. Upon arrival in the United States, a traveler presents the new machine-readable form to an Immigration Inspector who records the arrival information. The Inspector then provides the traveler with a machine-readable departure card which the traveler returns when he leaves the United States. The automated I-94 is being piloted in cooperation with US Airways.

The INS members of the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) Team successfully deployed a Dedicated Commuter Lane as promised by the Attorney General in June 1995. This DCL, also known as a Pre-enrolled Access Lane (PAL) allows frequent, low-risk commuters who enroll in the program, to bypass the regular checkpoint procedures. This DCL lays the groundwork for a high-speed lane scheduled to be completed at the San Clemente checkpoint in 1998. The new effort will be based on the successful program already in place at Otay Mesa, California. In addition, the SENTRI Team has continued its efforts to deploy the secure, automated DCL to 5 additional sites along the southwest border, submitting a site survey report to Congress as part of the 1997 first quarter report on DCL's. Efforts to bring this technology to the northern border were also initiated in 1997.

INS also developed an INTERNET Web site for the public, and implemented it on August 12, 1996. To date, the INS site is serving over 176,000 users per month and is currently averaging about 5,700 visits a day. INS is serving customers from 86 different countries and over 200 cities representing all 50 States.

On January 7, 1997, INS implemented a special Web page for Naturalization information. The page allows the user to look at naturalization eligibility requirements, get forms, and even take an online self-test of U.S. history and government. The new site has been successful even in the short time it has been operational. To date, 33,618 users have accessed the site and 4,295 have taken the self-test.

In fiscal year 1997, we also continued work on improving standard office automation infrastructure and educating INS users about new automation. The INS trained 13,300 people in the agency on basic automation so that they can effectively use the new equipment. For the sixth year in a row, INS has received the Federal Technology Leadership Award for our work on automation.

#### INTERIOR ENFORCEMENT

Interior enforcement is a necessary companion to border control as part of the Administration's immigration strategy. With the progress of our border enforcement strategy in regaining control along the border and deterring illegal immigration, we have seen increases in alien smuggling. As the border is becoming more difficult to cross illegally, there is an increase in the demand for fraudulent documents. Aliens are now showing up in the work forces of industries that previously were not part of the illegal labor stream, and we are broadening our efforts to deal with these changes.

Our accomplishments demonstrate our commitment to interior enforcement. In fiscal year 1997, INS reached the largest worksite settlement ever against a Texas restaurant chain, which agreed to pay a \$1.75 million fine for knowingly hiring and employing illegal aliens. We exceeded our goals in completions of worksite enforcement criminal cases by 29 percent and completions of administrative cases by 25 percent. We completed over 5,000 lead-driven administrative cases in fiscal year 1997, exceeding fiscal year 1996 case completions by 46 percent. Criminal cases presented to the U.S. Attorneys Offices increased by 80 percent from fiscal year 1996, to a total of 146 in fiscal year 1997.

Fines levied against employers for substantive violations—hiring violations as opposed to paperwork violations—increased to 60 percent of total fines in fiscal year 1997, an increase of 39 percent over fiscal year 1996. Worksite enforcement cases completed against industries with a known history of noncompliance with the provisions of employer sanctions represented 56 percent of all cases. We also exceeded our goal for worksite apprehensions by 8 percent, apprehending 19,040 unauthorized workers in fiscal year 1997. In addition, in fiscal year 1997, the INS entered into agreements with three states to share information from worksite enforcement operations to promote state-run replacement worker programs that foster the hiring of legal workers.

In fiscal year 1997, INS also began three new pilot programs, two of which are joint efforts with the Social Security Administration, to test systems designed to quickly and accurately verify whether new employees are eligible to work in the United States. The INS began seeking employers to participate in the programs in September 1997.

Significant progress has also been made in worksite enforcement thus far in fiscal year 1998. During the first quarter of fiscal year 1998, we completed 1,011 lead-driven administrative cases. Ten criminal cases have been presented to the U.S. Attorneys and 132 fines were levied against employers.

#### ANTISMUGGLING, ANTITERRORISM, AND OVERSEAS DETERRENCE

In fiscal year 1997, INS successfully completed the investigation of 32,251 criminal alien cases, a 44 percent increase over fiscal year 1996. Successfully completed cases are defined as those in which a subject was prosecuted, or removed, or a benefit was denied based on the outcome of the investigation. Criminal alien cases include large scale organizations involved in ongoing criminal activity or individual aliens involved in drug smuggling or terrorism.

We achieved impressive results in connection with major smuggling cases. Examples of our success include a multi-regional/international investigation that resulted in the dismantling of an alien smuggling and exploitation ring in New York City involving deaf Mexicans. In addition, INS, for the first time, linked an anti-smuggling investigation in Arizona to a worksite enforcement investigation in Georgia, which resulted in the indictment of five people involved in a smuggling operation that provided undocumented workers to employers. The INS also participated in the first joint INS/FBI task force investigating alien smuggling.

In an effort to deter global migrant trafficking, INS opened thirteen new overseas offices and assigned 45 additional officers as part of the initiative "Operation Global Reach," which began in fiscal year 1997. For the first time, INS has established a permanent presence of criminal investigators and intelligence analysts overseas to work on deterring migrant trafficking in source and transit countries. Our overseas offices, working closely with host governments, were instrumental in crafting legislation criminalizing migrant trafficking in several Latin American and Caribbean countries.

## COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AND COMMUNITIES

The INS focused in fiscal year 1997 on improving community relations. A community relations officer (CRO) position was created to help identify and resolve immigration-related community issues and concerns and to educate the public on new immigration laws and regulations. By the end of fiscal year 1997, seven officers were on-board in key INS district and sector offices and another three CRO positions will be filled in fiscal year 1998. The CRO's dealt with a variety of issues, from responding to the public's need for information on IIRIRA implementation and the effects of welfare reform to responding to citizen reports of alien trafficking patterns and requests for information. CRO's implemented a major community relations operation in coordination with "Operation Rio Grande" along the Southwest border. In Illinois, the CRO helped resolve immigration-related conflicts and expanded state and city library citizenship outreach projects. In New York, the CRO conducted conferences and public education seminars with various community groups and local government representatives.

In fiscal year 1997, INS held meetings with community groups from California and Texas to explain the issues of concern to INS underlying day labor site problems, and as a result, a grant was awarded by the Bureau of Justice Assistance to the Los Angeles County Commission on Human Relations to conduct a "day labor project." The Commission's study will identify models of different day labor sites where community organizations and local law enforcement have effectively addressed issues of public safety surrounding the sites. The resulting document will provide information to cities and communities on ways to organize the sites, which should reduce the demand for INS presence.

The INS also consulted with State and local law enforcement officers in Utah and Florida on the designation of immigration enforcement functions. A draft memorandum of understanding resulted from the consultations in Salt Lake City and is currently being reviewed by the Department of Justice.

The Law Enforcement Support Center (LESC) was expanded during fiscal year 1997. The LESL, which is located in Burlington, Vermont, was started in fiscal year 1995. Since the LESL's inception, it has received and processed 94,800 status inquiries from law enforcement agencies in three states. The LESL currently responds to approximately 7,500 queries a month. The following locations currently have access to the LESL: Arizona; Iowa; Nebraska; Utah; Vermont; Puerto Rico; San Diego County; and Florida.

## INTEGRITY

Mr. Chairman, I realize that the Subcommittee has expressed concerns about several areas of INS' operations. I believe that we have made great strides in addressing the problem areas and working to ensure the integrity of our efforts.

*Naturalization Improvements*

The best example of our efforts to make significant improvement is our work on naturalization. The naturalization program has been our overriding concern for the past year. Addressing weaknesses in the naturalization program is contributing to most of the change currently underway at INS. In naturalization, we face one of our biggest challenges, ensuring public confidence and trust.

In the time since I appeared before you last year, I have created the Executive Office of Naturalization Operations (EONO) to reengineer the naturalization process. Under EONO, INS has implemented strict quality assurance procedures to improve processing, prevent mistakes, and increase accountability. As you may know, INS has just finished its review of the cases of individuals naturalized from August 1995 through September 1996. The naturalization review was comprised of three separate studies conducted by INS and supervised and validated by KPMG Peat Marwick, an independent auditing and consulting firm.

In the "Criminal History Case Review," which looked at all cases where an applicant had a criminal history record with the Federal Bureau of Investigation, INS found 369 cases that were naturalized despite having been convicted of a felony or a crime of moral turpitude, and another 5,954 cases that failed to support naturalization. Most of the 5,494 cases are those where the applicant did not give accurate information about a criminal arrest, even though the arrest itself may not have disqualified the applicant from being naturalized. All of these cases are currently under review by the INS Office of General Counsel for possible revocation of citizenship. During the first quarter of fiscal year 1998, the Office of the General Counsel has reviewed a total of 2,158 cases, 1,481 of which may be appropriate for revocation.

The "Random Sample Review" found that during the period before the implementation of quality assurance procedures, there was a high error rate in processing naturalization applications due to a lack of uniform processing standards and weak enforcement of the standards that did exist. We have taken the necessary steps to address these problems. KPMG reported in December that INS had made "significant improvements in the internal controls of the naturalization process and greatly reduced the risk of incorrectly naturalizing an applicant."

During its first ten months at INS, the newly-created Executive Office of Naturalization Operations has achieved several significant accomplishments. The primary focus has been on creating an organizational structure and acquiring the personnel needed to restructure the naturalization process. As of February 24, 1998, INS had established 23 of 75 planned free standing Application Support Centers (ASC's) and 51 ASC's collocated with existing INS offices. All of these ASC's are currently open and taking fingerprints, in accordance with the Fiscal Year 1998 Appropriations Act, that required all fingerprints for INS benefits to be taken by INS or other law enforcement agencies. By mid-March, all 75 free standing ASC's will be open. For those who cannot reach the fingerprint sites, a fleet of 45 vans will serve as mobile fingerprint centers or they will be directed to designated law enforcement agencies (DLEA's) operating under sole source contract agreements with the INS. All DLEA's will use INS fingerprint equipment and receive INS customer service training.

We have also made significant progress with the Direct Mail program. Through the program, certain applications and petitions for benefits are mailed directly to an INS service center for initial processing, rather than to local INS district offices or suboffices. By using Direct Mail, INS standardizes processing, reduces processing times, and improves the quality of status information on cases provided to the public. Currently, more than half of the INS offices have transitioned to Direct Mail for all new naturalization applications. By April 15, 1998, all district office and sub-offices will be part of Direct Mail.

We are also working closely with the consulting firm of Coopers & Lybrand L.L.P., which was contracted to assist us in reengineering the naturalization program. Coopers & Lybrand recently provided us with their proposed "blueprint" for the new naturalization process, which addresses issues such as changing testing procedures, establishing a telephone information and service center dedicated solely to naturalization issues, as well as other structural and procedural changes. We are moving forward to implement the plan. We are also developing backlog reduction plans for all of the naturalization offices. The steps being taken will dramatically improve the naturalization system, and help restore public confidence in the citizenship process.

#### *INSpect*

Another example of our commitment to addressing problem areas and ensuring integrity is the INS Program for Excellence and Comprehensive Tracking (INSpect). The program is a top to bottom review process that focuses on assessing office effectiveness; determining compliance with applicable laws, regulations, and procedures; measuring performance against established standards; and providing a means to share local successes and solutions applicable to service-wide problems. The program now consists of a corps of almost 800 subject matter experts who serve on INSpect teams on a rotating basis. During 1997, INSpect reviewed 8 INS offices which account for 23 percent of INS' field employees, issued 3 draft INSpect reports and one final report. The reports presented a total of 227 recommendations for corrections and improvements and 13 best practices or local successes with INS-wide applicability.

INSpect also did a great deal of work with naturalization operations. The teams reviewed operations at all nine Service Processing Centers and worked with field offices in preparation for the KPMG audit, assessing agency-wide compliance with the Naturalization Quality Procedures. Other subjects INSpect teams have addressed include detention and deportation management and issues concerning temporary holding areas and transportation in Western Region.

#### *Restructuring*

The various proposals to restructure or dismantle the INS have also received considerable attention. As you may know, the President has committed to review these proposals. The development of a restructuring plan is being coordinated by the White House Domestic Policy Council staff. The Congress has set a deadline of April 1 for the Administration to provide a proposal to how to best restructure, organize and manage immigration responsibilities.

I firmly believe that while INS' mission is complex, it is strongly interconnected. The Administration supports the view that enforcement and benefits are inter-

related and that one should not be addressed without the other in mind. We have already taken steps to streamline the administrative infrastructure, deliver better services and improve enforcement capabilities. With this in mind, the Department of Justice has contracted with Booz-Allen & Hamilton, an independent consulting firm, to provide advice to INS on how to achieve an implementation strategy that is focused on functional, programmatic operations and greater separation between enforcement and service functions. Booz-Allen has reviewed restructuring options, consulted with other Government agencies that have enforcement and service functions, and will provide information to the Administration on the development of a restructuring strategy in time to meet the April 1 deadline. I am confident that we will develop a viable organizational structure that will enable us to succeed in our service and enforcement missions.

As we examine issues of structure and reorganization, we will also have to look at other issues such as our pay compensation system and our management career development. There are currently a number of contradictions that exist in overtime and retirement compensation in various occupations.

#### FISCAL YEAR 1999 BUDGET

Now I will turn to the fiscal year 1999 budget and initiatives included in our request. For fiscal year 1999, we are seeking a total budget of \$4.2 billion and 31,499 positions for INS to further strengthen the Administration's comprehensive immigration strategy. The fiscal year 1999 budget represents a \$390 million increase in funding over the anticipated fiscal year 1998 spending level, and adds a total of over 2,600 positions.

The INS budget for fiscal year 1999 continues to support the immigration goals and strategies that the Administration and the Service have pursued so effectively over the past several years. In addition, it incorporates information on performance measurements that will lead to better accountability regarding actual results achieved. The thrust of INS' fiscal year 1999 budget is to further extend the ongoing initiatives aimed at controlling our international borders—encouraging and accommodating lawful commerce while simultaneously discouraging and preventing the unlawful entry of illegal border-crossers and dangerous drugs. The INS intends to build on its successful multi-year strategy to effectively regulate the border, both at and between the ports-of-entry, deter and correct illegal employment in the interior of the United States, combat and punish the smuggling of people and narcotics, as well as other immigration-related crime, and remove quickly ever greater numbers of alien criminals and other deportable persons. Concentration on the border areas and on the buildup of the agent workforce will not be allowed to overshadow the need to link border control with the requirement to enforce the immigration laws at interior locations. To that end, specific funding is requested for interior enforcement initiatives.

In addition to the expansion of INS' more visible enforcement functions, additional funding requested will strengthen the removal process, enhance interior investigative and enforcement functions, improve benefits processing for legal immigrants and prospective new citizens, and ensure that our employees and customers are provided adequate facilities supported by the most comprehensive and modern technology available. It is also necessary to ensure that the physical workplace of INS employees, both agent and support staff, keeps pace with the impressive growth of the agency's workforce. Also included in this budget are requests for the personnel and other resources necessary to efficiently and fairly enforce our immigration laws, as well as implementing the broad legislative mandates that Congress enacted in 1996. The intent of the INS fiscal year 1999 budget is to provide the INS with the personnel and tools essential to perform its vital purpose in the safest and most effective manner possible.

#### *Refine border management strategy*

The fiscal year 1999 budget includes \$225 million and 1,726 new positions which will sustain facilitation of entry and control at ports-of-entry, and continue the INS' National Border Control Strategy of "Prevention Through Deterrence." These funds will maintain the aggressive hiring and training efforts begun in fiscal year 1996 and continued in fiscal year 1997 and fiscal year 1998, once again bringing on-board a significant increase in the growing force of Border Patrol agents and other immigration officers.

The request for new Border Patrol agents and Inspectors is complemented by requested increases in force-multiplying technological capabilities, which will enable INS to consolidate and expand upon the achievements of the past several years. The goal of the fiscal year 1999 budget is to continue the expansion of our efforts to con-

trol the nation's borders and facilitate lawful commerce while deterring and denying the illegal movement of people and drugs.

A total of 1,140 positions and \$103 million is requested for the Border Patrol. These resources will provide an additional 1,000 Border Patrol Agents to join those already patrolling the Southwest border in California, Arizona, New Mexico and Texas. The deployment of these new agents will confirm the Government's enduring commitment to the National Border Control Strategy. At this point, the Border Patrol has proven that it can control these border areas, and has achieved dramatic results in areas like San Diego County in California and the urban El Paso area in Texas. Recent expansion of efforts into the Texas and New Mexico border will continue. At the same time, INS will not neglect nor abandon its successful regulation and enforcement operations in those border sectors now under control. While the majority of the new agents will be deployed to the Southwest border, the Border Patrol intends to deploy additional Border Patrol Agents along the Northern border and maritime areas of south Florida.

The Service's Border Patrol Agents are assisted in the successful accomplishment of their very difficult and demanding mission by state-of-the-art technology. The fiscal year 1999 budget provides for one position and \$12 million in continued funding for development and deployment of an integrated electronic surveillance system (ISIS) that will, in effect, eventually help to create an "electronic wall" along the border. The ISIS system extends the efficiency and effectiveness of the line-watch Border Patrol Agents, especially in the more remote and desolate regions, helping to deny these areas to illegal aliens and drug smugglers. Fiscal year 1999 plans also call for \$2.6 million for the installation of more Forward-Looking Infrared (FLIR) systems on Border Patrol aircraft, which will increase their night capabilities and the purchase of individual infrared pocket scopes and night vision goggles.

The INS requests 100 Immigration Inspectors and \$7.7 million for air ports-of-entry to improve facilitation by continuing the processing of passengers through primary inspection within the 45-minute standard. An additional 120 Inspectors, 10 Inspections support personnel and \$10.1 million are also requested for land and air ports-of-entry to support the expedited removal process. Section 302 of IIRIRA grants Inspectors the responsibility to remove fraudulent applicants for admission back to their countries of origin. Of the 130 positions mentioned above, a total of 100 positions will be deployed at major land border ports and 30 positions will be deployed to airports.

In addition, the Service requests 217 positions and \$19.5 million to expand the departure management initiative at three major air ports-of-entry. Key improvements will allow INS to deploy additional automated I-94 equipment to allow INS to comply with Section 110 of the IIRIRA for automated entry and exit control. A total of 210 Inspectors is requested to staff airports to monitor the arrival/departure system. Additional improvements to the Non-Immigrant Information System are also requested as part of this initiative.

Further funding of \$8.7 million is requested for automation and reinvention of the inspections process at land, air, and sea ports of entry. At the airports and seaports, INS plans to install new IBIS equipment at 5 terminals, deploy 100 Portable Automated Lookout Systems (PALS) notebooks to remote locations to allow for queries on INS' lookout database, install Secondary 2000 equipment at 5 airports, and expand the INSPASS project to two additional sites in fiscal year 1999. A total of 6 positions are requested to support the deployment of these new automation initiatives. The INS has also requested resources to reimburse the U.S. Customs Service for communication costs related to the use of IBIS.

In conjunction with Section 302 of IIRIRA, INS is required to expeditiously process asylum claims of expedited removal aliens. In order to meet the workload demands experienced at the land border and airports, INS requests a total of 60 Asylum Officers, 20 support personnel and \$8 million for asylum offices nationwide. Without additional staff, the Asylum program will be unable to meet the projected growing needs for asylum case processing in fiscal year 1999. The INS also requests 12 positions and \$1.9 million to provide the mandatory detention of inadmissible aliens in the expedited removal process.

In order to support the increased deployment of officers to the airports and seaports in fiscal year 1999, INS requests 34 positions and \$2.3 million for legal and management support. A total of 16 attorneys and 8 legal support will handle the anticipated litigation needs resulting from the implementation of the expedited removal process. In addition, 10 management support positions will recruit, hire, deploy, and service the officers and other positions requested.

The INS requests \$0.6 million in resources to provide fraudulent document and mala fide passenger analysis training to international airline carrier personnel and other overseas officials in fiscal year 1999. Three teams of 10 officers will be de-

tailed for 60-day operations for Operation Disrupt at select high volume illegal migration sites globally.

In fiscal year 1999, the INS is requesting \$48.6 million to support new Border Patrol construction requirements. This request will provide \$36.1 million for the construction of eight Border Patrol facilities. An additional \$5.1 million is being requested in fiscal year 1999 for the planning, site development, and design work required to support the future construction of eight new facilities and four checkpoint systems. The INS is also requesting \$7 million for eight military (JTF-6) and two other fencing and road projects. To help manage the additional construction requirements caused by the INS' massive growth in the last few years, \$400,000 is being requested for six facility program specialists.

*Implement integrated interior enforcement strategy*

The fiscal year 1999 Budget includes \$115 million to support 745 new positions to address the presence and consequences of illegal migration in the interior of the U.S. The evolving Interior Enforcement Strategy for fiscal year 1999 complements INS' Border Control Strategy by creating an interior "net" to apprehend those who have eluded INS' front line of deterrence by using sophisticated alien smuggling organizations. This strategy supports greater compliance with the resource intensive provisions of IIRIRA by (1) responding to changing migration patterns of illegal aliens and (2) effecting criminal alien removals. INS' detention construction projects further strengthen this strategy by expanding detention space needed to detain the increased number of criminal and non-criminal aliens subject to removal.

The request includes 124 positions (53 of which are Special Agents) and \$13.2 million to increase anti-smuggling investigations and initiate the National Intelligence Assessment. These resources will concentrate on secondary urban staging areas in identified corridors. Interior anti-smuggling enforcement teams using expanded new investigative authorities (e.g., asset forfeiture, Title III intercepts, and establishment of proprietaries and RICO prosecutions) will continue these efforts at identified final destinations aiding in the identification and prosecution of conspirators. To systematically collect, assess, and disseminate intelligence in support of the comprehensive anti-smuggling program, dedicated intelligence positions will begin efforts to produce the national Intelligence Assessment.

To investigate fraudulent immigration benefit applications, INS requests 70 positions (including 32 Special Agents) and \$7.9 million to establish multi-disciplinary fraud teams located in the Service Centers and Asylum Offices. INS is experiencing increasing numbers of fraudulent applications as a result of IIRIRA. For example, certain districts are experiencing extensive cases of marriage fraud, conspiracy, and citizenship testing fraud. Furthermore, INS continues to identify and investigate large-scale fraud schemes, some involving hundreds, and even thousands of suspect "beneficiaries." Special agents deployed on site at asylum offices and Service Centers will be well positioned to defeat and investigate fraud.

Forty-three positions and \$6.5 million are requested to increase INS' ground transportation, provide escorts for deportable aliens in transit to and from JPATS hubsites. An additional \$10.5 million is requested to support increased INS movement of over 46,000 illegal aliens by JPATS, thereby reducing the need to remove aliens by commercial aircraft.

A total of 30 positions (including 4 Special Agents) and \$3.2 million are requested to expand Community-Based Enforcement Teams to implement Section 133 of IIRIRA, which allows the Attorney General to deputize State and local law enforcement to perform certain functions of immigration officers. Three Community-Based teams consisting of a Special Agent and State and local law enforcement officers would be deployed to States with the highest illegal resident populations which request assistance from INS. This will allow INS to work closely with local law enforcement officials to address mutual problems associated with illegal immigration.

Sixteen positions (including 15 Special Agents) and \$3.1 million are requested to augment participation in the Joint Terrorism Task Forces (JTTF). The Alien Terrorist Removal Court, created in 1996, will increase the workload associated with the JTTF by requiring, among other things, the preparation of background reports on the proposed candidates and arrest of the alien terrorists. This initiative requires full-time dedicated Agents to correctly handle these classified removal cases having national security implications.

A total of 294 positions and \$31 million are requested for the Institutional Removal Program (IRP) to identify criminal aliens pursuant to IIRIRA provisions. These resources will support critically needed detention and deportation and investigations staff; detention space; alien transportation and welfare costs; and vehicles. The growth of the incarcerated criminal alien population is outpacing INS resources dedicated to removing aliens from institutional settings. INS' strategy includes ex-

panding previously enhanced IHP States; increasing staffing at Bureau of Prison release sites; increasing staff at the existing 12 county jails with the highest foreign-born populations; directing resources at choke points to avoid backlogs at State prisons, and decreasing instances where intake sites cannot hold criminal aliens long enough for INS to get there with current resources. This request will also fund additional space at the Federal Correctional Complex at Allenwood and provide 9 additional Video teleconferencing sites.

Forty-six positions and \$4.5 million are requested to locate, detain, and remove those aliens with final orders who are not in INS custody. Section 305(a) of IIRIRA requires the detention of every alien who becomes the subject of a final removal order. INS must be prepared to locate and assume custody of aliens who receive final orders of removal. INS will use a number of approaches such as the use of absconder recovery and removal teams to ensure expeditious detention and removal of aliens with final orders.

The Service is also requesting \$22.5 million and 122 positions in fiscal year 1999 to support its growing need for detention space. The request for fiscal year 1999 includes: \$9.4 million for 90 additional positions, vehicles, and start-up costs to support the activation of 500 additional beds at the Port Isabel SPC; \$9.4 million and 32 positions to support an additional 126 juvenile beds, which will provide the INS with an average of 500 juvenile beds in fiscal year 1999; and \$3.7 million for the reimbursement to the Public Health Service (PHS) for 24-hour health care coverage at detention facilities given the growing number of INS detainees.

In addition, for various detention construction projects, the Service is requesting \$12.6 million to replace old, antiquated dorms and buildings that have not been adequately upgraded, add detention space to detain criminal and non-criminal aliens subject to removal, and approach congressionally mandated requirements to increase the number of illegal aliens detained under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Act (IIRIRA). It is projected that the Service's average daily population will increase from 8,592 in fiscal year 1996 to 23,863 in fiscal year 2001. Included in this request is \$10.7 million for the construction of four detention projects to be completed in fiscal year 2000. An additional \$1.9 million is being requested for the planning, site development, and design work required to support four new detention projects scheduled for future construction.

#### *Improve institutional infrastructure*

The fiscal year 1999 INS budget includes \$48.7 million and 54 positions to support the INS' infrastructure requirements. The INS' rapid growth in personnel over the past six years continues to have a direct impact upon the agency's ability to meet its infrastructure demands. In fiscal year 1999, INS will continue to address its infrastructure weaknesses by increasing the replacement cycle of the agency's vehicle fleet, implementing a maintenance and repair system for its property inventory, and by improving and modifying INS' existing facilities.

The Service is requesting \$10 million and 4 positions to provide a more rapid vehicle replacement cycle, which will result in a better quality fleet, safer vehicles, lower operation and maintenance costs, less fleet down time, and an increase in future fleet disposal sales proceeds. At the end of fiscal year 1997, over 30 percent of INS' fleet, more than 3,000 vehicles, exceeded the Federal Property Management Regulation (FPMR) replacement standards. The fiscal year 1999 request will provide a 17 percent annual replacement cycle for sedans and light trucks, a 14 percent replacement cycle for school-type vehicles, and an 11 percent replacement for inter-urban buses. The four automotive fleet analysts positions requested will oversee a consolidated INS Fleet Management Program.

In fiscal year 1999, the INS is requesting \$10.2 million and 43 positions to address the mounting maintenance and repair costs of INS-owned buildings, roads, grounds, janitorial services, utility systems maintained by INS, border roads and fences, stadium lights, and communication towers. The resources being requested will provide funding to reduce the backlog of INS maintenance and repair projects which, between fiscal year 1999 and fiscal year 2003, are projected to cost between \$140,000,000 and \$191,000,000. These backlogged projects, which include several Service Processing Centers, Border Patrol checkpoints, and Border Patrol stations, represent the most serious safety and health problems within INS. The new positions which we are requesting and which will be dedicated to the field, are critically needed to manage the number of repair and alteration projects and provide maintenance of INS owned facilities.

The INS is requesting \$26.4 million and 5 positions to provide resources for new office space, above standard alterations, furniture, ADP cabling, telecommunications, and security requirements. A combination of factors, including: (1) historic space shortages; (2) current requirements for lease renewals, forced moves, consoli-

dations and other unplanned actions; and (3) the new growth which the agency has been experiencing in recent years, have created an enormous backlog of "One-Time" construction requirements, which current practices of using dedicated funding and lapse resources cannot adequately support.

The fiscal year 1999 budget includes \$2.1 million for systems development, data management, and the implementation of its Computer Linked Application Information Management System (CLAIMS 4.0). The INS will use ADP and other emerging technologies to support efficient, effective and integrated operations and management.

This request includes continued development and implementation of the CLAIMS 4.0 system with additional CLAIMS form types. CLAIMS 4.0 will be less costly to maintain and more flexible to support various reporting requirements. The new system will support 2D bar code scanning, use of debit and credit cards for application fees, deployment of electronic filing, electronic submission to external agencies, scanning of biometric information with access to the electronic A-file, and the use of secure and state-of-the-art fraud resistant documents that include biometric data. A primary feature of the CLAIMS 4.0 system is its "process control" mechanism that will not allow the operators to skip steps or operations unless all data fields are complete.

#### *Improving professionalism*

The fiscal year 1999 budget includes \$16.2 million and 81 positions to enable INS to continue its efforts to improve professional standards, build upon and enhance its current management systems, and provide the mission critical support needed to effectively carry out its enforcement and service roles. This initiative focuses on the overall professionalism of INS and its workforce, including resources for the Legal Proceedings program, the Office of Internal Audit, implementation of the Financial Management Information System, reduction of INS' Freedom of Information Act (FOIA) backlog, and resources to support records centralization projects. The following areas targeted for new resources address long-standing issues of improving accountability, accuracy, and appropriate staffing levels, as well as supporting the recent growth in legal casework primarily caused by the enactment of IIRIRA:

Forty-five attorneys, 20 legal support personnel and \$4.5 million are requested to address the critical staffing shortfalls in the Legal Proceedings program. The additional personnel will enable INS attorneys to provide legal advice and assistance to the INS' operations components, and to handle the program's work in such areas as employer sanctions, civil document fraud, Federal court litigation, asylum prescreening, labor cases, visa petitions, naturalization, conveyance seizures, and the training of INS officers.

An additional 16 positions and \$2 million are requested for the Office of Internal Audit (OIA). These additional resources will enhance the Service's capability to conduct internal investigations and comprehensive INSpect reviews of the field offices. The OIA workload has significantly increased over the past few years due to the agency's extensive personnel growth, new investigative responsibilities requiring OIA to review the files and disciplinary actions taken against potential witnesses in Federal trials, and an increase in case complexity and time-requirements.

A \$5 million request for the Office of Finance will allow INS to continue implementing its Financial Management Information System. This implementation of an integrated financial management system will give INS the ability to produce auditable financial statements that more accurately reflect the status and use of funds.

Nineteen term positions and \$4.7 million are requested to automate the tracking and processing of its Freedom of Information Act/Privacy Act (FOIA/PA) requests and to meet the current FOIA backlogs and anticipated workload. The development of the FOIA/PA Information Processing System (FIPS) program will enable INS to transform its existing paper-intensive, manual processes into a computer-based information processing system, placing INS in compliance with 1996 electronic FOIA legislation.

#### *Improve and centralize INS records*

Five positions and \$8.5 million are requested to support continued efforts to centralize and clean up INS records. The records centralization effort will allow INS to improve the way it accesses, stores, and delivers alien information. This compliments INS' verification strategy by improving the accuracy of data, enhancing response time, and increasing the accessibility of critical information used to stop those individuals who are not authorized from working in the United States, and to ensure that only those authorized receive entitlements. Records cleanup will increase data integrity, which will in turn lead to more rapid and accurate verifica-

tion, and renewed confidence in INS records by all of its customers, both internal and external.

Specifically, INS will utilize the funds to improve infrastructure for the Service's Records Program, which will be used in support of all areas within INS, on both the enforcement and services sides. Additionally, INS will expand the contracting of services to support records operations, allow the Service to institutionalize multi-level quality controls to ensure effective compliance with re-engineered records operating procedures during the transition to centralization, and promote the completeness, accuracy, and predictability of transition operations through increased standardization. The Service is currently using records contract support in Los Angeles, Chicago, Miami, New York, San Francisco, Houston, and Newark. A portion of these contractor resources will be redirected to support operations in the centralized records environment.

#### CONCLUSION

These new fiscal year 1999 resources will give INS the personnel and tools needed to carry out the effective immigration strategy begun four years ago. I look forward to continuing to work with the Subcommittee. With your support of this budget request, we can carry forward the improvements made during the last few years. We have made great strides in addressing problems areas and working to ensure the agency's integrity. I want to work with you to alleviate your concerns and build your trust as we continue our efforts to make this nation's immigration system the best that it can be.

This concludes my formal statement on the 1999 budget request for INS. I would be happy to answer any questions which you, Mr. Chairman, and Members of the Subcommittee may have.

#### STATEMENT OF LOUIS J. FREEH

Senator GREGG. Director.

Mr. FREEH. Thank you, Mr. Chairman. Good morning, members of the committee. It is a pleasure to appear here. Let me also begin by thanking this committee for its generous support of FBI programs; in particular, the counterterrorism resources which you expanded greatly over the past 2 years and which have been put to immediate good use for the protection of the country. Also, your resources in support with respect to the crimes against children program has been a phenomenal success: 177 convictions; many more cases being developed in an area where all of us are very vulnerable.

I also appreciate, Mr. Chairman, your comments with respect to the sacrifices that law enforcement officers make. As you know thus far this year, more State and local officers have been killed in the line of duty than in 1997, and those are trends which are very sobering for us here today.

Let me just very briefly go over what is a much more lengthy submission, with your permission. The FBI in 1998, obviously, faces many of the same challenges but also many new challenges. In June, we will celebrate our 90th birthday as an institution. Many things have changed over those 90 years and many of the threats remain. Espionage and intelligence activities are still areas which occupy great interest and many resources. In addition to the traditional intelligence activities, as you know, we have approximately 23 foreign countries which conduct economic espionage in the United States, and since our economic security corresponds to our national security, that is an area of great vulnerability.

#### TERRORIST THREAT

The terrorist threat, as we have seen, unfortunately, continues unabated both overseas and at home; again, thanks to your support

and the resources that the committee has provided, we have seen tangible results, whether taking Kasi back for trial in Fairfax County; the convictions of McVeigh and Nichols for domestic terrorism; or the return and multiple convictions of Yousef for the World Trade bombing case. Those are the cases which remind us of the increasing vulnerability and threats from both domestic and foreign terrorists.

With respect to weapons of mass destruction, again, the support which this committee and the Congress provided put us in good stead several weeks ago in Las Vegas. Although the threat turned out to be not a credible threat, all of the indicia but, more importantly, the preparedness, including the equipment, the hazardous materials response unit which has been established in our laboratory, the cooperation and the prearrangements between the military and the Department of Justice, allowed us to respond to that event much more successfully than we would have in the absence of those resources and preparation.

We have investigated over 100 cases in 1997 with respect to weapons of mass destruction. Although most of these have turned out to be noncredible, that is three times the number of cases from 1996. We are using the Nunn-Lugar-Domenici domestic funds to train local first responders all over the United States. Those are protections and benefits which will enure to all of the people of the country.

We are concerned about both traditional and emerging criminal enterprises, not only Russian organized crime and Asian groups but even the traditional groups here in the United States such as La Cosa Nostra.

#### ENCRYPTION ISSUE

The encryption issue continues to be an issue which challenges public safety and national security, and we certainly support a continued commonsense dialog, as well as effective measures to balance an encryption policy so that we can have robust encryption and also not impinge on our national security or our protection. We see spies like Ames and terrorists like Yousef using encryption. Also now, to an increasing extent, drug dealers all over the United States are using various levels of encryption to defeat court-authorized electronic surveillance orders.

#### BUDGET INCREASES

With respect to the 1999 budget summary, very quickly, we have asked for \$3 billion in direct budget authority, and that includes 28,834 permanent and reimbursable positions, which includes 11,677 agents, which will be the highest special agent complement that the FBI has had. We are asking for program increases in the amount of \$94 million in direct budget authority and 340 permanent and reimbursable positions, including 146 special agents.

#### COUNTERTERRORISM AND CYBERCRIME

Of the four major program areas where we have asked for increases, I would highlight counterterrorism and cybercrime as the first category. In many ways, in 1998, the computer and the

modem have taken the place of the telephone and the motor vehicle 60 years ago. Law enforcement had to quickly retool and refocus its resources in the face of those technological developments. With respect to what the FBI does, both in national security and public safety, we need to retool and prepare to deal with these new, emerging types of technology which are being used to commit crimes of every category.

Electronic intruders and computer sabotage cases specifically have begun to increase at an alarming rate. Already, the FBI is working 458 cases in the first quarter of 1998. That is almost double the total number of cases in 1997. We are increasingly reliant in the United States on our national information infrastructure: all of our agencies, all of our businesses and, to a greater extent, our personal lives are directly related to safe, reliable, and protected commerce over these new electronic and technological means.

We have set up in the FBI now, six computer investigation and threat assessment squads. We began in 1993 with one squad in Washington, DC. We now have squads in New York, San Francisco, and three other cities. For 1999, we have asked for the resources to establish six new computer squads around the country. To an increasing extent, these squads not only work on computer intrusion cases but also assist other squads when a search warrant turns up hard drives and disks instead of boxes of records. The squads are also charged with liaison with the private sector in those particular regions to deal with investigating cyber threats. These squads give us forensic capability in a venue which is very new to us.

We established the Computer Investigation and Infrastructure Threat Assessment Center in July 1996. We are asking for resources to increase both the size and the capability of that facility and to incorporate it into the National Infrastructure Protection Center, which the Department of Justice has established in a coordinated fashion. Under the counterterrorism fund, \$33.6 million is being requested for implementing the administration's policies with respect to the findings of the President's Commission on Critical Infrastructure, and this will be used to establish the National Infrastructure Protection Center. Both State, local, Federal as well as private sector participation will exist with respect to the center.

We are also asking for additional resources to continue the preparation of State and local first responder resources with respect to weapons of mass destruction, reaction, and investigation.

We have asked for funding for an information sharing initiative. More than one single issue which I receive when I travel around the field regularly to visit our 56 divisions is the real necessity to upgrade and renetwork the entire information collection, storage, retrieval, and analysis system of the FBI. Although we have a wide-area network and a Novell system which is adequate for present purposes, it is inadequate in terms of long-range investigative competence, particularly when the information which we are now acquiring is being acquired in digital form. We have asked for an initiative over the next 4 years which will give the FBI the equipment, training, and infrastructure to deal with what is increasingly the greatest challenge for an agency which collects information: which is the technological means of collecting, storing, analyzing, and then disseminating that information.

I am happy to report that the NCIC 2000, as well as the IAFIS system, are on schedule and within budget. Both of those systems should be online by July 1999.

#### INDIAN COUNTRY LAW ENFORCEMENT INITIATIVE

We have asked for enhanced funding with respect to an Indian country law enforcement initiative. We have found that although crime, particularly violent crime, has decreased around the country—25 percent decline in the murder rate, for instance—with respect to Indian country the murder rate unfortunately, has risen upward of 80 percent. There are fewer than one-half as many law enforcement officers per capita in Indian country than elsewhere in the United States. We have the responsibility to protect about 1.4 million citizens who live within those areas. We are having increasing difficulty addressing those problems with the current resources. So, we have asked for funding which will give primarily our eight field divisions, which deal with 90 percent of the crime in Indian Country, mostly violent crime, critical new resources.

#### HATE CRIMES

With respect to hate crimes and civil rights enforcement, the uniform crime report for 1996 reported 11,000 hate crime incidents, and we are concerned, as is the Congress and the country, with the alarming increase with respect to hate crimes. We have asked for some funding to establish an analytical capability which will give us some ability to better analyze and deal with the increasing number of hate crimes and, particularly, the increase in crimes with respect to color of law violations, violations by law enforcement officers, which are the most serious in many regards.

We have established outreach programs and training programs with our State and local counterparts to do the very best we can to use our current resources to preempt and train away from the circumstances which have traditionally led to many of these abuses.

We have also asked for some continued improvements to the FBI Academy firearms ranges at Quantico. Phase one, which was funded in 1996, has greatly increased or will increase the potential for firearms training which, as you know, is given there not only to the FBI but to DEA and to many State and local officers. We have asked for a continuation of that in 1999 in the amount of \$10 million.

#### TELECOMMUNICATIONS CARRIER COMPLIANCE

We have also requested for 1999 \$100 million as part of the Department's telecommunications carrier compliance fund. This is the money which was authorized for the first time in 1997—I am sorry; appropriated in 1997, authorized in 1994—to deal with the changes in telecommunications technology which have made it very difficult and would ultimately make it impossible to exercise interception orders without the switching infrastructure changes. This is the money which goes to the reimbursement of the carriers.

## NARROWBAND RADIO COMMUNICATIONS

We have also asked for some appropriations to deal with the narrowband radio communications problem, which is not just an FBI problem but a problem for 700,000 police officers around the United States. As you know, all law enforcement agencies are required, by 2005, to change from the current 25 megahertz frequencies to 12.5 megahertz. The narrow banding will make for more efficient communications; also, for more interoperability. The problem is that this migration is going to cost a substantial amount of money. There is no separate funding available at this time for that project, and we have asked for \$64 million within the Department of Justice narrowband communications fund to begin what will be a 5-year effort to give the FBI, as well as the agencies represented here the capability and resources to make that migration and operate a radio system which works in the 21st century.

The FBI now operates the largest civilian land-based mobile radio system in the United States, but the other Federal agencies and, derivatively, the State and locals, will also need this technology change and benefits to effectuate the change.

## PREPARED STATEMENT

Again, let me express my appreciation to you, Mr. Chairman, and the committee for your support of Federal law enforcement and particularly in the areas of counterterrorism and the crimes against children.

Thank you very much.  
[The statement follows:]

## PREPARED STATEMENT OF LOUIS J. FREEH

Good morning, Mr. Chairman and members of the Subcommittee. I am very pleased to appear before you today to discuss the 1999 budget request for the FBI.

I would like to acknowledge the strong support of the Subcommittee for the FBI in the 1998 Justice Appropriations Act, especially with regard to funding provided for Counterterrorism activities and our efforts to combat child pornography on the Internet. I am also grateful for your support in providing us with additional authorities to become more competitive in recruiting, hiring, and retaining individuals with critical skills.

## CHALLENGES FACING THE FBI

Just a few short months from now, in June 1998, the FBI will celebrate its 90th Anniversary. Since its beginning in June 1908, the FBI has built a distinguished record of serving the American people by effectively responding to the crime and national security challenges of our times—the gangsters of the 1920's and early 1930's, the rise of interstate crime, the cold war era, the unrest of the 1960's, the emergence of international crime, and the uncertainty of the post-cold war world. Each of these challenges required the FBI to respond to new crime and national security problems. As I look ahead toward the challenges that face the FBI as it approaches the turn of the century, I am confident that our past will serve as a guide toward our future.

There are many challenges facing the FBI as it approaches the 21st Century. Changes in national and world politics, economics, technology, and social conditions complicate efforts to reduce crime. These are formidable challenges, but not insurmountable. As old threats diminish and new ones appear, the FBI must meet each challenge with a flexible, proactive response. I would like to highlight several of the challenges facing the FBI today and in the future.

*Espionage and Intelligence Activities.*—The fall of communism has not reduced the level or amount of espionage and other serious intelligence activity conducted against the United States. We still face a deadly, serious foreign interest in traditional intelligence activities. New challenges in the realm of intelligence and na-

tional security are emerging. To meet these challenges, the FBI must be able to counter threats posed by intelligence activities committed by non-intelligence personnel, maintain the integrity of the Nation's critical information and physical infrastructures, and counter technologically sophisticated adversaries exploiting advanced technologies to commit espionage.

*Terrorist Threat.*—The threat posed by both international and domestic terrorists against Americans and United States national interests will continue for the foreseeable future. With your help, the FBI and the United States Government is in a better position to deal with this threat. Despite recent successes, such as the rendition of Mir Aimal Kasi from Pakistan and his conviction on charges of capital murder, the conviction of Sheik Omar Rahman for conspiracy, the convictions of Timothy McVeigh and Terry Nichols, and the conviction of Ramzi Ahmed Yousef, mastermind of the 1993 World Trade Center bombing, the Nation must remain vigilant. Terrorism is perpetrated by individuals with a strong commitment to the causes in which they believe. An action in one location can bring about a reaction somewhere else. As the United States develops a stronger investigative and prosecutive response to terrorists, the Nation may witness more attempts at reprisal at home and abroad.

*Weapons of Mass Destruction.*—The FBI views the proliferation of weapons of mass destruction as a serious and growing threat to our national security. During 1997, the FBI initiated over 100 criminal investigations involving nuclear, biological, and chemical threats or incidents. Many of these threats were determined to be non-credible; however, the number of investigations has increased three-fold over the previous year. The ease of manufacturing or obtaining biological and chemical agents is disturbing. Available public source material makes our law enforcement mission a continuous challenge.

In partnership with the Department of Defense and other federal agencies, the FBI is participating in the Nunn-Lugar-Domenici Domestic Preparedness Program that trains local first responders to contend with the consequences associated with an incident involving weapons of mass destruction. With this Committee's support, we are also upgrading the FBI's own weapons of mass destruction capabilities, including equipment and training.

*Emerging Criminal Enterprises.*—Where the FBI's posture against traditional adversaries, such as organized crime, remained stable and predictable over a number of years, the current environment is characterized by emerging crime issues and groups which are less clear, more numerous, and which often transcend the FBI's traditional program management and investigative structure. For example, Russian crime groups are not only involved in typical organized crime activities, such as loan sharking, extortion, and prostitution, but also in such activities as medical fraud, tax evasion, and bank fraud. Asian criminal enterprises are not only trafficking in illegal narcotics, but they are also involved in the theft of computer and high-technology components. No longer can law enforcement easily categorize the illegal activities of organized criminal enterprises.

*Encryption.*—One of the most difficult challenges facing all of law enforcement is how rapidly terrorists and criminals adopt advanced technologies to thwart law enforcement's ability to investigate those who wish to do harm to our Nation and its citizens. That is why encryption is one of the most important issues confronting law enforcement. Law enforcement remains in unanimous agreement that the widespread use of robust non-recoverable encryption will ultimately devastate our ability to fight crime and terrorism. Uncrackable encryption allows, and will continue to allow with increasing regularity, drug lords, terrorists, and even violent gangs to communicate about their criminal intentions with impunity and to maintain electronically stored evidence of their crimes impervious to lawful search and seizure.

Convicted spy Aldrich Ames was told by his Soviet handlers to encrypt computer file information that was to be passed to them. Ramzi Yousef, convicted with others for plotting to blow up 11 United States owned commercial airliners in the far east, used encryption to protect files on his laptop computer. A major international drug trafficker recently used a telephone encryption device to frustrate court-authorized electronic surveillance. The FBI is encountering a growing number of cases where 56 bit Data Encryption Standard (DES) and 128 bit "Pretty Good Privacy" encryption are being used for protection by criminals.

As Congress continues its work this session towards a balanced approach to the important issue of encryption, I urge you to consider public safety and national security concerns regarding encryption products and services manufactured for use in the United States or imported into the United States.

*Strategic Management Focus.*—The 1999 budget is the first to be submitted in compliance with the Government Performance and Results Act. The FBI is continu-

ing its efforts to integrate strategic planning and budget processes through an extensive strategic management focus under the leadership of the Deputy Director.

FBI investigative and intelligence strategies must reflect the FBI's best judgment concerning the nature of the threat posed to the American people and the FBI's capacity to respond at both the national and local levels. Over the past several months, key managers responsible for the FBI's criminal investigative and national security programs have been developing operational, intelligence, technology, state and local assistance, and management strategies to guide the FBI as it enters the 21st century. At the heart of these strategies will be the core values and strengths that have served the FBI so well over the past 90 years. These strategies, which are still being completed, will also identify sound approaches for responding to the challenges associated with the dynamic nature of emerging crime problems and national security environment.

#### 1999 BUDGET SUMMARY

The 1999 budget helps position the FBI along this roadmap to the future. For 1999, the FBI is requesting \$3,014,654,000 in direct budget authority and 28,834 permanent and reimbursable positions, including 11,677 agents. To carry out several priority initiatives, including those in the areas of counterterrorism and cybercrime, information sharing and Indian Country law enforcement, the FBI is requesting program increases totaling \$94,004,000 in direct budget authority and 340 permanent and reimbursable positions, including 146 agents. Within the Department of Justice General Administration programs, additional funding is proposed to support new and continuing initiatives related to counterterrorism, cybercrime, narrowband radio communications, and telecommunications carrier compliance. All of these programs will directly support FBI operations in 1999.

#### COUNTERTERRORISM AND CYBERCRIME

The criminal exploitation and illegal electronic intrusion into public and private sector computer networks is rapidly escalating into a major crime problem. The national and economic security of the United States relies extensively on a national information infrastructure (NII) that is vulnerable to disruptive forces. These forces include natural events, mistakes, technical failures, and malicious acts by hackers, disgruntled employees, criminals, industrial spies, foreign agents, and terrorists. The advent of complex computer and communications networks has produced a tandem capability for the potential of illegal information retrieval, disruption and/or destruction from various sources. White-collar criminals, economic espionage agents, organized crime members, foreign intelligence services, and terrorist groups have all been identified as "electronic intruders" with the potential to have immediate and severe consequences for every facet of government and industry.

The United States is increasingly reliant on complex, networked infrastructures for its national and economic security and the welfare of its citizens. The movement of the United States towards an information-based economy, and the rapid expansion of electronic commerce, has greatly increased dependence upon the NII. Any protracted loss of critical infrastructure would severely impact national security and the national welfare. In recent years, unknown intruders have penetrated telecommunications carriers, Internet service providers, and other government, private and university systems. Lists of Frequently Asked Questions (FAQ's) outlining the specifics of system vulnerabilities are widespread. "The Unofficial Web Hack FAQ," "The Hacker FAQ," and "How to Hack a Website" are popular, accessible, and easily downloaded from the Internet. Knowledgeable observers and recent surveys predict that malicious acts directed against the NII will only increase in frequency and sophistication, and will continue to pose grave consequences and potential harm.

The challenge facing the FBI today in the area of cybercrime is building the requisite capabilities to address this rapidly growing and evolving problem. Technology exploitation is an emerging problem which touches virtually every area of the FBI's mission, including white-collar crime, counterterrorism, foreign counterintelligence, violent crime, organized crime and drugs. The FBI must act now to identify, train, equip and deploy investigative resources to stay abreast of the growing caseload, as well as meet its responsibilities for infrastructure protection. We are building this capability at two levels: through specialized and highly trained field squads; and, the operation of a national-level center that supports field investigations and coordinates with other federal, state and local agencies and the private sector.

*CITA Squads.*—One of our strategies for establishing a cybercrime investigative capability is the staffing of Computer Investigation and Infrastructure Threat Assessment (CITA) squads. Currently, there are three squads located in Washington,

D.C., New York City and San Francisco. New squads are being established this year in Chicago, Dallas and Los Angeles.

For 1999, the FBI requires \$11,607,000 and 124 positions, including 75 agents, to staff, equip, and train 6 additional CITA squads in Atlanta, Boston, Charlotte, Miami, Minneapolis, and Seattle. This would provide a total of 12 CITA squads by the end of 1999.

*National Infrastructure Protection Center (NIPC).*—In July 1996, the FBI established the Computer Investigations and Infrastructure Threat Assessment Center (CITAC) to support our network of field CITA squads by providing in-house support to criminal and national security investigations and related activities. Since its establishment, CITAC has played critical roles in the successful resolution of several significant criminal and national security intrusion cases. Recent case experiences have underscored the importance of interagency collaboration when responding to the range of threats and incidents affecting the nation's critical infrastructure. Unfortunately, the intentions of intruders into critical information systems is not usually known at the outset of an event. Consequently, law enforcement agencies, the intelligence community, and the United States military must work together with private sector owners and operators in determining the appropriate government response to intrusions and attacks against the critical infrastructure.

In recognition of the broad range of the threat to critical infrastructure, and to bring about an interagency capability to detect, assess, and act upon threats and intrusions, the Department of Justice and the FBI developed a plan in late 1997 to expand the scope of the CITAC into the National Infrastructure Protection Center (NIPC) that would provide more advanced analysis and warning, emergency support, training, and outreach capabilities than the current CITAC. The Attorney General has approved this plan and the CITAC is now the IPC. As proposed, the NIPC would be jointly staffed with other participating federal agencies, including the Department of Defense, and the private sector. I envision the NIPC as a national resource that supports cyber emergency response efforts and helps determine if an incident, or series of incidents, is either a criminal or terrorist act, an effort to collect intelligence, or, in fact, a hostile attack initiated by a foreign power.

The NIPC concept was presented to the Administration for consideration as it makes policy decisions regarding the findings and recommendations of the President's Commission on Critical Infrastructure Protection. These decisions are currently being weighed by the Administration.

Within the FBI's 1999 budget request, an increase of \$10,412,000 and 9 positions is requested for the operations of the NIPC at FBI Headquarters. These additional positions will allow the FBI to expand its present cyber and infrastructure watch and warning capability. This funding will also be used to develop a comprehensive and secure indication and warning system, acquire equipment for the new field squads, provide training programs and expand communications and sharing of investigative techniques and detection tools.

Under the Counterterrorism Fund, \$33,603,000 is requested for implementing Administration policies adopted to address the findings and recommendations of the President's Commission on Critical Infrastructure Protection. This funding could be used to support the expanded roles and responsibilities proposed for the NIPC.

*State and Local Preparedness.*—As I indicated earlier, the FBI continues to work closely with the Department of Defense and other federal agencies to train State and local communities for contending with the consequences of weapons of mass destruction. For 1998, this Committee was instrumental in providing funding under the Attorney General's Counterterrorism Fund for first responder training and to allow States and localities to acquire basic personnel protective gear and detection, decontamination, and communications equipment that is necessary for responding to terrorist incidents involving chemical or biological agents or nuclear materials. We are working with the Office of Justice Programs to set up the framework for a grant program to make these equipment funds available to States and other appropriate local units of government.

The President's 1999 budget request for the Counterterrorism Fund includes \$16,000,000 to continue this multiyear effort to improve State and local capabilities for incidents involving weapons of mass destruction. I encourage the Committee to again support funding for this important initiative.

#### INFORMATION SHARING

When I first became Director of the FBI in 1993, I set in motion the linking of the FBI's and DEA's drug databases so that agents and analysts from each agency could benefit from the sharing of case and intelligence information. That effort, called Drug-X, now extends to the Treasury Department's TEC's database. Simi-

larly, in 1995, I established the FBI Counterterrorism Center to facilitate the sharing of intelligence and law enforcement information on terrorism among federal, State, and local agencies. As I look toward the future, I clearly see a continuing need for these and similar efforts among law enforcement to share case and intelligence information. Yet, as I look at where the FBI is today in terms of its own information technology capabilities, I must admit that we are several years and many dollars away from possessing the critical information technology infrastructure that will allow the FBI to realize the full benefits from its own case and intelligence information, much less be able to share that information electronically with others.

One of the most recurring and critical needs cited by FBI managers in their operational strategies is for improved information technology and information systems that better serve the day-to-day case management and intelligence processing requirements of our street agents, intelligence analysts, and support staff.

In order to bridge the gap between current automation and case management capabilities and the functionalities our managers believe are critical to successfully meeting the crime problems ahead of us, we are proposing a three-phase, multi-year Information Sharing Initiative to build a comprehensive computing infrastructure for the FBI. Our initial emphasis, for which \$50,000,000 and 20 positions is requested for 1999, will be on upgrading existing equipment, networks, and software to support FBI-wide document/image management capabilities. Key features of the first module are the ability to store all investigative and administrative data in an electronic format and the ability to access and share this information between FBI locations. Communications services and capacities will be increased to permit the transmission of all types of data and graphics. Implementation of this capability would take approximately 18 months.

Once our baseline information technology infrastructure is upgraded, we will focus upon improving analytical capabilities (phase 2) and providing multi-level security that would allow sharing of information with other federal, State, and local agencies, consistent with a need to know such information (phase 3).

Over the past several years, the Congress has generously supported major FBI information technology investments, such as the Integrated Automated Fingerprint Identification System and NCIC 2000. These systems will greatly improve the exchange of information between State and local law enforcement and ensure those vital criminal justice information services remain effective as we enter the 21st century. I ask your support for the first phase of the Information Sharing Initiative so that FBI field offices around the country can benefit from the application of information technologies which will enhance our internal case management capabilities.

#### INDIAN COUNTRY LAW ENFORCEMENT

While we can be encouraged that communities around the nation are experiencing reduced levels of crime, that is not the case for communities in Indian Country. For example, the murder rate nationwide declined 20 percent between 1992 and 1996; however, murders in Indian Country have risen 87 percent over the same period. A 1996 Indian Health Service report found that an Indian male is three times as likely to be murdered as a white male. Reported crime in Indian Country is twice as likely to be violent as compared to crimes reported elsewhere in the United States, yet there are fewer than half as many law enforcement officers per capita in Indian Country than elsewhere in the United States. Violent Indian gangs, many with juvenile members, are a frightening new reality on many reservations. Drug abuse has added to problems caused by alcohol abuse. The basic law enforcement protection and services that we often take for granted in many of our communities are severely inadequate for the more than 1.4 million people who live on or adjacent to Indian reservations, allotments, and dependent Indian communities governed by federally-recognized tribes.

The federal government has a unique responsibility for providing for the safety of individuals living in Indian Country. For most of Indian Country, federal law enforcement is the only protection for victims of violent felonies. Between 1994 and 1997, 83 percent of the crimes on Indian reservations cases opened by the FBI involved either crimes of violence (47 percent) or the sexual or physical abuse of a minor child (36 percent). While 31 FBI field offices have some degree of Indian Country investigative responsibility, 90 percent of the cases opened between 1994 and 1997 were in just 8 field divisions located in western states.

For 1999, the FBI requests an increase of 50 positions, including 30 agents, and \$4,657,000 to improve the delivery of law enforcement services in Indian Country. These agents will be assigned to FBI offices covering reservations and supporting task forces in Arizona, Colorado, Idaho, Minnesota, Nevada, New Mexico, North

Carolina, North Dakota, Oklahoma, South Dakota, Utah, Washington, and Wyoming. These resources will allow us to add two more Safe Trails Task Forces and provide task force coverage to four additional reservations. Safe Trails Task Forces are interagency working groups that leverage the resources of the FBI, United States Attorneys, other federal agencies, state and local law enforcement and prosecutors, Indian Tribal police, and Bureau of Indian Affairs (BIA) investigators. We believe these task forces can be as effective in Indian Country as FBI Safe Streets Task Forces have been in communities across the nation. We will also continue training BIA and Indian Tribal police officers to develop the necessary basic and advanced investigative, evidence recognition and collection, and management skills needed to perform their duties and serve their communities.

An important facet of our commitment to improving the full range of law enforcement services in Indian Country is victim/witness services. We are requesting an increase of \$3,352,000 to hire 31 full-time victim/witness coordinators who will be assigned to key FBI resident agencies in Indian Country. These coordinators will work closely with FBI Agents and Safe Trails Task Force participants responding to and investigating crimes committed in Indian Country.

#### HATE CRIMES AND CIVIL RIGHTS ENFORCEMENT

The consensus among law enforcement professionals, academicians, and community groups is that the hate crime problem is far more pervasive than currently recognized. The most recent Uniform Crime Report for 1996 reported nearly 11,000 hate crime incidents. These crimes involved murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property. Participation among reporting law enforcement agencies is increasing—1996 data represents agencies covering approximately 86 percent of the Nation's population. Regrettably, law enforcement analysts recognize that further work is needed before a clear and reliable picture of the number of hate crimes in the United States is available.

For 1999, we are requesting an increase of 3 positions (1 agent) and \$196,000 to enhance the civil rights analytical capability at FBI Headquarters. These individuals will research and analyze civil rights and police misconduct cases to identify their causes, trends, and develop possible solutions to prevent further incidents.

As the lead investigative agency for criminal violations of federal civil rights statutes, the FBI must be viewed by all stakeholders involved in these types of cases, including minority communities, special interest groups, and police agencies, as an honest, unbiased and aggressive force in the area of civil rights. At the field level, the FBI will be emphasizing its outreach programs to targeted audiences in order to build cooperative partnerships that will create a climate of trust between law enforcement and minority groups that encourages victims to come forward. As the Attorney General indicated last week, the FBI plans to redirect, within existing base resources, 40 agents for Hate Crime investigations.

We are equally committed to providing training to police agencies to raise their recognition of events and actions that will result in civil rights violations committed under the color of law, with the goal of preventing such acts from occurring.

#### FBI ACADEMY IMPROVEMENTS AND CONSTRUCTION

Over the past several years, I have sought your help in ensuring the FBI's infrastructure is strong and solid. Congress has responded by supporting the construction of a new FBI Command Center, a new FBI Laboratory facility, and other important infrastructure investments. The 1999 budget proposes several increases for infrastructure projects and activities at the FBI Academy, located in Quantico, Virginia.

*FBI Firearms Range Project.*—The existing outdoor firearms ranges at the FBI Academy have been in use and are virtually unchanged since the early 1950's. These ranges need modernization due to the stress from heavy new agent, in-service, and other training demands from both the FBI and Drug Enforcement Administration. There are associated environmental concerns resulting from the accumulation of lead in surrounding land and the potential for ground water contamination. In 1996, Congress provided the FBI with funding for the first phase of a firearms range modernization project. Those funds have allowed us to acquire architectural and engineering services, begin lead abatement efforts, and relocate and modernize three existing outdoor ranges.

For 1999, \$10,000,000 is requested for the second phase of this project which includes plans for completing the lead abatement effort and the construction of an all-weather outdoor range and an obstacle and combat training facility.

*FBI Academy Master Plan.*—An increase of \$2,859,000 is requested to acquire architectural and engineering services to update the FBI Academy Master Plan. The plan will allow us to gather the information required for planning necessary improvements, maintenance, and future expansion required by existing facilities at the FBI Academy. It will also guide us in the most effective and efficient use of available land, space, and facilities at the complex to meet the needs of our Critical Incident Response Group and Engineering Research Facility. To support the activities of the FBI Academy Construction and Facilities Management staff, a direct increase of 3 positions and \$141,000 is requested. Additionally, we are requesting 11 reimbursable support positions to provide operations and maintenance support for the new Justice Training Center which is expected to become operational in 1999.

#### TELECOMMUNICATIONS CARRIER COMPLIANCE

I am very appreciative of the efforts of the Committees on Appropriations to move along the Communications Assistance for Law Enforcement Act (CALEA) initiative. Preserving the ability of federal, State, and local law enforcement to lawfully conduct electronic surveillance continues to be one of my top priorities. For 1999, \$100,000,000 is requested in the Department's Telecommunications Carrier Compliance Fund to reimburse telecommunications carriers and others for eligible costs incurred in modifying equipment and facilities to comply with the CALEA.

#### NARROWBAND RADIO COMMUNICATIONS

The FBI operates the largest civilian land-based mobile radio system in the United States which provides clear and encrypted radio communications for 56 field offices and nearly 400 resident agencies. The fixed infrastructure for this system includes base stations in each field office and larger resident agencies, more than 12,000 mobile or vehicular radios, over 12,000 portable or hand-held radios, and nearly 4,000 leased antenna microwave repeater and antenna sites and data communications links. The FBI also operates specialized radio communications systems that support national security operations, task forces, and other activities.

By January 1, 2005, we are required to change over from the current 25 megahertz radio bandwidth technology to more spectrally efficient 12.5 megahertz bandwidth equipment. To comply with this mandate, it will be necessary to implement an entirely new radio system. None of the existing wideband equipment can be upgraded or retrofitted with narrowband technology.

In order to comply with the narrowband radio communications mandate, the FBI is proposing a five-year effort to plan, design, and implement a single nationwide communications system that will replace the existing nationwide and specialized systems. Within the Department's Narrowband Communications Fund, the FBI is requesting a total of \$64,079,000, of which \$60,220,000 is new funding, to begin these processes. Additionally, direct FBI funding totaling \$780,000 is requested to hire 7 engineers and specialists to serve on the FBI project team for the Narrowband Radio Communications project.

#### CONCLUSION

Mr. Chairman, I would like to again express my gratitude for the Committee's strong support and confidence in the FBI. Both you and Senator Hollings should take pride in the leadership shown in the areas of ensuring counterterrorism preparedness and protecting our children from sexual predators and pedophiles. I believe your approach of balancing targeted increases in FBI investigative resources and capabilities in select areas with an emphasis on training for State and local law enforcement, encourages partnerships and cooperation that are the keys to an effective response to crime. I know that with your continued support, the FBI can build upon its successes and serve the American people proudly and effectively as the Nation moves into the 21st century.

This concludes my prepared remarks. At this time, I would like to respond to any questions that you may have.

Senator GREGG. Thank you, Director, and congratulations on the birth of your sixth child, Colin; is that correct?

Mr. FREEH. Thank you very much.

Senator GREGG. We will probably have to go around the table a few times here because there are so many issues. One of the reasons I wanted to have you all together is because there is a lot of interchanging of responsibility here and overlap of responsibility,

and I wanted to get into that issue at some point. So, I will limit my time to 10 minutes and then yield to the ranking member for whatever time he wants to consume. And then, we will go to the member from Colorado and move around the table again.

#### IRAQI SPYING ALLEGATIONS

But let me start with you, Mr. Director. I noticed a fairly disconcerting news report this morning. I think it deserves to be aired here. What happened is that there was a report that there was an Iraqi spy who may have penetrated, at some level, our capability in the Mideast. I would be interested in getting an update, to the extent that you can give it to us, as to what happened.

Mr. FREEH. Senator, I do not have a full response at this time. I spoke to John Lewis, who is the Assistant Director in our National Security Division, and he has not been able to validate that report or anything akin to that report. He is in discussions with some of the other agencies at this point. We have not been able to verify that, and I will certainly get you an update as soon as I can.

[The information follows:]

#### IRAQI SPYING ALLEGATIONS

On March 5, 1998, Assistant Director John F. Lewis, National Security Division, briefed Chairman Gregg regarding this matter.

#### CHEMICAL AND BIOLOGICAL ATTACKS

Senator GREGG. On another subject which concerns this committee is the potential anthrax attack in Nevada, which, luckily, turned out not to be active anthrax. Give us your assessment of where we stand relative to our capacity to anticipate chemical or biological attacks against the country and our ability to respond to those attacks.

Mr. FREEH. With respect to anticipating and preventing those attacks, which, of course, is our first priority, it depends really on the actors and the individuals concerned. If it is a group into which we have some coverage by an informant or some other means, such as undercover agents, perhaps, we can certainly anticipate and control—

Senator GREGG. Well, of the 100 instances that they talked about, how many of those involved groups from outside the United States? What percentage?

Mr. FREEH. I do not think any did. I think they were all local or domestic-derived cases except for a couple of examples. But they all, for the most part, as I indicated, turned out not to be credible.

The problem with the chemical and the biological agents, as you well know, is an individual with not a great deal of sophistication can fabricate part of the essential ingredients for these kinds of chemicals or biological agents, and then, with a little bit of assistance and perhaps some other equipment, manufacture that into a much more damaging agent.

So, if it is an individual acting alone, a microbiologist who has access to the blood of an animal that died of anthrax, for instance, it would be very hard to anticipate, without having someone directly placed or information which would come to us from an informant or a codefendant, so to speak. In terms of the larger

groups, I think there is a better capacity to anticipate them, but that would vary based on our coverage.

In terms of preparedness, we are much better prepared in 1998, as we go through the Nunn-Lugar-Domenici training. We have a laboratory unit, which we did not have. We have protective equipment for our agents, particularly the evidence response teams and hostage response team.

We are quickly proliferating, together with the Department of Defense a lot of training, techniques, and equipment around the country. I would say that my overall estimate at this point would still be that we are not in a state of preparedness, given the damage that one of these attacks could perform.

Senator GREGG. Well, I know that we are ramping up, and that rampup is going to take some time. I have met with the folks at DOD and all of the other agencies that are involved here. I guess my question is, do you feel that we are ramping up as quickly as we can, considering the limitations on education and material distribution, and that it inherently has a time lag to it? Or is there something we should be doing that will more aggressively get the information out, get the equipment out that is necessary?

Mr. FREEH. I think we are moving as quickly as we can, given the resources and the number of people—

Senator GREGG. In a coordinated way.

Mr. FREEH. Yes; I believe that we are, if you look at the training protocol between the Department of Justice and the Department of Defense, as it is now proliferating down to the firefighters and the rescue squads in major cities. There are 120 cities which are online to receive this training in the next 18 months, I believe. So, it is moving very, very quickly. But again, you have to cover literally thousands of police departments and fire departments, and that is just the first responder aspect of it.

#### ENCRYPTION AGREEMENT

Senator GREGG. I understand there may have been some tentative agreement reached on encryption over the weekend. Are you familiar with that?

Mr. FREEH. There is an administration initiative which will seek to work directly with the major software and hardware manufacturers to see if a law enforcement solution can be achieved, and we are optimistic that this may produce some tangible results. Certainly, we will work very hard with the industry representatives to see what can be achieved.

Senator GREGG. Have you received a reaction from the industry representatives to the presentation from the administration yet?

Mr. FREEH. I have not yet, no.

Senator GREGG. But you have made this presentation; is that correct?

Mr. FREEH. I do not know that it has been made, Senator. I think it is in the process of being made. We have formulated a proposal for discussion, and we are hopeful that the industry will respond to it.

## BORDER CONTROL

Senator GREGG. I am interested, Commissioner Meissner, on the question of Border Patrol. Could you tell me how closely you work with the DEA and with the FBI? How closely are the different agencies integrated? And then, I would like to get a comment from everybody else.

Ms. MEISSNER. From the standpoint of drug enforcement, of course, the Border Patrol is the first line of response to drugs that come across the border illegally between the ports of entry. We also obviously work at the ports of entry themselves with the Customs Service jointly on drug interdiction. And then, our relationship with the FBI is to hand over case-related information, from the standpoint of further investigation and prosecution.

Senator GREGG. Does it work? Is there a cooperative effort? Or are there some gaps?

Ms. MEISSNER. I think that we are working together better than we have ever worked together. I think that everybody in the Federal law enforcement community would say that the additional resources that the Immigration Service has received have put us in a position to be responsive and to provide this first-line capability in ways that have been needed for a long time, and that is working very, very well. You know, the Attorney General has been absolutely committed to cooperation among Federal law enforcement agencies. We all are charged with that responsibility, and we are carrying it out.

Now, in addition to cooperation at the border, we also have agents, investigators, assigned to joint task forces all over the country. Some of those task forces are FBI led; others are agency led. Some of them work at Federal-State-local coordination efforts, gang task forces in a number of cities. Coordination and task force participation and working proper roles and responsibilities across agency lines is something we take very seriously.

## DEA AND INS COORDINATION

Mr. CONSTANTINE. Senator, the cooperation has been outstanding with the Border Patrol. They set up these checkpoints on the border, and when traffickers are moving fairly large loads of marijuana or cocaine in between the various border crossing points, eventually, they have to hit these Border Patrol checkpoints. They have been remarkably successful. The Border Patrol immediately calls the DEA office. They proceed to the scene. There is the seizure of the narcotics, the identification—and this is where it really gets important—the identification of the people who are moving the narcotics. Then, all of the written material that they have on their person, is collected by an evidence team that goes over everything in a postarrest seizure. The retrieval of all of the data, then, becomes critical to these major investigations that I talked to you about before.

So, the U.S. Customs Commissioner and the Border Patrol entered into a memorandum of understanding, but in all honesty, this is one case where a memorandum of understanding probably was not needed. The relationship had been so close over a long period of time and had been developed. This formalized a very good rela-

tionship, and now each of the local districts of the Border Patrol, if they wish, can co-locate in a DEA office. We have that on numbers of occasions. Often we will have two or three or four Border Patrol officers working right in the DEA office to assist them with the followup and the investigation. From our perspective in DEA, the Border patrol has been a really important part of this whole interdiction and seizure operation.

Ms. MEISSNER. And I think the statistics bear that out. The Border Patrol seizes the largest amount of narcotics of any of the Federal agencies, and it is obviously a result of where we are.

Senator GREGG. I do not want to monopolize all of the time here. I have a lot of questions I want to come back to but go ahead.

#### STATUS OF MEXICO

Senator HOLLINGS. Thank you.

Mr. Constantine, on the country of Mexico, according to your statement, things have not improved since your last appearance. In fact, they have worsened; is that not correct?

Mr. CONSTANTINE. Well, there are some improvements since we last came here.

Senator HOLLINGS. Like?

Mr. CONSTANTINE. Last year, if you recall, we had a major problem and a widespread identification of corruption in the civilian narcotics institutions to the point where they were totally dismantled by the Government of Mexico. We were in a position, at DEA at that point in time, where we really could not even share information, because we did not know who we were sharing it with.

They have rebuilt some agencies that we now share information with on major investigations. The enforcement officers go through a vetting process. They are trained by a combination of DEA and FBI personnel to become proficient as inspectors and investigators. We see that as positive. That is something we had not seen before.

The problem is that as of today, the traffickers in Mexico, the major organizations, have become more powerful since last year because of the development of methamphetamine trafficking; their movement from merely being transporters to being actual distributors within the United States and the tremendous amount of violence along the border, both directed at law enforcement officials in Mexico and increasingly at law enforcement officers in the United States, the Border Patrol, and many of the uniform forces.

So, it has been kind of mixed. There have been some improvements. There are some cases being made. But the traffickers have undoubtedly become more powerful since last year and certainly more than they were 3 or 4 years ago.

Senator HOLLINGS. Well, you remember your testimony last year, whereby you said you would not trust the law enforcement officer to receive any information that we had, nor would you trust any in the military. Do you trust them now? Is that what you are saying?

Mr. CONSTANTINE. Now, there are certain units, yes, that we do trust and we share information with. It is on a need-to-know basis. We feel comfortable with that. It has worked presently. We have not been compromised. The development of those units I think will

probably take decades to really reach fruition. But you do not need an army to begin to develop that type of program.

I think the real evidence of whether we will be successful or not is when the leaders of these major organizations—who are pretty much well known to everybody and have been indicted, most of them, in courts in the United States—are arrested. When you continue to dismantle those organizations like we have done with organized crime in the United States, then, I think we will have arrived where we can say we have been successful.

Senator HOLLINGS. But you provide the names to the Mexican Government, and no one is yet extradited, are they?

Mr. CONSTANTINE. No, sir; they have not been extradited.

#### CERTIFICATION PROCESS

Senator HOLLINGS. So, they have not cooperated. Were you consulted again on the certification and did you approve this certification this time?

Mr. CONSTANTINE. Well, I never get involved in saying certify or decertify. I do not think it is part of my role. But I am always consulted, and my opinions are always treated with the utmost respect. I give it openly and candidly.

Senator HOLLINGS. That is different from last year. You said you were not consulted, or they did not give you any respect for your opinion. You were the Rodney Dangerfield of certification last year.

Mr. CONSTANTINE. No; I do not think I said that, sir. All of the time that I have been here in Washington, I have always been treated fairly and have had a chance to speak my piece on the issues.

Senator HOLLINGS. You do not remember discussing the improvements you said occurred with Colombia and how you were working more closely with them, but that they totally disregarded your opinions regarding Mexico last year?

Mr. CONSTANTINE. No, sir; I do not remember saying anything like that.

Senator HOLLINGS. Well, be that as it may, that is good news that Mexico is cooperating. But, as you indicate, you name the names, as Martha Mitchell used to do, and they still do not do anything about it. We do not get a single one extradited. What kind of cooperation or deservedness of certification is that?

Mr. CONSTANTINE. The certification decision, as I said, Senator, ultimately rests with people who are in the State Department. There are some issues critical to law enforcement such as arrests, and I have said that repeatedly over the last 4 years. Then, there are extraditions to face a jury of their peers. This is an important tool. And I think over the long term, that will be the measure of success.

Senator GREGG. Can you get a conviction against those people if they are extradited to the United States?

Mr. CONSTANTINE. We believe yes. They have been indicted in grand juries throughout the United States. We have indictment warrants and provisional arrest warrants issued. We definitely think we could get convictions if they were tried by a jury of their peers.

Senator GREGG. I just wanted to make that clear.

## INS MISSION

Senator HOLLINGS. Well, if you were to ask anyone in this room which was the worse problem, immigration or drugs, I am confident that 99 percent would say drugs is a bigger problem in America than immigration. Yet, I am seeing here that we are adding 1,000 more agents to the INS, Ms. Meissner, and Mr. Constantine is only asking for 257. The FBI is asking for only 146.

I look at the DEA budget which is \$1.1 billion, and yours is \$4.1 billion, almost four times more than DEA, \$3 billion more specifically. Now INS wants to go up by 1,000 agents, and General McCaffrey is saying that we ought to go to 20,000 agents. In the meantime, our counterpart over on the House side, Chairman Rogers, said we ought to abolish the INS. What is your comment?

Ms. MEISSNER. The Immigration Service has been very aggressively adding Border Patrol agents along with other resources to support our mission. Our mission is not only border protection; it is also implementing the immigration laws in the interior of the country and providing a range of adjudicative services to legal immigrants who are in this country. We also have substantial resources at our points of entry to inspect travelers. So, we are a multimission agency, and it is an agency, as you know, which has been growing with the Congress and the administration working, I think, very cooperatively in bringing about that growth.

The Border Patrol has the mission not only of enforcing the law where illegal immigration is concerned, but it is a very important player in the war against drugs, and that, I think, will be increasingly the case as we gain control where illegal immigration is concerned. So, I think that one needs to look at the Border Patrol as a national resource; I mean, we are talking about borders that can be enforced where illegal crossing is concerned but that also allow traffic and commerce which is good for the economy of our country and good for other countries.

Senator HOLLINGS. I understand, but, of course, drugs are not only at the border, as you indicate, but they are found in our law enforcement; they are found in our grade schools. It is, by far and away, a greater national problem, you might say. And here we are appropriating \$4 billion for immigration and only \$1 billion for drugs. It strikes me that these priorities, perhaps, are backward. But, of course, Chairman Rogers is saying just abolish the INS.

## REORGANIZATION OF INS

What is your comment about the fact that here is a responsible individual who chairs this appropriations subcommittee on the House side, and he says we ought to just divide the programs between the State Department and the Labor Department and Justice?

Ms. MEISSNER. Well, I think the crucial thing to understand about the Immigration Service is that the responsibilities that we are charged with are very interconnected responsibilities. In order to enforce the immigration laws, both from the standpoint of preventing illegal immigration as well as providing services and facilitation to those people who are coming to the country legally, our enforcement and our adjudicative missions work together.

We have been investing an enormous amount of funding in the capabilities of INS, particularly in its data systems and in its technology, and that investment has been for the purposes of building an infrastructure, building a capability for the Government to enforce the immigration law into the coming century.

To abandon that effort at this point by dividing the agency up, dismantling those resources, splitting what are technology improvements that support both of the missions of the agency would be basically to deprive the country of a very substantial investment that was meant to be a long-term investment.

Now, that is not to say that this is not an agency which deserves and needs reform. We have grown enormously, and as I said in my opening statement, we are asking the question, as I believe it is responsible to ask, whether we are structured in the best possible way to manage this new growth and to manage the increased mandates that we have been given.

We believe that there are some structural changes that are in order. We will be offering those ideas in the coming weeks, but I do not think that splitting up the agency—nor does the administration think that splitting up the agency—is the way to solve the problem of effective enforcement of our immigration laws.

Senator HOLLINGS. Could you furnish the committee with a written position on the Committee on Immigration Reform's recommendation that you be abolished, please?

Ms. MEISSNER. We will furnish that; yes, sir.

Senator HOLLINGS. I would appreciate it.

[The information follows:]

#### REPORT OF THE COMMISSION ON IMMIGRATION REFORM

In its final report to Congress last fall, the Commission on Immigration Reform (CIR) called for significant reform to our Nation's immigration system. The major thrust of the CIR's proposed reform would move many immigration functions to the Departments of State and Labor and would consolidate all immigration enforcement into a new Federal law enforcement agency within the Department of Justice.

In response to the CIR's recommendations, the President asked the Domestic Policy Council (DPC) to "evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws." In conducting this review, the DPC, working closely with the Office of Management and Budget, consulted with the Departments of Justice, Labor, and State, CIR staff, immigration experts and advocacy groups, and other White House offices, including the National Security Council. This review examined organizational and restructuring options including those formulated by the CIR and members of Congress. From this effort, the Administration established a new framework for reform, and the Justice Department contracted with a management consulting firm to provide an independent assessment of structural options and assist in making the Administration's framework "operational."

#### *The Administration's Framework for Change*

The DPC review process concluded that the CIR report correctly diagnosed many of INS' longstanding problems—insufficient accountability between field offices and headquarters, lack of consistency, need for greater professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the INS' ability to effectively enforce our immigration laws both at our borders and in the interior, and efficiently provide immigration and citizenship services. Improving the ability of the INS to pursue these critical priorities must be the goal of any reform plan.

After careful consideration and study, the Administration concluded that the most effective way to achieve this goal is to implement dramatic and fundamental reforms within the INS. The Administration's reform plan untangles INS' overlapping and frequently confusing organizational structure and replaces it with two clear organizational chains of command—one for accomplishing its enforcement mission and

one for providing services. Each operation would be headed by an Executive Associate Commissioner (EAC) who would report directly to the Commissioner through the Deputy Commissioner.

The plan will eliminate the current field structure in which regional district offices serve both enforcement and service functions and will replace it with separate enforcement and service offices that bring the mix of staff and skills to local service caseload and enforcement needs. The result will be an INS organization with strengthened accountability and improved efficiency and effectiveness. The plan will allow each operation to focus its unique knowledge, skills, and abilities, while also retaining the essential integration functions needed to coordinate these operations.

#### INVESTOR IMMIGRATION VISA PROGRAM

Senator HOLLINGS. With respect to the Investor Immigration Visa Program, this committee instituted that particular program back in 1990, and as far as we know, it has been highly successful. Necessarily, if you are getting an immigrant who is going to invest \$1 million and thereby use that \$1 million to leverage exports or leverage export companies over the 8-year period, it builds up into quite an industry and quite a business.

Now, with respect to a normal request that would go through with the moneys and the bank arrangements all made, we find out that there were some lawyers within your Department who thought differently; perhaps it was not being done efficiently or effectively. Be that as it may, the law is the law; the policy is the policy, and Senators on all sides, in a bipartisan fashion, wrote over 1 month ago to get a response to this particular freezing on application processing of these investments, with the banks, with the individuals involved, with the money invested, so much to the point that law cases are now being threatened all over. We got no answer from your office.

What is the answer?

Ms. MEISSNER. Well, you will be getting an answer. This is a very complex matter, as you know.

Senator HOLLINGS. It is not so complex; it is very simple. The program has been working. What is wrong? Can you come to the committee and provide evidence that we are being defrauded, or it is not run efficiently, or a bunch of incompetents have taken over, or the Government is losing money? If it is, it has not become complex. Lawyers in your Department have made it complex.

Ms. MEISSNER. Well—

Senator HOLLINGS. Your lawyers think they run the Congress and that they can make the laws. Tell them to run for Congress if they want to go ahead and change the law. But there is nothing complex about it. We want this program to continue.

Ms. MEISSNER. Well, the intent of this legislation, as you know, was to provide—

Senator HOLLINGS. I know it very well; I wrote it.

Ms. MEISSNER. Exactly.

Senator HOLLINGS. Yes, ma'am.

Ms. MEISSNER. And we are obviously charged with carrying out the intent of the statute.

Senator HOLLINGS. And why the change is my question.

Ms. MEISSNER. We are looking at whether the investments are actually investments and are actually producing employment as the Congress intended.

Senator HOLLINGS. Right.

Ms. MEISSNER. We do not have a final answer for you. There are cases that are in the pipeline, as you and I discussed when we talked about this earlier. We are very carefully assessing, in complex investment circumstances, whether indeed these are investment-producing and employment-producing. I think we are about finished with that analysis, and we will be coming to you with the results of our analysis.

Senator HOLLINGS. But the thrust is retroactivity, and that is once a company or individual gets things moving regarding the investment, the Government cannot just close it down and leave them retroactively at a loss.

Ms. MEISSNER. We have held some cases in abeyance, but we are fully prepared to address them as soon as we are clear whether the congressional intent is being met. And, as I said, we will be coming to you about the results of that.

Senator HOLLINGS. Well, you leave us no option other than to rewrite the intent all over again and make sure it continues regardless of your lawyers.

Ms. MEISSNER. I think the intent is very clear; the intent is very clear. The issue is whether the investments meet the intent.

Senator HOLLINGS. That changes the whole program. You can find one or two that might not meet it, and let us clean that up. But, when you take the whole program and grind it to a halt, and everybody hangs in abeyance; everybody has got to get paid; the investments are there; the payments are made; the export businesses have been promulgated and flourished and are now in movement, and just all of a sudden, they seem to have no sensitivity to what is going on—sensibility would be a good word—but in any event, let us get an answer, and let us find out where we are, because people are losing money.

Ms. MEISSNER. I am very cognizant of that, and we have moved this as quickly as we possibly can. We are very close to a conclusion, and we are very sensitive to the financial repercussions.

#### STATUS OF CALEA IMPLEMENTATION

Senator HOLLINGS. With my time limited, Judge Freeh, what is your situation regarding CALEA? You say it is optimistic now. That is the first time I have heard it is optimistic. That is good. Tell me about it.

Mr. FREEH. With respect to the CALEA, the status of it right now is the Congress has appropriated \$102 million, which has not yet been expended. That is funding to reimburse manufacturers as they change their switches. We are in a final negotiation, although there is an impasse currently. There is a dispute between the Department of Justice and the representatives of the carriers as to what features are mandated by the statute which you passed in 1994.

Senator HOLLINGS. So, what is the goal? Is that the case? Are you asking for too much or not enough?

Mr. FREEH. The Department of Justice believes the \$500 million which has been authorized, \$102 million of which has been appropriated, will be sufficient to meet the needs of law enforcement. The industry has come in at the 11th hour and said why do you just not reimburse us for all of the switches that are in place by

October 1998? Unfortunately, that was not the statute that you passed in 1994, and it would require hundreds of millions of dollars more, which we do not agree to. So, if we do not get a solution from the industry, we are going to go to the FCC, and the Attorney General will file a petition this month.

Senator HOLLINGS. Thank you.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator Hollings.

[The information follows:]

#### CALEA

On March 27, 1998, the Department of Justice and the FBI filed a petition with the FCC opposing the interim standard adopted by the telecommunications industry. The interim standard is considered to be deficient by the law enforcement community because law enforcement believes it fails to meet all the capability requirements mandated by CALEA and the underlying Federal electronic surveillance statutes. It is hoped that the FCC will rule on the technical standard in an expedited manner.

#### PREPARED STATEMENT OF SENATOR CAMPBELL

Senator GREGG. Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman.

I am going to submit a statement and some questions to the agencies for a response.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you, Mr. Chairman. I appreciate your holding this morning's hearing and I welcome Director Freeh, Mr. Constantine, and Commissioner Meissner here today to discuss their respective budgets for the 1999 fiscal year. I know we have a lot to cover this morning, Mr. Chairman, so I will make only a few brief comments.

The budgets that we will be discussing today are, as I see it, among the most important in the entire federal spending package. They represent the very essence and cornerstone of America's effort to waging the ongoing wars against crime, drugs, and a rising tide of illegal immigration. In my home state of Colorado, there are a number of projects and initiatives in each of these budgets in which I have a great deal of interest. This year, I will be paying close attention to the DEA's support of the Rocky Mountain HIDTA, as well as the scourge of methamphetamines which have become a tremendous problem in my state and across the country. I am also interested in the efforts currently being taken to combat international crime. As a Coloradoan, I also have a great deal of concern for the current focus of INS efforts on the interior and the problem of illegal aliens facing Colorado law enforcement.

Senator CAMPBELL. I would like to use my few minutes just to really make a few comments, because I am a very big supporter of all three agencies. I would like to just say to you, Louis, that I really appreciate the sensitivity to the rising crime rate on Indian reservations. We have been dealing with it in the Treasury Subcommittee, as you know, and on those reservations which are close to metropolitan areas, we are seeing a huge influx of gangs from the cities. These are Indian kids, Indian gangs, but they have been led astray by some of their counterparts, whether it is the Crips or the Bloods or so on in the cities. I think that that Safe Trails Program, as near as I can understand it, is really a step in the right direction to try to coordinate some law enforcement and some preventive measures, too.

I know, as you do, as all of you do, that a lot of our crime now is related to drugs, and all law enforcement is going to have jobs

for a long time, because until we can convince people that they do not need it, you are not going to cut down the supply. As long as the American people demand it, it will find ways to get across the border or be manufactured here.

I also appreciate your comments on working with local communities about preparedness in case of attacks from terrorists. I was in Colorado Springs just recently; had the opportunity to visit Fort Carson, bristling with guns and M-1A1 tanks and everything you can imagine. And the same day, I went by the Colorado Springs water filtration plant, and I could not help but thinking if someone was a terrorist and really wanted to hurt the people of that community, would they go to Fort Carson, or would they go to where the water supply is? And it is a logical answer.

I think it is really important what you are doing, that—you know, you cannot put guards at every water supply, I guess, but it would seem to me that that is factored in your road map to the future.

And to Mr. Constantine, this is kind of provincial, but I really appreciate your support for our placing a DEA agent in Steamboat Springs, CO, and the support you have given to HIDTA, too. We live in an area in the Rocky Mountain States that is seeing a huge increase in the use of methamphetamines. As you probably know, drugs take the path of least resistance, and as we crack down in Miami or Los Angeles or the borders, we see a bigger influx into those Midwestern States and the Rocky Mountain States. It is complicated, too, by the fact that we have a terrific number of illegal immigrants in Colorado. We have over 45,000.

We have a funny situation, I guess, in Colorado. Maybe resort communities have this all over the United States, but there is kind of a backlash. We are being told to crack down on these illegal immigrants, but guess who is hiring them? Local businesses who cannot get anybody else to work. And I know that we have tried to do that. We have tried to increase the presence through letters we have written to you, to increase the presence of agents in that area.

And then, we get quiet little calls. Nobody wants to sign their name to it, but we get quiet little calls from employers in agriculture and in the tourist industry, and they said my gosh, if you crack down, I am going to lose all of my employees, and I cannot make it and all that stuff. Well, they cannot have it both ways. If you want to reduce drug trafficking, if you want illegal immigration to be reduced, you have to accept the responsibility of, you know, doing the right thing and trying to hire more Americans.

So, anyway, I just want to say that I really do support what you are doing; I know it is a budgetary process that we have to go through. But it is a tough job, and I am reminded, you know, a few years ago, I do not know which agency it was, but I was flying a little plane that I own down around Casa Grande, AZ, and when I was landing there, there were two other planes in the pattern behind me. And I parked, and the plane that pulled up beside me had four fishermen in it, and they had been traveling around just above ground level down around the border there somewhere looking for some fishing holes, and they just barely got parked, and another plane, an agency plane—do not know who it was; DEA or INS or who—pulled in right beside them, and these guys jumped out with

guns and got all four of these fishermen down on the ground, and I want to tell you—it scared the hell out of them.

But I guess they had spotted them cruising around under radar right along the border, and they thought they were drug trafficking. That is one of the things I might mention where it is a tough job. I mean, these fishermen were very angry when they collected their thoughts, but the agencies themselves, they felt they had pretty good cause.

So, I just wanted to tell you: I certainly respect the work all three of you are doing. Thank you, Mr. Chairman.

Senator GREGG. Thank you.

Senator Domenici.

Senator DOMENICI. Mr. Chairman, and members of the subcommittee, I have been unable to come to every meeting that you have held, but this one, I made a special effort, because I wanted to at least state for the record what you already know, Mr. Chairman, and that is that everybody is delighted that we have a balanced budget. We will probably have a balanced budget announced tomorrow by CBO, indicating that we are in balance this year with about \$5 to \$8 billion and probably over the next couple of years between \$10 and \$20 billion or \$25 billion.

I think that those who come before us with budgets that have significant increases should know that the total discretionary moneys available are essentially on the program authority, essentially a freeze. We talked about a five-tenths percent increase, but CBO estimates that it is just about a freeze and that the outlays are actually about \$2 billion less than a freeze in terms of what is going to be available to spend for discretionary programs.

So, I look forward with interest as to how all of the increases that have been proposed by the President are going to be achieved. My own thinking is that unless we choose to eliminate some programs in these bills and somewhere in Government that Congress is not going to let the appropriators spend user fees and other mandatory program savings in appropriations. I know you are terribly concerned about what is the definition of each of these things, because obviously, there are user fees in every bill, and the President proposes many more and proposes that we use them to pay for programs.

Now, having said that, I do not say this to minimize the importance of the portion of the budget represented by the three of you. It is, for all intents and purposes, if it is being run effectively, it is probably one of the highest priorities in the United States, these programs: DEA, what we do with our border and the immigration assault taking place, including drugs coming through, and the FBI's role with reference to counterterrorism and the like and many other activities.

I would like to first ask DEA, first, Director Constantine, I want to tell you that, as I did last year, you are a welcome addition to our very formidable leaders in crime prevention, and from my standpoint, we are delighted to have you. The working together between the FBI and others and your professionalism are showing, and that is thanks to many men and women but probably significantly to your leadership.

## STATUS OF FIGHT AGAINST METHAMPHETAMINES

You know, last year, Congress approved \$11.05 million for 54 DEA agents to address the problem of methamphetamine trafficking. Would you please give the subcommittee a brief progress report on the use of these resources to combat that new, growing source of drugs? While you are at it, the administration has a \$24.6 million, 223 position request, including 100 new agents, to continue the investigation and dismantling of the drug labs in the United States. I would like you to tell us how that is going to be done and generally to assess for us the spread of these kinds of laboratories, which are, in some parts of America, including Missouri, I understand, reaching the scourge stage.

Are we doing enough about it? Do you need any other tools? Could you talk with us a moment about that new issue.

Mr. CONSTANTINE. It is a two-tiered problem. About 90 percent of all of the methamphetamine that is distributed and used in the United States is controlled by organized crime. This is a relatively new phenomenon in the United States. Formerly, it was a drug used and sold by a motorcycle gang kind of a—small laboratories, primitive operations.

We have seen, since about 1991 or 1992, very sophisticated methamphetamine organizations, primarily operating almost totally out of Mexico. The leadership that we have identified is known as the Amezcua brothers. There are about three or four of them and a whole huge, large family supporting them. They will either smuggle into the United States manufactured methamphetamine in the amounts of 200 or 300 pounds at a time, or they will smuggle into the United States precursor drugs, usually ephedrine or pseudoephedrine, which they will order up on the international market at the tonnage amounts, usually from Eastern European countries. It is then brokered through countries like India or Holland and shipped to what are really straw purchasers, very often in Mexico or Central America.

We find these organizations operating not only along the border, but also through distribution rings in Georgia and North Carolina and Polk County, FL; in Denver, CO, and in Salt Lake City and Boise, ID. It is a problem that we address in these major organized crime investigations usually in concert with the FBI and State and local law enforcement.

Most often, those are title III court-authorized eavesdropping investigations, which is why the encryption issue that Director Freeh has been involved in is so critical to us. An example was an operation that we took down that began in Dallas. It was capable of manufacturing and delivering 300 pounds of methamphetamine at a time throughout the United States. We arrested all of the principals from California to Florida and seized the laboratories that were involved in those manufacturers. Now, that is very much labor intensive because of all of the title III work and surveillances that you have to do.

The second problem that we think is responsible for about 10 to 20 percent of the methamphetamine in the country is in these small laboratories that we saw in Missouri. Now, we see them proliferating around the United States. They are individuals who have

gotten a recipe for the manufacture of methamphetamine over the Internet. They either steal the precursor drugs from a farmer's field or purchase it, small amounts from legitimate sources. They set up these laboratories in hotel rooms, in cars, and in barns. They are extremely dangerous because of the volatility. There have been any number of explosions or deaths in the laboratory. There is also a big problem in the laboratory cleanup.

They care little about the safety of other people. You and I may be staying in a hotel, and they may decide to rent a room and set up a laboratory in that room and could set fire to the room and certainly leave all of the hazardous waste behind.

We have seen, for example, in Missouri the number of laboratories that we have encountered in that State go from a number of 20 or 30 3 years ago up to almost 800, a little over 800, in that period of time. We see similar types of operations in Arkansas and Oklahoma and California and other States, and my sense is that these things tend to proliferate.

Senator DOMENICI. Let me stop you. That is a great explanation for the committee of what is going on out there.

Do you need the added personnel requested in the President's budget to continue your effort?

Mr. CONSTANTINE. Yes, sir; that is the bare minimum to be able to attack, because what once was a problem for major cities is now a problem for every small town in Iowa and in Arkansas and Missouri. So, to get those resources to those locations, to assist State and local law enforcement, that amount would be critical to fulfilling the long-term operation.

Senator DOMENICI. Director Freeh, do you agree?

Mr. FREEH. Yes, sir, I do; and as the Administrator mentioned, we work very closely on these cases, but he has made a major initiative on this particular problem, and I think these resources would be well used.

#### CONTROLLING METHAMPHETAMINE

Senator DOMENICI. Are we going to be able to control this, or is it such that it is going to be almost impossible?

Mr. CONSTANTINE. Well, I think people have made significant steps to control this drug. The Attorney General had taken it as an issue 2 years ago and directed us to do a number of things to improve the situation.

The answer to all of these problems, I think, is the prevention program. I am extremely impressed with these ads that the Partnership for a Drug-Free America is putting on with your support. I think if we sound the alarm bell long enough and loud enough, we will reach people and stop them from using the drug, and we can keep it from becoming the crack cocaine of the next century, and I think we are far ahead programmatically and philosophically than we were in the 1980's, when all of us in law enforcement were overwhelmed by the crack cocaine thing. So, I think it does afford us an opportunity to get ahead of it.

Senator DOMENICI. Mr. Chairman, I might say that the reason I raised the question, I knew something about it. I had had occasion to talk to Senator Bond, and he is out in these rural towns now every weekend. He said it is something to behold in the State

of Missouri. It has absolutely gone wild in terms of gangs as they relate to this chemical drug, and thousands of teenagers are involved in the gangs and this new kind of drug. He is figuring it is so bad that they do not know what can be done about it. I think it is important that we take a look.

#### NEED FOR SEPARATE IMMIGRATION AGENCY

I have two other questions. I will try to make them as quick as I can. With reference, Ms. Meissner, in terms of your Department and the work you do, I heard some of Senator Hollings' thoughts and suggestions. I do not agree with those as they pertain to whether or not we need your Department and every single person who is there and more. Clearly, there have been some serious management problems. You inherited some, and there are still some, but obviously, we gave you a terrible job when you have the American border as exposed as it is. With poverty rampant in Mexico and drugs coming from the south, your problem is very difficult. I hope we can continue to add personnel, and I hope, in turn, you will continue to make them ever more productive.

Ms. MEISSNER. Thank you.

#### INS RESOURCES IN NEW MEXICO

Senator DOMENICI. I have a question regarding my home State. I do not know if I want to be specific here today, but, you know, just because we do not have a whole lot of big cities on that border, we seem to get shortchanged on personnel all of the time. I would just remind you that the way the criminals use this border is wherever it is weak, they go. If you do not make sure that New Mexico, including a couple of its ports of entry, a couple of its stopovers that are inland, if you do not plug them once you plug El Paso and a couple of communities in that direction in Texas, they are going to find this way to do it. They are not coming across to use it all there; they are coming across to get disseminated.

So, I would ask that you look carefully at that, and if you could give us your best estimate of what is a fair figure for New Mexico and what you intend to do.

Ms. MEISSNER. Absolutely. We have been short in New Mexico, as you know. I think that almost everybody would agree that the way we have put the border strategy together over the last several years is one that makes sense over the longer term, which is that we have attempted and very successfully built up in the four highest corridors of illegal traffic. We are moving very effectively in those four corridors to gain control. Our effort now, increasingly, has to be to link those operations, and New Mexico is a critical link in that chain.

I just checked the figures before coming to this hearing, and it turns out that New Mexico has almost one-half of the agents that are in the El Paso-New Mexico sector. With the agents that you will be receiving out of this year's deployment, we will be able to staff our checkpoints in New Mexico more than 90 percent of the time. We will be not quite at 100 percent, but we will be between 90 and 95 percent, and that is absolutely critical in New Mexico, because, as you say, people are transiting the State in order to get elsewhere. Those highways are absolutely central to the ability of

the traffic to move, and we will be able to provide quite a strong deterrent both where immigration and drugs are concerned out of this year's deployment of resources in New Mexico.

FIRST RESPONDER TRAINING

Senator DOMENICI. Mr. Chairman, my last question has to do with counterterrorism and first responder training. In 1995 or 1996, we passed a very big amendment on the DOD bill. It was called the Nunn-Lugar-Domenici amendment. It had \$385 million a year authorized for counterterrorism and first responder activities.

The Department of Defense transferred, Director Freeh, \$40 million of that program from DOD to you, and that \$40 million or some portion of it is what you are talking about in your statement with reference to first responder activities. I am hopeful that we can continue to fund the program in Defense. Who knows, with the budget being tight, whether they will get more money or not? But, hopefully, you can continue this work.

You know, everybody during the Iraq war, the Iraq crisis, started asking what are we doing to protect our cities? No one knows that we have started in a rather remarkable way, but it is not easy. Cities do not want to hear of a terrorism attack, much less prepare themselves for it, and the FBI is leading the efforts to train local personnel. There is no question that it is frightening to train a community in responding to a biological intervention in their water system which has the potential for killing everybody in their town, but that is the world we live in.

Mr. FREEH. The funds have been very productive, Senator. As you know, the Nunn-Lugar-Domenici funds go really to the first responders, which is exactly where the rubber meets the road in these circumstances. The Department is also establishing some training centers, one in Alabama and one with the New Mexico Institute of Mining and Technology. The Nunn-Lugar-Domenici program will bring into their seminars in the next 18 months enough first responders to at least have the first coverage. Although as I mentioned to the chairman before, I do not think we are anywhere near a state of total preparedness; we are miles ahead of where we were a couple of years ago, and this effort, if it continues, will eventually go to 120 cities in the next 18 months, which is very critical.

Senator DOMENICI. So, you are telling us that you believe that you are fully utilizing existing expertise and facilities in the United States to meet your needs, and that we will soon be getting some practical evidence of the dissemination of those training programs into our cities.

Mr. FREEH. Yes; and I think we saw a little bit of that in Las Vegas. The response out there which turned out not to be a bona fide anthrax threat, was really a product of the community, particularly the law enforcement and the emergency services community, the State and local community responding in a coordinated fashion, because they had prepared and trained for that.

Senator DOMENICI. Thank you very much.

I have questions I will submit for the record, Mr. Chairman. Thank you very much.

Senator GREGG. I will just note that this committee is going to hold a special hearing on March 31 on counterterrorism, and the Attorney General will be present.

Senator DOMENICI. The subcommittee itself?

Senator GREGG. Right; on the issue of coordination of counterterrorism efforts.

Senator DOMENICI. Good.  
[The information follows:]

#### NUNN-LUGAR-DOMENICI DOMESTIC PREPAREDNESS PROGRAM

The Department of Defense's (DOD) Domestic Preparedness Program was formed under the fiscal year 1997 Defense authorization bill (Public Law 104-201), commonly known as the Nunn-Lugar-Domenici legislation. The bill provides funding for DOD to enhance the capability of Federal, state, and local emergency responders in incidents involving nuclear, biological, and chemical terrorism.

The Department of Defense received \$39.8 million to provide training under Nunn-Lugar-Domenici in 1998. DOD retains these monies, but in conjunction with FBI, Environmental Protection Agency, Federal Emergency Management Agency (FEMA), Department of Energy (DOE), and Public Health Service, provides training and reimburses agencies for costs incurred. The Department of Justice did not receive Nunn-Lugar-Domenici funding from Congress.

#### BORDER PATROL IN TEXAS

Senator GREGG. Senator Hutchison.

Senator HUTCHISON. One year ago, I was very concerned about what I heard about the strategy of the Border Patrol basically starting in California and making its way very slowly to Texas. In the meantime, Texas was being overrun by illegal drugs and illegal aliens being imported.

I am very pleased to say that you stepped up to the line, Ms. Meissner, and addressed our concerns, because I think you listened. I appreciate the fact that you went out for yourself and saw that Texas was, indeed, a sieve; 1,200 miles of border being a sieve is a tough situation, and it makes everyone's job in law enforcement harder.

Your response was not only to help us earmark over 600 of the new Border Patrol agents into the Texas/New Mexico region but also to immediately go in in August, in Operation Rio Grande.

I want to ask you what your results show from Operation Rio Grande, and what the commitment is to continue this kind of targeted effort along the Texas border?

Ms. MEISSNER. First of all, thank you, Senator, for those kind comments, and thank you personally for your working with me on this and seeing it through, because I think that we have really developed a very positive partnership on this, and I aim to continue it.

Operation Rio Grande is here to stay. It is a permanent operation on the border in south and west Texas in the way that our other operations on the Southwest border are. We will continue to amplify it with resources, obviously in this deployment but in the resources that we are requesting for the next fiscal year. The administration is requesting 1,000 Border Patrol agents in fiscal year 1999, and a portion of that, obviously, is devoted to continuing to bring Operation Rio Grande to the point where we gain control.

Now, we are doing it step by step. Our target, first, has been Brownsville, as you know. The results in Brownsville are extremely

favorable; and, in fact, I would like to really provide for the record some of the commentary that we have received in letters, in newspaper stories, and so on, because there is no question that it is having an impact on the community and on the life of that community that is exceptionally positive.

There is no crime on the river anymore. The panhandlers have left downtown. The merchants now believe that they are able to have a much more thriving business because of the state of life in the communities, and in the community, we are still intercepting aliens on the outskirts but not along the river. The violence and the banditry has disappeared.

So, we are obviously continuing that effort as we go westward and are increasingly focusing on Laredo and Del Rio. Deployment of the resources which are going in now in fiscal year 1998 began in January; 670 of those agents are going to Operation Rio Grande. We believe it will take a couple of years to actually complete that very vast expanse of border, as you say, but it is working, and once we are there and have established control, we stay.

So, this is an area that is important not only for immigration enforcement but extremely important for drug enforcement, and the drug enforcement implications and consequences of this are also very positive and will continue.

Senator HUTCHISON. Well, let me say that everything I hear in the border communities echoes exactly what you have said. They are beginning to have confidence now that there is a safety factor along the border in these formerly very dangerous areas, and I am glad to hear you say that you think it will be a 2-year project, because I hope that what you mean is that you are going to move up to Laredo, Del Rio—

Ms. MEISSNER. Exactly.

Senator HUTCHISON. And then, into these remote areas where the people are least able to handle the influx, and they may need the beefing up in that out-year all the way up to El Paso.

Ms. MEISSNER. Yes; and I would actually say 2 to 4 years. I mean, what we now have seen, based on our experience in California, is that it essentially took us 3 to 4 years to take control, but it is now a totally transformed border, and Texas is more challenging because of the vast area.

[The information follows:]

#### IMPACT OF OPERATION RIO GRANDE, ON BROWNSVILLE, TX

Since Operation Rio Grande began in Brownsville, we have noticed a steady decline in the Crime Rate. Below is how the crime rate decreased by the month, compared to the previous year.

September—decreased by 23.98 percent.

October—decreased by 26.16 percent.

November—decreased by 11.86 percent.

December—decreased by 26.85 percent.

January—decreased by 21.57 percent.

Average decrease for the five (5) months is 22.08 percent.

The crime rate on the river itself, (River Banditry) has completely ceased, especially on Zone 1 and 2. Beatings, theft and rape of aliens on the riverbank are not occurring anymore.

The presence of pan-handlers (beggars, jugglers, etc.), are not seen or reported in the downtown area anymore.

The downtown business owners are not reporting thefts or loitering by juveniles aliens at all.

We are still apprehending groups of aliens (OTM's) in the Brownsville area that are suspected of being smuggled, but this is not occurring in the downtown areas, zones 1 and 2. These groups are shifting to the outskirts of town, approximately 7 or 8 miles east or west from the downtown area.

Other variables identified (minimal complaints from citizens on aliens) to determine effectiveness of operations are showing that Operation Rio Grande is doing what is was designed to do: Achieve a positive impact on the quality of life in the City of Brownsville.

Gary, I hope this is what you are looking for. Let me know if you need more. I may send you some more statistics coming in from Brownsville, but this will get you started.

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MEMORANDUM

U.S. DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE,  
JANUARY 26, 1998.

Subject: Letters of Support, Operation Rio Grande, McAllen Sector.

To: Office of the Regional Director.

From: Office of the Border Patrol.

Please find the attached letters of support forwarded for your information from McAllen Sector Chief Jose E. Garza. The letters were sent to the Chief from the community leaders and citizens. The letters are full of praise to the sector on several issues.

The issue of improving the levee road and lighting of the river near Progreso Lakes of McAllen Sector's Harlingen station area is one of the themes. The writing citizens and leaders remark on how enthusiastic and responsive the Border Patrol and its' Agents have been throughout the Rio Grande initiative.

The comments from law enforcement officials and city mayors are in a positive vein that expresses their appreciation for the outreach effort McAllen has made. The letters speak well of the investment made in continued outreach and to the many diverse groups to whom the sector has reached. This outward show of support is a good example of McAllen Sector's adherence to the strategy and their continued perseverance to keep focus on the operation within the community. This continued effort has provided a valuable return to the sector and the service in that we have had very little negative press and no substantial opposition to "Rio Grande."

If you require further information regarding this matter please contact DRCPA Ronald D. Vitiello of my staff at (214) 767-7039.

DAVID V. AGUILAR,  
*Assistant Regional Director.*

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THE VISION COMPANY,  
WESLACO, TEXAS, *January 25, 1998.*

Chief Sector Officer JOE GARZA,  
*U.S. Border Patrol Office  
McAllen, Texas.*

DEAR CHIEF GARZA: Please know that, in my opinion and perception as a resident living in the immediate borders of the Rio Grande River, Operation Rio Grande, appears to be a great success. The flow of illegal aliens and drastic curtailment of drug smuggling appears to have subsided since additional personnel, vehicles, and new strategies have been added or implemented.

Was pleased to be part of a group of various representatives from the U.S. Water and Boundary Commission, U.S. Fish and Wildlife Department, port chiefs of the U.S. Immigration and U.S. Customs Services, Central Power and Light Company, and property owners to study and discuss the different issues and possible problems of expanding Operation Rio Grande in and around the Progreso Point of Entry spearheaded by SBPA Adrian Zarate recently. I was pleased that discussion centered on all aspects from different perspectives including security, environmental, and landowners' views. The addition of much needed lighting, weather proofing the levees, and even the possibility of using cameras is important to augment the man-power energies of the present personnel and equipment.

Please know that you have my wholehearted support in your continuing implementation of Operation Rio Grande, and the addition of innovative technology to

stem these serious problems associated with individuals attempting to ford the Rio Grande River illegally or sail illicit drugs across.

Hope 1998 is a wonderful and fruitful year for you, your family, and staff. You do know that you can call me at any time as you have a friend of the U.S. Border Patrol and all efforts of Operation Rio Grande.

Very truly yours,

DR. CHRISTINA FERNANDEZ,  
*President, The Vision Company.*

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SAN PEDRO-KENEDY RANCH CO.,  
SARITA, TEXAS, *December 22, 1997.*

JOSE E. GARZA,  
*Chief Patrol Agent, McAllen Sector,  
United States Border Patrol.*

DEAR CHIEF GARZA: Please accept this as a letter of appreciation and commendation to the Kingsville Station of your command sector.

I have found the agents to be very responsive when they are called for assistance and to be very diligent in their patrol of some very isolated areas. I would dread to think of the additional amount of damage and destruction by illegal aliens that property owners in this area would suffer if not for the efforts of the Kingsville Border Patrol.

In working with other law enforcement agencies of the areas, I think that I can also express their appreciation for the cooperation that exists with the Border Patrol.

In this large and isolated area, the Border Patrol agents are often the first to arrive at the scene of major accidents. Their presence has made the difference between life and death for numerous victims. Their compassionate actions have also been responsible for saving numerous illegal aliens that have been overcome by the heat and long distances that they had failed to prepare for.

Again, I would like to express my appreciation for the many positive contributions that the Kingsville Border Patrol agents make to Sarita, Kingsville, and all the surrounding areas and for the invaluable assistance they provide me in my capacity as ranch security.

Sincerely,

JOE STILES,  
*Security.*

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KENEDY COUNTY SHERIFF'S DEPARTMENT,  
SARITA, TEXAS, *December 17, 1997.*

U.S. Border Patrol,  
*Kingsville, Texas.*

TO WHOM IT MAY CONCERN: Please let this letter serve as a formal appreciation for the assistance that U.S. Border Patrol Agents have extended to the Kenedy County Sheriff's Department and the residents of Kenedy County.

As you are aware, Kenedy County is a large County and it has been because of the assistance of Border Patrol that calls for emergency response have been answered. Every time there is a major accident, Border Patrol is the first to respond and arrive at the scene at all hours to assist and give medical attention to the injured victims until Sheriff deputies and EMS units arrive. In addition, Border Patrol has always assisted in the search of reported dead bodies in the Kenedy Ranch as well as reported missing or sick illegal immigrants.

This County is extremely appreciative for the considerable assistance that has been provided to us by U.S. Border Patrol. This department, as well as all travelers passing through our County, can never repay Border Patrol for their dedicated service. Our hats off to all agents for a job well done.

May you all have the best holiday season and many well wishes for the upcoming new year.

Respectfully,

RAFAEL M. CUELLAR, JR.  
*Sheriff.*

SPOHN KLEBERG MEMORIAL HOSPITAL,  
December 22, 1997.

JOSE E. GARZA,  
Chief Patrol Agent, McAllen Sector,  
United States Border Patrol.

DEAR CHIEF GARZA: It is with great pleasure that I reaffirm and commend the Kingsville Border Patrol agents for their continuing efforts to not only contain illegal drug trafficking, but also their commitment to the community in which they work. The Kingsville Border Patrol agents are very concerned with the well-being of the aliens and often bring these individuals to our hospital for treatment if necessary. The core values of Spohn Health System include responsiveness to need as well as dignity of person. We believe, as custodian's of God's people when we're judged upon that day, the only things we get to keep are those we gave away. The Kingsville Border Patrol agents practice this belief daily by assisting in the aid of the sick and injured aliens.

Additionally, the Kingsville Border Patrol agents demonstrate their commitment to the community by donating toys to the children on our Pediatric Unit during the Christmas season. You may even see one of the agents impersonating the jolly man himself.

Spohn Kleberg Memorial Hospital is pleased to have the Kingsville Border Patrol agents working for Kingsville and the surrounding communities Spohn Health System serves.

Sincerely yours,

DONNA UPCHURCH, RN,  
Associate Administrator.

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PROGRESO LAKES, TEXAS, December 9, 1997.

JOE GARZA,  
Chief Patrol Agent,  
McAllen, Texas.

DEAR CHIEF GARZA: This letter is reference the proposed lighting and caliche road construction project near the Progreso Lakes levee area. Supervisor Adrian Zarate met with me and my husband on Friday, November 28, 1997, to explain "Operation Rio Grande" to us. We strongly feel this is a very worthwhile endeavor that would surely help secure our homes here in Progreso Lakes.

Adrian explained he had met with the farmers owning land in the area, representatives from Fish and Wildlife, Water and Boundary, Bridge Owner and Custom and Immigration heads from the Progreso Port of Entry. He took this group of people to the areas that would be affected by "Operation Rio Grande" so as to address any concerns they may have on this project. The meetings were very productive and in the end all were in agreement with the proposal.

On December 5, 1997, Adrian worked a sixteen hour day in order to make himself available to all the citizens of Progreso Lakes. Enclosed are the names from all the families supporting "Operation Rio Grande". Adrian told us that you had worked very hard in making "Operation Rio Grande" a reality for all the citizens of the Rio Grande Valley and for this we would all like to say how fortunate we are in having you as the head of the Border Patrol.

Sincerely,

BEVERLY AND JOSEPH MEYERS.

Families from Progreso Lakes who support "Operation Rio Grande":

Henrietta Escalon, Raul Galvan, Benito Arambula, Pedro Escalon, Flora Galvan, Eliazar Galvan, Manuel Galvan, Servando Galvan, Santiago Galvan, Jr., Arturo Galvan, Eleno Maldonado, Michael Guerrier, Manuel Oviedo, Nere Galvan, Gerald Baker, Ted Sunderland, Woodie Cellum, Harold Seiver, George Pults, James Hunt, John Whitfield, A.C. Fuller, Randy Winston, Lloyd Heggen, Judith German, Bill Swinnea, Martin David, Johnny Guin, Benton Beckwith, Tomas Cuellar, Arturo C. Cuellar, Jr., Arturo C. Cuellar, Sr., Burton Villarreal, Robert Gonzalez, Jimmy Payne, Virginia Dwyer, Tim Reid, Butch Emery, Chester Pflugard, Alex Young, Edwin C. Farrell, Rene Luna, Robert Perales, Bill Davis, Michael Zink, John Gonzales, Jane Gonzales, Roland Ramirez, Sigfriedo Flores, Clay Flores, Leroy Riemenschneider, L.T. Moss, Ignacio Garcia, Connie Lincoln, Norman Maxwell, Harold Cain, Don Fletcher, William Cain, Donald Riemenschneider, John Trainor Evans, Dorothy Egleston, James Thomas, Raul Mendez, Pedro Trevino.

CITY OF PROGRESO LAKES,  
PROGRESO LAKES, TEXAS, *December 16, 1997.*

Chief JOE GARZA,  
*United States Border Patrol,  
McAllen, Texas.*

DEAR CHIEF GARZA: We have recently been in contact with Supervisor Adrian Zarate with regard to the Border Patrol coverage in and around the area of the Progreso International Bridge. As you know, this bridge is situated in our city and therefore is of more than casual interest to our citizens. It is our yards through which illegal traffic flows.

Since the inception of Operation Rio Grande we have seen a marked decrease in illegal traffic. We credit the added vigilance as the reason for this dramatic decline. At the same time we will not be lulled into a false sense of security, this is an ongoing battle and as such requires continual monitoring. We stand ready to support our Border Patrol.

Supervisor Zarate has impressed us with his enthusiasm for his proposal. He has researched the project in a manner that takes into consideration the impact this operation would have on the citizens and their environment, without compromising the safety of his agents. He has consulted with biologists, farmers, businessmen and local citizens and requested input from those who would be immediately effected.

As you well know, one of the integral components of this operation is the addition of caliche to the levy in the immediate vicinity of the Bridge. Having driven on these levees, I can assure you that in inclement weather they are impassable. In regard to lighting the levees, some residents have reservations about the unforeseeable effects on crops, insects, and wildlife as well as light pollution, but weighing these factors against the safety of agents and citizens alike solidifies our support.

While Progreso Lakes was incorporated in 1979, it has been home to many of our citizens for several decades. We hold special concern for the safety of our elderly and our children who, each in their own way, seem most vulnerable. Over the years we have seen the complexion of illegal foot traffic change from the lone alien looking for work who would timidly approach you with queries such as "which way is north?" or "which way to Chicago?" to a more threatening and dangerous traffic that has no regard for person or property.

We on the front-lines of this nations war on drugs are glad that the U.S. Border Patrol has recognized our plight and we support the measures it is taking to implement this project to the fullest.

Thanking you for your time and attention to our situation, I am  
Very truly yours,

KAREN EVANS,  
*Mayor, Progreso Lakes, Texas.*

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B&P BRIDGE COMPANY,  
PROGRESO, TEXAS, *December 1, 1997.*

JOE GARZA,  
*Chief Patrol Agent,  
McAllen, TX.*

DEAR MR. GARZA: I have recently met with Mr. Robert Vargas, Port Director of Progreso International Bridge, Adrian Zarate, U.S. Border Patrol, along with representatives of U.S. International Water Boundary Commission, U.S. Fish and Wildlife Service, and Central Power and Light. It was a unanimous agreement of all the parties that this section of the river must be lighted to enhance Border Patrol efforts to stem the flow of illegal aliens.

I totally support the lighting of this section of the border and because the lights will be visible from Mexico, this will discourage persons from attempting to cross the river.

Since Border Patrol began the current operations, we have not had any vehicles stolen or broken into in our parking lots.

Sincerely,

SAM R. SPARKS.

CITY OF PROGRESO, *December 15, 1997.*

JOE GARZA,  
*Chief Patrol Agent,  
 McAllen, Texas.*

DEAR CHIEF GARZA: On or about December 16, 1997 Supervisor Adrian Zarate explain to me his project, "Operation Rio Grande". Mr. Zarate stated that said project was composed of lighting and cliche road construction on the levee of the Rio Grande River which are South of the City of Progreso.

In order for me to make a need assessment for the project, Mr. Zarate gave me a tour of the area. At which time, I saw the composition of the levee and that it was not weather proof which makes it hard to travel during raining weather. The terrain with all the brush and darkness is an invitation for crossing that sector of the Rio Grande River which in turn would be lighted. Thus, such project would deter illegal crossing and at the same time reduce crime in our City.

With this in mind, may this correspondence serve as a letter of support for the proposed project as reference above.

Sincerely,

ARTURO VALDEZ,  
*Mayor, City of Progreso.*

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NOVEMBER 29, 1997.

JAMES M. FERNANDEZ,  
*Progreso, Texas.*  
 Chief JOE GARZA,  
*U.S. Border Patrol,  
 Weslaco, Texas.*

DEAR SIR: On Wednesday, November 26, 1997 we attended a meeting at the Progreso Intl. bridge regarding the proposed lighting and weather-proofing of the levee east and west of the port of entry. This informal meeting was conducted by your representative, Adrian Zarate who presented us with details of the proposed project.

We are farmers and/or land owners along the proposed East 2.25 mile section of the levee and were asked to attend this meeting so as to get answers to any concerns we may have resulting from the proposed project. The laying of caliche on the levee did not give us any problems at all. This would benefit us greatly at times of wet weather giving us all-weather access to at least our property boundaries along the levee.

Of concern to some of us was the actual placement of the utility poles to be used. It was explained to us by a CPL representative that the poles would be placed along the lower north side of the levee, within the IBWC right of way, and out of the way of any access by any of our farm equipment in adjacent fields. We asked about the type of lighting and how far into the fields on the south side the lighting would cover. We were told that the range of the lights would be from 150 to 180 feet but that the lights would be aimed toward the east and west and not directly south. We were told that this was to meet concerns of wildlife agencies, who were also at the meeting, and also to get the maximum effect with the least number of lights.

Concern over the possibility of increased insect activity resulting from the lighting was discussed. Light draws insects at night, both harmful and beneficial, and we all grow insect sensitive crops along the proposed project. From some experience by a few of us with crops growing near lighting in other areas and from what little information from entomologists and others we could get, the insect concern would probably be slight.

Access on the levee was also a concern. With the caliche on the levee there will be a possibility of increased auto traffic by those who don't have any business there. We have gates controlling our north/south access roads. We were assured that only land owners and operators and their representatives would be allowed access on the levee. The IBWC will upgrade their "Not For Public Use" signs and the patrols on the levee are or will be authorized to enforce this access. We were very satisfied with this controlled access.

Besides the caliche we will be getting a great benefit from this proposed project—security. It is frightening and dangerous to try to do any farm work such as irrigating at night, but we have to do it. Once the project is completed and operational and the alien and drug traffic is curtailed to the extent possible, not only will it be safer to check our farming operations at night along the levee, but also the safety and reduced alien traffic north of the levee will carry over.

This proposed project is not a "rush job". All concerns; landowners', farmers', wild-life, and immigration are being addressed. We believe it will be a good project as long as these concerns continue to be addressed and because of this we support you in this endeavor.

Sincerely yours,

JAMES M. FERNANDEZ,  
ART BECKWITH,  
O.D. EMERY,  
MARVIN FULLER,  
TIM REID.

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HIDALGO COUNTY SHERIFF'S DEPARTMENT,  
DECEMBER 2, 1997.

U.S. Border Patrol Chief JOE GARZA,  
*Agent In Charge,*  
*McAllen, Texas.*

DEAR CHIEF GARZA: I would like to say that I totally support and appreciate the proposed project of lighting the Project Sector and also adding caliche on the road leading to the levee in the Progreso Lakes area. Not only will this be of benefit to the residents, but will also help our Deputies when patrolling those areas.

I strongly feel that the lighting will eliminate a lot of the illegal crossing which occurs in that area, thus cutting down on the crime.

Sincerely,

ENRIQUE "HENRY" ESCALON,  
*Hidalgo County Sheriff.*

[CLERK'S NOTE.—The attached newspaper articles are being retained in the sub-committee's files.]

Senator HUTCHISON. I appreciate that we are now getting the attention, because it is more of a challenge. There is no question when you have these vast open spaces. But I appreciate the team that you have put together and the people who are living with it day in and day out are also very optimistic.

#### MEXICAN GOVERNMENT COOPERATION

I would like to turn to you, Mr. Constantine, for two issues, one of which is one that you have already addressed, I understand, and that is the certification process with Mexico. I am paraphrasing, and feel free to correct if I have a misimpression, but from what I have read that you have said in the newspapers and perhaps what you said today, you think that the progress has been minimal from Mexico. And I would like to ask you if you think that this is a sorting out time, or do you think that the higher levels of the Mexican Government are not trying to cooperate with the United States in the drug fighting efforts?

Mr. CONSTANTINE. Yes; what I said originally was that I try to avoid getting involved in the certification decision discussion. What I try to do is, as a career police officer, analyze what is the crime problem. What is the impact on the citizens of the United States? What you have is these very powerful criminal organizations with the command and control in Mexico who send into the United States—it is not just along the border; but it is New York; it is Chicago; it is Milwaukee, and it is Salt Lake City—their operatives to carry out drug trafficking.

And last year, when we met, this was a very, very difficult situation, because all of the civilian law enforcement agencies in Mexico had been totally dismantled, and there was nobody with whom we could legitimately share information. What I have said here today,

and I said in previous testimony last week, there have been some improvements in that in which there are specially selected units that have been selected by the Government of Mexico and have been put through a very vigorous background process. They have been trained by the FBI and the DEA.

Now, they are the beginning, and it is a small beginning, but you have to start some place, and this does take a fairly long period of time.

Senator HUTCHISON. Does that indicate to you that there is an effort on the part of the people at the higher levels of the Mexican Government to address this issue?

Mr. CONSTANTINE. The people that I meet with, Senator, I think honestly want to improve the situation. The problem is the infrastructure for law enforcement has been so badly damaged by corruption that rebuilding is very, very difficult. And simultaneously, while that is happening, the trafficking organizations out of Mexico have become much more dangerous to citizens of the United States than they were 5 years ago and much more dangerous. If you look at Juarez, Mexico since the death of Carillo Fuentes on July 5 of last year, there have been 50 people murdered in drug-related killings in that city, one-sixth of them in one restaurant. It was an upscale restaurant, the Max Finn restaurant, where they just walked in and sprayed the whole crowd with automatic weapons fire.

There have been numbers of doctors who have been assassinated; numbers of police officers and prosecutors. So, you are in a situation right now where there is a beginning attempt to improve the law enforcement structure. But it is a raid against this very powerful enemy, and that is how I assess it and look at it.

Senator HUTCHISON. Well, my dilemma is that I do have to decide on the issue of certification, and I have to decide if it is better to work in a cooperative spirit with Mexico and try to give every indication that this is a joint effort or whether we slam the door in their face and have harsh rhetoric and turn them into, if not enemies, certainly adversaries. And I have taken the former approach: that we should work with them in a spirit of cooperation, understanding that it is very difficult, and perhaps progress is slower than we thought.

So, I think it is important as we are looking at the issue is are they trying? And is there a commitment at the highest level? And that is how I am looking at this. The President has said that he is going to certify that the effort is there, and I think that we need to, (a) go forward without the harsh rhetoric that would perhaps lessen cooperation; but, (b) I think we need to look at another method of measure rather than the hammer approach, and I am working with others in the Senate, hopefully, for an alternative to this either certification or decertification, black and white approach and seeing if there is not something which would bring in law enforcement officials, of which the three of you would be important, into a kind of high level group along with the drug czar that would start setting standards and goals and reporting on those but without the decertification that has such, I think, debilitating effects on our relationship.

So, I would ask you, even though you have tried to avoid the issue, if you do not think that cooperation will get us more in the long run than confrontation?

Mr. CONSTANTINE. Well, obviously, you know, my whole role in life has been cooperating with other law enforcement agencies to try to achieve a result, and I have avoided confrontation everywhere. This is always a difficult time for me in this city, because I lay out what I see as a police official, and I deal with facts and try to stay out of any types of policy or political issues that are beyond my capacity. I think eventually, the ultimate test of how successful we are and how successful the programs are will be in the cooperation of identifying the leadership of all of these organizations in Mexico. Most of them have been indicted in courts in the United States for substantial felony crimes that have impacted citizens in the United States, and when they are arrested and brought to justice and, hopefully, before a jury of their peers that they have injured that then, I think we can say that it has been successful.

And I leave for others the responsibility of making the evaluation of what political process or what policy we should have as a Government. I will always tell elected officials in this country the truth as I see it as candidly and as clearly as I possibly can, and then let other people make that decision.

Senator HUTCHISON. Well, I understand that you are reluctant, but it makes it very difficult for us with the process we have, and I hope that we can change it and move toward setting goals of extradition of those people. That would certainly be high on the list, and I want to work to do that.

#### RAID ON PHARMACIES

Let me turn to one more local issue to which I would like your response, and that is recently, the DEA raided 25 local pharmacies in a rather small town in Texas and followed up with letters requesting up to \$400,000 in fines per pharmacy for what appeared to be paperwork violations. I would like to know what the dollar amount is in the proposed fines, and what is the DEA going to do? I mean, is this going to be a pattern? Or is there going to be some ability in the DEA to judge what are paperwork violations, and if there is a pharmacy that is trafficking illegal drugs, clamp down, but if it is a pharmacy that has sloppy paperwork, is there another approach that could be taken that would not shut down the pharmacy?

Mr. CONSTANTINE. Yes; Senator, these are what we call diversion investigations. Part of the responsibility of DEA is a regulatory function. In this particular case, it was brought to our attention that there were a number of drug stores of substantial national corporations with a reputation for professionalism and cooperation with us in many ways. They did have some violations where the paperwork was not as it should be.

There were letters sent to them from an assistant U.S. attorney indicating that they had violated certain laws and certain regulatory acts and that the fine per each act was, I believe, potentially \$25,000 per incident. I am now paraphrasing this—in an interest of maybe saving everybody money and time, if they would come in and in essence plead guilty to this, the matter could be resolved.

If they did not, then, there would be a more extensive look at their records.

I thought this was Government acting inappropriately. We got a hold of our SAC, Julio Mercado and he worked cooperatively with the U.S. attorney, Mr. Paul Coggins. They went to that community and, in essence, apologized to all of the individuals involved for the letter, for the strategy, and for the policy.

I cannot tell you today where they are at in the regulatory answer to it. However, it was our opinion in DEA that that letter and that approach in Wichita Falls was totally inappropriate, and we have told all of our SAC's not to use that type of approach again. That does not exculpate people who may have committed violations of the law or violations of policy. There are procedures to handle that. But this was, I thought, a threatening letter, a dunning letter that was not something I was comfortable with in my experience in law enforcement.

And I think we have repaired the damage in that community, for those individuals and those major corporations as well as small-town drug stores. I think we have recognized what went wrong there and have tried to straighten it out.

Senator HUTCHISON. So, you will have some sort of—

Mr. CONSTANTINE. National policy, yes.

Senator HUTCHISON [continuing]. A national policy.

Mr. CONSTANTINE. Yes.

Senator HUTCHISON. Where there would be warnings or a differentiation between a real violator and a minor paperwork violation.

Mr. CONSTANTINE. The law is set out—and I am not an expert on it—in the regulations of the Controlled Substances Act. Businesses have to follow certain procedures that are published as rules, and everybody knows what they are. I have always found that discretion was important. As a uniformed trooper on the road, you did not write a traffic ticket to everybody who jaywalked. At the same point in time, if there was someone who was speeding or acting recklessly or a drunken driver, you enforce that vigorously. It is called discretion in law enforcement, and you try to teach it. There cannot be any template, I do not think, to arrest everybody or to let everybody go. You have to weigh in all of the implications of the violation and then determine—

Senator HUTCHISON. You said there will be a national—

Mr. CONSTANTINE. Yes, ma'am.

Senator HUTCHISON. [continuing]. Policy and training.

Mr. CONSTANTINE. Yes, ma'am.

Senator HUTCHISON. Thank you.

#### INS FINGERPRINT SUBMISSIONS TO FBI

Senator GREGG. Thank you, Senator.

Just a couple of questions. Where do we stand on the fingerprint relationship between the INS and the FBI, which was one of the major problems that created the huge amount of people being approved for citizenship who should not have been approved?

Ms. MEISSNER. Well, we have worked intensively on this issue, both within INS and between INS and the FBI. We have entirely revamped the fingerprint procedure between the two agencies. The

FBI now answers our fingerprint requests 100 percent of the time; in other words, for every fingerprint that we submit, we wait until we have a response from the FBI. The FBI's response time is very favorable; they are turning them around very quickly, because we have worked out a situation between the two of us where we are submitting the fingerprints increasingly through an electronic technology.

We now barcode all of the fingerprints so there is no chance of matching a fingerprint to a different application than the one that it belongs to. We have put into place a network of fingerprint centers. We call them application support centers. They will be fully operational later this month. They mean that you now have your fingerprints taken by the Federal Government, supervised by the Federal Government or by a local law enforcement agency; no private entities are any longer taking fingerprints.

We are installing machines in all of those fingerprint centers so that increasingly, the fingerprints will be electronically scanned to capture them as compared with the old ink method. That means that the rate of rejection of fingerprints has gone down to less than 2 percent from what it was, which was over 50 percent with the ink method. And ultimately, we will be digitally transmitting fingerprints to the FBI. The FBI is beginning to have that capability. The machines that we are installing—

Senator GREGG. How many machines do you have?

Ms. MEISSNER. Right now, I would have to get you that number, but they will be in all of the more than 100 fingerprint centers that we have and several machines in each, so, we are talking about several hundred fingerprint machines.

Senator GREGG. And how many times in the process of the application is the person fingerprinted?

Ms. MEISSNER. They are fingerprinted once, but that fingerprint has a code attached to it.

Senator GREGG. How many times is it confirmed?

Ms. MEISSNER. It is confirmed at least three times in the process. [The information follows:]

#### INS FINGERPRINT MACHINES

INS has completed a cost benefit analysis with the help of Booz-Allen & Hamilton that concluded that fingerprint machines and not inked prints were the most cost effective approach for fingerprinting. INS has purchased 100 fingerprint machines to date using fiscal year 1997 funding. Currently there are 70 machines in use at Application Support Centers (ASC's) across the country. At only one of the sites (Spokane, Washington), is INS testing the electronic transfer of fingerprint minutiae from an ASC directly to the FBI. The FBI is working with INS to modify certain aspects of the transmittal, and INS will expand the pilot to one or two other sites later this spring. Until these technical questions are resolved, INS will continue to have the fingerprint cards sent from the ASC to the appropriate Service Center, which then sends the cards to the FBI. The FBI responds to the originating Service Center, which forwards the information to the appropriate district office, so that the information is available to the adjudicators in the field.

INS is in the process of completing a second cost benefit analysis that will help determine the type of machine and from which vendor INS should purchase additional machines. Once that is determined, INS will purchase 350 additional machines, using the fiscal year 1998 funding. The time frame for this purchase is May 1998, and INS expects to have fingerprint machines in 100 percent of the ASC's by the end of the fiscal year.

Senator GREGG. Director Freeh, how is this working, this electronic fingerprint communication, in your opinion?

Mr. FREEH. It is working well, Senator. The INS is going to install fingerprint scanners in the four service centers which will allow electronic submissions. INS also will have live scanning devices at 46 locations for electronic transmission of criminal fingerprint data. That is really the key to this problem.

The other aspect of it is the overall fingerprint backlog that has fallen from where it was, unfortunately, 1 year ago, at 2.9 million cards to be put into the process to now 700,000. The turnaround time for civil submissions—these are not electronic; these are the normally received ones—is down to 19 days. So, with the technology, I think we have really turned the corner.

#### FBI FINGERPRINT CENTER

Senator GREGG. How is this center working, the new center, the fingerprint center?

Mr. FREEH. The INS center?

Senator GREGG. No; your new fingerprint center.

Mr. FREEH. Very well, sir. There are 1,100 technicians who are all on board, hired over the last year, and that is principally why the backlog is down. And as the IAFIS system comes online next July, the turnaround time is going to be dramatic. It will be 24 hours for all civil and criminal cards and 2 hours for criminal priority cases so—

Senator GREGG. It just seems to me that the whole key to this question of having new citizens be citizens we want comes down to being sure that we can adequately check their background and that the person who takes the test is the person who applied and that the person who takes the oath is the person who applied. And so, I think that we have spent all of this money on this fingerprint capability, and it took a while to get it up and running, but obviously, you are going to take advantage of it. But I do encourage you—obviously, I do not have to encourage you; you are doing it—to continue to aggressively pursue utilization of all of this new equipment, new capability and to make sure that we aggressively check people's backgrounds through the use of this new technology, which I am sure you are going to do.

Ms. MEISSNER. I can certainly assure you that we are doing that.

Senator GREGG. Do you have some additional questions?

Senator DOMENICI. Yes; I do.

Senator GREGG. Why do you not go ahead?

Senator DOMENICI. Is this too late for you?

Senator GREGG. No; go ahead; I have got a couple more, but shoot.

#### USE OF INS FUNDS FOR NEW TECHNOLOGY

Senator DOMENICI. Well, I want to ask the same questions of you, Commissioner, that I asked of Mr. Freeh with reference to new technology. Could you provide the subcommittee with a breakdown of the funding that has been utilized by INS to develop a core technology program producing proven results in your Department?

Ms. MEISSNER. Absolutely; this has been a major element of our budget requests for several years now. Modernization has been a

key objective. The systems that we are putting into place are working very well. Six years in a row, we have gotten Federal technology leadership awards, and I would be happy to give you more detail. It is the key to the future for us.

Senator DOMENICI. Well, I am sure that there are some that you do not want to put on record. In any event, in response, would you put on the record for us what the technology breakthroughs have been, provided they do not do harm to your approach to law enforcement? I think it is interesting that there are so many institutions in the United States doing research in this area, and they all call upon us to go visit them. They have new technologies, and sometimes, we cannot quite figure out how our departments and agencies are going about getting the best and finding the best. I would submit what you tell us you are doing to a group of experts and ask that they report, if the chairman desires, on whether the highest and best technology is being used.

Ms. MEISSNER. I would be happy to do that.

[The information follows:]

#### TECHNOLOGY BREAKTHROUGHS

The following technological breakthroughs have been put into place by the INS. The INS has developed the first open Automated Fingerprint Identification System (AFIS), IDENT. All other known working AFIS's use proprietary solutions which have historically locked the user into a single vendor for the life of the system. All the known working systems store the fingerprint data in the vendor's proprietary format in a way that makes it unusable by any other competing product. To consider switching vendors, the user must be willing to throw away all the fingerprints captured to date or be willing to run two systems in parallel fashion. This has led to three primary vendors selling AFIS products to Federal, State and local law enforcement agencies, which has resulted in many incompatible systems that cannot share fingerprints. The INS system, IDENT has demonstrated that it can run with two or more of the previously competing vendors' products performing matches on the same data base. The INS' AFIS system is capable of processing images from other law enforcement AFIS' that are capable of transmitting a copy of the original image using the National Institute of Standards and Technology standard or sending our images to their systems for checks.

The INS has developed the first fully automated, operational inspection station, the INS Passenger Accelerated Service System (INSPASS) for inspecting arriving passengers at major airports. This project pioneered the use of the hand geometry biometrics in this type of application.

The INS has developed the first automated, operational vehicle inspection port-of-entry, the Secure Electronic Network for Travelers Rapid Inspection (SENTRI). Testing continues with use of facial and voice recognition as a method of eventually making SENTRI capable of operating in a fully automated capacity.

The INS has developed the first fully automated, unattended, remote-monitored, vehicle port-of-entry that uses voice biometrics to identify and clear pre-enrolled persons moving to/from the United States and Canada.

The INS has developed use of video to operate low-risk, low-volume ports-of-entry with inspections being done from a remote, staffed port-of-entry, thus allowing the INS and U.S. Customs Service to keep open a port-of-entry that would otherwise not have sufficient people to staff it 24 hours a day.

The INS has developed significantly more secure identification documents, including the following: a new re-entry document that resembles a passport, but uses a new printing process to print on a Teslin paper in color, in a way that makes it very difficult for someone to alter the printed page; a new INS-issued identification card for permanent resident aliens (green card); a new INS-issued identification card for employment; and a new Department of State-issued identification card for Border Crossers.

The identification cards referenced above include multiple security features resulting in what the INS Forensic Document Laboratory calls the most secure document that they have seen produced. In addition to the security features, this card is introducing the first large volume use of the "Write Once, Read Multiple Times" optical memory/storage on an identification card.

The INS is using the 2D Bar Code printed on a benefit application that stores in computer readable form all the data on the form, thus saving the data entry costs previously required to process the application.

The INS is using commercial off-the-shelf (COTS) mapping software and data to display operational data that enables management to understand better what processes are working and in what ways, plus enables them to plan better for future activities and resource use. Arrests, sensor alarms, etc., are being displayed on pictures captured by satellite, thus showing activities relative to the trails that the aliens use and over topographical maps to show the terrain.

The INS has developed semi-smart sensor monitoring systems that utilize day/night camera configurations that will automatically locate an alarming sensor, point, zoom, and focus the camera to the activity area, giving the operator a live video of the activity thus making more effective use of our resources, e.g., officers no longer need to respond to sensor alarms that were set off by animals, and the officers know what to anticipate when responding to these remote sites.

The INS is using "data mining" software that enables its officers to analyze data from both the INS data collections and from outside sources, which is used to investigate suspected persons, business, etc., resulting in the identity and the prosecution of criminals.

The INS has developed a "camp monitoring" system used for emergency operations that keeps track of persons in detention by use of a bracelet that contains an embedded Radio Frequency Tag. A hand-held reader is used to read the unique serial number of the bracelet, which then performs an automatic lookup in the data base to identify the person from the biographical data previously captured on them.

#### INDIAN COUNTRY

Senator DOMENICI. With reference to Indian country, Mr. Freeh, I know that with everything you have to do as Director of the FBI, you certainly do not need any questions today about Indian country. Be that as it may, you do have jurisdiction, as does the U.S. attorney's office, in the sovereign States wherein Indian tribes or reservations lie to enforce the big 10 criminal major crimes act which is part of our national code making Indians or Indian people responsible for those crimes to the Federal Government. Other crimes can be made by their own ordinance or by State law or the like, but those, you have the sole jurisdiction over.

I will tell you this morning, one of the most disheartening things at a breakfast of county leaders from my State, I talked to the Navajo police chief. Now, this is not the sheriff of the county or three counties or four within which Navajos live but the non-Indian police chief that they have hired. He tells me for the entire Navajo Reservation, for his work, he has the sum total of 31 policemen.

Now, if one can imagine a reservation with about 250,000 to 325,000 people four times the size of Delaware, and you have 31 law enforcement people for your around-the-clock activities, you know that they are in for some big problems. I wonder if you might submit for the record any analysis that you could come up with of new funding in the 1999 budget that is going to be targeted toward Indian law enforcement initiatives? Could you provide the subcommittee with an analysis of the funds that will be redirected to this initiative from within the Department if that is the case? Maybe you would like to talk with us a bit about this problem if you are familiar with it.

It is a very serious one, and I understand it is deteriorating rapidly because of lack of law enforcement, lack of jails, lack of facilities, and, you know, it can go unnoticed.

Mr. FREEH. Yes.

Senator DOMENICI. For some of us, it cannot go unnoticed.

Mr. FREEH. I would be very privileged to submit that to you. As I mentioned in my earlier statement, we have, in the 1999 budget, a request for 30 new agents for crimes in Indian country. We would expand from four to six the number of Safe Trails task forces where we work with the Navajo services. We have also asked for an additional 31 positions for victim witness assistance specialists, full time for Indian country.

As I have mentioned, although the violent crime and homicide rate have fallen in the country 20 percent, it is 87 percent higher in Indian country, and they have, as you noted, one-half of the per capita policing resources. So, I will provide you with what we already have, and as I have indicated, we have asked for these new positions in the 1999 budget, and I agree with you: it is a critical area of our responsibility, and we need to beef it up.

[The information follows:]

INDIAN COUNTRY

While a reported crime in Indian Country is twice as likely to be a violent crime as crime reported in the rest of the United States, there are only half as many police officers per capita in Indian Country. Criminal investigative services in Indian Country are provided by the FBI, Bureau of Indian Affairs (BIA), Tribal Police, and/or State or county law enforcement, exercising either exclusive or concurrent jurisdiction, depending upon the State in which the reservation is located or the type of crime committed. During 1997, the FBI initiated 1,668 new investigations pertaining to crimes in Indian Country focusing primarily on felony crimes of violence and the physical/sexual abuse of children. The day-to-day violence involves homicides, assaults and rapes. The crimes are generally reactive in nature and demand that the FBI closely coordinate its response and investigations with the BIA Criminal Investigators and the various tribal law enforcement officers with which it works.

The investigations of the sexual/physical abuse of children in Indian Country are among the most sensitive cases worked by the FBI and are priority investigative matters. Under reporting of child sexual abuse cases is an issue the FBI is addressing. Improved reporting rates will increase the FBI's investigative case loads.

Just as juvenile crime has increased throughout the United States, it has increased in Indian Country. After decades of stable birth rates, the births in Indian Country began to rise sharply during the 1970's. The 1990 Census reported that while 26 percent of all Americans were under the age of 18, the percentage of the Native American population under the age of 18 was 34 percent. The incidence of juvenile crime in Indian Country is exacerbated by chronic unemployment, low levels of educational attainment, geographic displacement and family disruption. Difficult social and economic conditions have contributed to an increase in the number of gangs in Indian Country. Gang-related violence is a new phenomenon that is causing grave concern among Native Americans. Geography is often a contributing factor to addressing not only this crime problem but all of the crimes occurring in Indian Country. For example, the Navajo Nation is an immense area of 15,971 square miles in Arizona, Utah, and New Mexico. Drive-by shootings have increased and some homicides have been tied to gangs. FBI Agents must sometimes travel long distances to reach crime scenes, which can be as far as 200 miles from their offices, and in remote areas of their territories. There are identified gangs in Indian Country made up primarily of juveniles who mimic criminal street gangs established in non-Indian communities. Homicide, rape, robbery and weapons violations are the most prevalent crimes committed by gang members.

The total enhancements requested for the Department of Justice for the Indian Country Initiative for 1999 totals 122 positions and \$157,475,000. This request includes:

INDIAN COUNTRY

	Positions	Agt/Att	Amount
FBI Agents and Support .....	50	30	\$4,657,000
FBI Victim/Witness Specialists .....	31		3,352,000

## INDIAN COUNTRY—Continued

	Positions	Agt/Att	Amount
AUSA's and Support .....	35	26	3,466,000
Correctional Grants .....			52,000,000
Juvenile Justice Grants .....			20,000,000
Drug Testing/Treatment .....			10,000,000
Tribal Courts .....			10,000,000
COPS .....	6		54,000,000

*FBI.*—50 positions (30 agents) and \$4,657,000 to be dedicated to Indian Country Investigations; and 31 support positions and \$3,352,000 for full time Victim/Witness Specialists to be assigned to FBI resident agencies with jurisdiction in Indian Country.

*USA.*—35 positions (26 attorneys) and \$3,466,000 in support of the violent crime programs of the offices of the United States Attorneys with significant areas of exclusive Federal criminal jurisdiction.

*OJP/Correctional Facilities Grants.*—\$52,000,000 for construction and renovation of detention facilities in Indian Country.

*OJP/Juvenile Justice Crime Control and Prevention.*—\$20,000,000 to implement a new juvenile justice prevention and intervention initiative in Indian Country.

*OJP/Drug Testing/Treatment.*—\$10,000,000 to local units of government and Indian tribes for the planning, implementation and enhancement of comprehensive programs of drug testing, drug treatment, and graduated sanctions for individuals within the criminal justice system.

*OJP/Tribal Courts.*—\$10,000,000 for discretionary grants to assist tribal governments in the development, enhancement, and continuing operation of tribal judicial systems.

*Community Oriented Policing Services (COPS).*—six positions and \$54,000,000 to improve law enforcement capabilities on Indian lands.

Senator DOMENICI. I wonder, Mr. Chairman, in that regard, while I missed the presentation of the Attorney General—I could not get here, and I am sorry about that; I should have sent word, and maybe you would have held her for a little bit. I wonder if I could submit a question to her with reference to the U.S. attorney's office increased activity on Indian reservations.

Senator GREGG. Certainly.

Senator DOMENICI. Or just what their level of activity is. I understand, in New Mexico, at least, there is a recognition that they must do more, but I wonder what it is across the country.

Senator GREGG. No problem; give us the question, and we will submit it.

Senator DOMENICI. If I give you the question, you will submit it?

Senator GREGG. Absolutely.

## CERTIFICATION DECISION—LEAD ROLE

Senator DOMENICI. My last question—you know, I had a whole series of them on Mexican drug certification, but I will not ask them. I will just ask one question, and maybe you will choose not to answer it, but it just seems to me that when a certification of any country, be it Colombia, which we refuse to certify, yet, we grant them some national interest waiver; and yet, certification is recommended for Mexico, it raises a lot of questions.

I guess I would ask you: do you think it would bring more credibility to the certification process if the law enforcement agencies, say the Justice Department or the Justice Department and the DEA were to take the lead role in certification decisions?

Mr. CONSTANTINE. I probably would not answer that, Senator. The Attorney General would be better to answer that for the Justice Department than I. I have tried to avoid the whole question of certification as a law enforcement official for fear that it would be inappropriate; it would be perceived incorrectly. I do not know what the Attorney General's position would be.

Senator DOMENICI. OK.

Mr. CONSTANTINE. She would have to speak for herself.

Senator DOMENICI. I accept that answer, and I assume that if we had her here, she would say she accepts the determination by the President of the United States that it be the Secretary of State; so, we will get nowhere unless we have a debate on the floor of the Senate about it, and maybe that will happen this year.

I assume that is the same position you would take, Director?

Mr. FREEH. Yes, sir.

Senator DOMENICI. And you?

Ms. MEISSNER. Yes.

INDICTED MEXICAN NATIONALS OR AMERICANS WHO RESIDE IN  
MEXICO

Senator DOMENICI. Could I ask, of the list of indicted Mexican nationals or Americans who now reside in Mexico and have been indicted in the United States by a grand jury, do you have a list of those who have not yet been arrested and/or tried or returned to the United States that you might give us for the record?

Mr. CONSTANTINE. Yes; we will.

Senator DOMENICI. Would you coordinate so we have the full list?

Mr. FREEH. Yes, we will.

Senator DOMENICI. Has there been a substantial diminution in that list from last year, when we had similar discussions here, or is the list about the same size?

Mr. CONSTANTINE. I think the list of the individuals whom we have identified as leaders have been indicted in provisional arrest warrants. Then, there have been one or two arrests of midlevel people, and there have been extradition papers filed on four or five, but none of the principals has been arrested, and there have not been any extraditions yet to the United States.

Senator DOMENICI. Might I just ask: do our law enforcement people have some reasonable understanding as to where these people are? I mean, are they findable in Mexico? Could law enforcement find them?

Mr. CONSTANTINE. It is difficult, obviously, for us, with only 45 people in a country that large, to be able to locate individuals who have a whole network that they have developed of ex-law enforcement officials for their own security, law enforcement officials whom they have corrupted. They have intimidated entire communities through violence. When you have intimidation and corruption, which is the life-blood of organized crime, honest citizens are often unwilling to come forward for fear that they would suffer some great penalty.

Senator DOMENICI. Director Freeh.

Mr. FREEH. We do not have the capability, the United States law enforcement resources, of finding fugitives or indictes in Mexico. As to the capability of the Mexican Government, I am not an ex-

pert on that. I know we have many leads in terms of telephone connections and travel connections which we regularly pass on to the Mexican authorities, and they have been exceedingly difficult in terms of their apprehension ability.

Senator DOMENICI. Well, Mr. Chairman, I want to say, because I am sure that sooner or later, the State Department is going to be interested. You know, I am very sympathetic to an ongoing cooperation between America and Mexico. You know we live on that border—New Mexico does, Texas does, California does. We know the problems Mexico has. I do say it is rather difficult to go through certification last year and just beg the participants, our State Department and the Government of Mexico, to apprehend some indicted people who are indicted by American grand juries. We beg them to send some of them here to be tried and find little or no result or little or no enthusiasm, as evidenced by action.

It does not make it easy to stand up and say, they are doing everything they can in drug and crime prevention in Mexico as it pertains to the United States of America. So, I do not know where it will all come out, but that issue is going to come up again. We would appreciate the list being as impeccable as you can give, because every time we say there are 120, somebody says there are only 30.

Senator GREGG. Yes; we would like to get that list. But I think, obviously, the sensitivity of the Senators from New Mexico and Texas and the ranking member from South Carolina is significant on this point. You have to ask yourself—and I recognize you are not going to comment on this, and I appreciate that you do not want to get into this policy—but you have to ask yourself: what is the point of this certification exercise if you have a country that so clearly is not cooperating in the exercise, and yet, we will not take any action against them, because we feel it would be, from a public policy standpoint, the wrong decision, and it would have international ramifications which would be counterproductive. So, why even have the certification process if we are simply not going to use it effectively in this area? It is very obvious we are not getting cooperation; so, why pursue a process which we are being duplicitous by saying we are going to certify them when clearly, they should not be certified?

Senator DOMENICI. Thank you, Mr. Chairman.

Senator GREGG. Thank you.

[The information follows:]

#### INDICTED MEXICAN NATIONALS

The following is a list of known subjects believed in Mexico who have been indicted in the United States. Some of these subjects are under arrest or incarcerated in Mexico, due to Mexican law enforcement efforts.

Arellano Felix, Ramon. Provisional Arrest request 10/97. Also has drug charges in Mexico.

Caro Quintero, Rafael. Provisional Arrest requested 1/97. Currently serving a sentence in Mexico. Also has drug charges in Mexico.

Del Toro, Jose. Arrested on 11/21/97. U.S. Murder Charges.

Fleitas, Juan Jesus. Arrested 8/3/97 on local charges. Also has armed robbery and murder charges in Cuba.

Gonzales Castro, Jaime. Arrested 6/97; Extradition granted 11/97. Also has drug charges in Mexico.

Gutierrez, Rosendo. Extradition granted; Appeal pending Also has sex offense charges in Mexico.

Ladino Avila, Jaime Arturo. Arrested 5/28/97. Extradition granted 9/4/97. Also has drug charges in Mexico.

Malherbe, Oscar. Provisional Arrest requested 5/28/97. Arrested 3/4/97. Documents submitted 4/28. Extradition granted but not final; Facing Mexican drug charges.

Martin, William Brian. PA requested 1/96. Extradition granted; remanded for re-hearing. U.S. Drug Charges.

Paez-Martinez, Arturo. Arrested 11/97. Extradition documents submitted 1/8/98. Also has drug charges in Mexico.

Robles, Tirso Angel. Arrested 11/96. Extradition granted. Appeal pending. Also has drug charges in Mexico.

Vasquez Mendoza, Agustin. Provisional Arrest requested 7/94. Also has murder and drug charges in Mexico.

Besides these known fugitives, there are approximately 25–30 individuals under arrest at any given time in Mexico who have been found extraditable or who are facing extradition proceedings at the request of the United States. There is no way of knowing how many defendants charged in the United States, whether U.S. or Mexican citizens, have fled to or are residing in Mexico.

#### AUDITS OF THE NATURALIZATION PROCESS

Senator GREGG. I did have a couple of additional questions. Are you going to continue annual outside audits of the naturalization process?

Ms. MEISSNER. Well, we, as you know, have been intensively involved in a series of audits with a firm, KPMG Peat Marwick.

Senator GREGG. Right.

Ms. MEISSNER. We now have a series of things in place that we believe assure the integrity of this process: the fingerprint change that we just described; the random reviews within the agency.

Senator GREGG. Well, are you going to continue the outside audits?

Ms. MEISSNER. Right now, we do not have plans for an outside audit, but that is because we have built in the protections that the outside auditors were reviewing; we have built those into the system.

Senator GREGG. I understand that.

Ms. MEISSNER. And into the software that supports the system.

Senator GREGG. But I think this committee is going to want you to continue outside audits for a couple of years to make sure that this committee is comfortable that the systems are working.

Ms. MEISSNER. Well, we would be happy to talk to you about that, and I would be happy to describe to you more fully the protections that are in place.

[The information follows:]

#### IMMIGRATION AND NATURALIZATION SERVICE OVERSIGHT AUDITS

Future review of naturalization operations will be done internally at the field level with periodic mandated reviews of compliance with established process controls. Field offices will be required to report review results up through the chain of command. This is being referred to as the formal Quality Assurance Program within INS.

INSpect reviews will continue to cover the naturalization process.

The Department of Justice Office of the Inspector General may also review portions of the naturalization process as it sees the need to do so. For example, the Inspector General is currently reviewing implementation of the Application Support Centers.

## TITLE V EXEMPTION

Senator GREGG. On the issue of technology, are you finding that the exemption we gave you has given you the capacity to hire the types of people that you need, or do you need a further exemption? Basically, in your opening statement, you have outlined the fact that technology-related crimes are becoming your fastest growing concern.

Mr. FREEH. Yes, sir; we have not been able to utilize what I said last year and would say with greater fervor this year is a critical title V waiver in all of the specific scientific and technical areas that are in the statute. Unfortunately, we have not been able to implement that yet. As you know, the OMB did not approve of the waiver. We have been directed to sit down and negotiate with OMB with respect to the particulars of the implementation. We are doing that now. It is going to be, unfortunately, a few more months before we have the plan written where we can start utilizing the authority.

Senator GREGG. But do you not find it ironic that this administration, which claims to be a great crimefighting administration, would be using accounting methods to stand in the way of what is probably the most rapidly expanding area of crime prevention?

Mr. FREEH. As I said, we need to utilize that exemption quickly. It is very important that we take advantage of it. I think the Congress was very prudent and forward-looking in giving it to us, and we will work out the details as quickly as we can.

## FBI LABORATORY CONSTRUCTION

Senator GREGG. And how are things going with the laboratory construction?

Mr. FREEH. Very well, Senator. We have the final design analysis under consideration. Dr. Kerr, as you know, the new laboratory director, thinks that everything is online and within the \$130 million appropriation for the physical construction. They have already started the construction on the parking annex. This fall, they will start the actual office and laboratory building. We have, as you know, the conference center incorporated in the design which will give us the ability to teach State, local, and foreign partners. So, it is going fairly well.

## FBI-DEA CROSS TRAINING

Senator GREGG. You and the DEA are cross training down there?

Mr. FREEH. Yes; we have been for many years and will continue to do so. We utilize almost all of the facilities jointly, and the Justice Training Center, which is nearing completion, I believe, will be a good integration of the way it has been handled so far.

Mr. CONSTANTINE. Your thoughts are correct, Senator, and the Director and I have talked about this again and again for the last 4 or 5 years. There is a need for these two agencies, both very large, both with a big responsibility to work together, and if we do not cooperate, not a mandatory fashion but in an actual spirit of trying to do it together, I do not think we serve the public very well.

Senator GREGG. Well, you do all serve the public very well, and we do very much appreciate the fact that your people put tremendous hours in and put their lives at risk in many instances, and this committee will continue to strongly support your efforts, and keep up the good work.

ADDITIONAL COMMITTEE QUESTIONS

I will have questions submitted for the record from Senators Domenici, Campbell, Inouye, and Byrd.

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

IMMIGRATION AND NATURALIZATION SERVICE

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

USE OF TECHNOLOGY IN LAW ENFORCEMENT—INS

*Question.* There is no dispute that federal funding for law enforcement agencies has dramatically increased over the past ten years. With the increases provided in recent years, Congress has funded significant numbers of additional personnel, but only now are the Administration and the Congress really focusing upon the technology that can help these law enforcement agencies do their job more effectively. Commissioner Meissner, could you please provide the Subcommittee with a breakdown of the funding that has been utilized by INS to develop or procure improved technology to support the work of our law enforcement personnel?

*Answer.* Following is a breakdown of the funding that has been utilized by the INS to develop or procure improve technology to support the work of our law enforcement personnel for fiscal years 1995 through 1998:

Fiscal year	Enforcement systems	Inspections systems	Total
1995 .....	\$57,559,800	\$16,409,000	\$73,968,800
1996 .....	50,926,600	23,275,800	74,202,400
1997 .....	92,016,100	21,604,700	113,620,800
1998 .....	43,333,000	36,864,000	80,197,000
Total .....	243,835,500	98,153,500	341,989,000

*Question.* What types of advanced technology do these agencies use in fighting crime, drugs, and illegal immigration?

*Answer.* The following advanced technology is used in fighting crime, drugs, and illegal immigration:

*Enforcement*

*Night Vision*—includes long-range scopes that are both portable (mounted on a vehicle) and fixed, (e.g., mounted on a pole, building, etc.). The Integrated Surveillance Information System (ISIS) project incorporates the night vision, day vision, and sensor assets into a semi-intelligent monitoring system that is managed by the Integrated Computer-Aided Detection (ICAD) and mapping system, which allows the agent to see the activity on both a topographical map and a satellite map.

*Day Vision*—includes permanently-mounted camera systems that are used remotely to monitor high-risk or high-volume areas of the border. Many of the new systems we are now installing include a combination of a night-vision camera along with a normal daylight camera, which gives a more effective 24-hour-a-day coverage.

*Sensors*—that detect movement in a given area, thus permitting the unattended monitoring of certain areas without leaving the border uncovered.

*Computer software*

*ENFORCE*—the INS' modern enforcement case management system that will become the integrated enforcement system and tool for the support and management of all enforcement activities, from identification of a lead through investigation, arrest, booking, detention, to disposition (e.g., deportation, prosecution). *ENFORCE*

will manage bed space, arrange for transportation to/from facilities, track persons while in custody, and analyze data from INS data collections along with data from external sources helping identify subjects, cases, etc.

**IDENT**—the INS' positive identification system which is operating across the Southwest Border and at other selected INS sites around the country. IDENT permits the INS officer to identify the subject positively for the first time, since many of the people INS arrests either have fraudulent documentation with false names or no documentation.

**ICAD**—the INS' automated system to track sensor alerts, perform path analysis, and to process dispatch tickets. Additionally, ICAD tracks an officer while dispatched, alerting the radio operator when the agent does not call in a prescribed time, enhancing officer safety. Plus, today, ICAD is forming the key link that ties together the technology that forms the INS ISIS project. The ISIS links the INS sensors and its night/day vision technology together to form a semi-smart system that permits more efficient use of the INS resources.

The INS systems ICAD, IDENT, and ENFORCE are starting to produce vital management planning information. Information produced by these systems has aided field supervisors in staffing shifts, as well as in predicting trends in criminal activities that allows INS to pro-actively distribute resources for maximum effect. The information has been used to identify patterns in apprehensions that have led to the identity of smugglers and the smuggling organizers. Coupling the data together from across the Southwest Border has enabled INS to better evaluate the effectiveness and productivity of its enforcement activities.

**Radios**—both new ones for new officers and replacement ones as INS converts its former antiquated radio system to a state-of-the-art voice encrypted radio system that enhances officer safety, while providing compatibility with other federal law enforcement agencies. The radio program also moves INS to a narrowband system, which is necessary to make INS compatible with the administrative mandate to move to a narrowband system to free up band width for commercial use.

#### *Inspections*

We are using several forms of leading-edge technology that are permitting us to automate various phases of the inspection process for the low-risk segment of the traveling public, thus freeing the inspectors time to focus on the unknown and higher-risk travelers. The following projects highlight those initiatives that support automating various aspects of the inspection process:

**INSPASS**—the INS system to automatically conduct an inspection of enrolled low-risk travelers (airports and pedestrian lanes) and speeds up the inspection process for all involved.

**SENTRI**—the INS system used to process vehicles that are pre-enrolled in the system speeding up border crossing for both the users of SENTRI and those who do not.

**Automated Permit Port (APP)**—the INS project that is designed to use remote monitoring of Ports-of-Entry, which permits ports to operate without actual human presence, while continuing to offer the inspection service to the traveling public. Usually used on small, low-risk ports where it is not cost effective to keep the port staffed full-time, or in some cases, where the volume of traffic does not justify even keeping the port open. The APP allows more effective use of the INS officer time while letting ports remain open for the traveler. Inspections are done by an officer in another port that is staffed. Inspector time is thus made available for other inspection activities.

**Arrival/Departure management**—the INS project to capture arrival and departure data, thus permitting a better accounting of who came into the country and if and when they left.

*Question.* What does INS plan to achieve with the technology funding provided by Congress in the 1998 Commerce, Justice, State, and the Judiciary Appropriations Act?

*Answer.* The INS envisions the following achievements with the technology funding provided in fiscal year 1998:

#### *Enforcement*

Acquisition and deployment of additional sensors, and night and day vision systems.

Deployment of our ISIS project to the initial planned sites, which integrates our night and day vision with our sensor program to create a system that can automatically capture live video of an event triggering a sensor, thus permitting the monitoring employee to see what is taking place. This will allow deployment of officers much more efficiently/effectively. Officers will not need to be deployed to check on

a sensor that has been set off by an animal. Also, officer safety will be improved, e.g., the officer will know what they are walking into.

Deployment of ENFORCE to our initial planned sites, which has now integrated the INS' IDENT system into it.

Continued deployment of our Encrypted Voice Radio System, which will: (1) increase coverage, eliminating many of the dead spots that now threaten officer safety; (2) increase security by encrypting radio communications; and (3) give the INS officer compatibility with other federal law enforcement agencies, i.e., ability to talk to them using compatible radios permitting joint activities, and being able to call on fellow officers from other agencies in an emergency.

#### *Inspections*

Install INSPASS at as many additional airports as funding will permit (User Fee funded).

Install SENTRI at additional ports.

Continue to build the INS' Arrival/Departure management system, while expanding the prototype to other airlines/airports.

Build a system that can capture and verify the biometrics of persons crossing the land borders using the new Border Crossing Cards being issued by the State Department.

*Question.* How does the Administration's request for 1999 build upon the current program?

*Answer.* The Administration's fiscal year 1999 requests the following technology funding to build upon the current program:

Enforcement operations are enhanced primarily through more deployment of systems that were designed and built with funding provided between fiscal year 1995 through fiscal year 1997. Plus, we are continuing to convert the INS radio infrastructure to the new voice encrypted narrow band system and acquiring more force multiplying technology like camera systems, sensors, and night vision equipment.

Available funding will be used to expand deployment of inspections systems designed and built with funding provided between fiscal year 1995 through fiscal year 1997, plus systems built with User Fee funding. Work will continue to build the INS Arrival/Departure management system and to find a workable solution to processing users of the Border Crossing Cards by capturing and verifying that the user of the card is the same person to whom it was issued by comparing biometrics information.

*Question.* What are the most significant areas that INS intends to address with technology resources?

*Answer.* The INS will focus on the following areas in the use of technology funding:

#### *Enforcement*

As funding permits, we will acquire technology that will enable the Border Patrol to patrol the border more thoroughly by augmenting the agent with resource multiplying technology, e.g., be able to see further, see over obstacles, sense alien movement, and detect contraband or persons that are being concealed.

Detention Augmentation—we will be looking at the use of alternate means of tracking low-risk persons who should be in detention, but are not because there is not enough bed space, e.g., a system that would require the alien to call in at prescribed times, that would verify the location of the call and, through the use of a biometrics verifier, that the caller is the person they say they are.

High speed pursuit—we will be looking at technology to safely stop a car that is trying to run so that the vehicle does not get away and there is no need for a high speed pursuit.

Portable/remote access to the INS information system—we will be looking for cost effective technical solutions that will enable our agents to have access to the INS information systems from very remote locations.

Officer safety—we will be looking for technology to better protect our officers from technology that violators of the law are using, (e.g., armor penetrating bullets, radio frequency jamming devices).

#### *Inspections*

Our plans include:

Building a system that will facilitate the management of arriving and departing travelers, capturing data that will enable INS to track who has entered the country and whether they have left.

Building a system that will enable the capture of a biometrics from a person attempting to use a Border Crossing Card and verify that the user is the legitimate holder of the card, which is complicated by the volume of users and the logistics

of capturing biometrics data from a pedestrian lane and from multiple persons riding in a vehicle.

As funding permits, acquiring technology that will enable the Inspector to screen both persons and vehicles more thoroughly for smuggled contraband and smuggled aliens. We will be looking for technology that can detect the presence of persons and/or contraband hidden in vehicles, containers, etc.

We are studying methods to stop cars that are attempting to get away from a Port-of-Entry. Such attempts can occur at either high or low speed and generally pose different problems than high speed enforcement pursuits.

We will be looking at the state of facial recognition technology to determine the feasibility of using it to screen persons awaiting inspection, looking for a few very high priority persons, e.g., terrorists.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

CATCH AND RELEASE

*Question.* Madam Commissioner, I note that the fiscal year 1999 budget request includes a significant increase—745 new positions—for improved efforts in Interior Enforcement. Like many western states, Colorado continues to face a very serious problem with illegal immigration. The INS has estimated that 10,000 illegal immigrants have settled in Colorado in the past five years, bringing the total to 45,000. This problem was plainly illustrated during the 1996 INS “Operation Mountain Pass” in which agents recovered more than 1,200 illegal aliens that were being smuggled through Colorado.

Time and time again, I hear of incidents in Colorado where INS knows the location of illegal immigrants, but either picks them up only to release them later, or simply does nothing at all.

How many of the 745 new positions that are being created for the interior are likely to be assigned to Colorado?

*Answer.* The revised interior enforcement strategy will be the steering mechanism for interior enforcement policy and operations in the future, and will provide a systematic method for determining the appropriate mix of occupational resources and functions in critical locations. Until the strategy is completed, there is no accurate way to forecast the number of positions to be allocated to Colorado from the fiscal year 1999 Interior Enforcement Initiative.

*Question.* What additional assistance can the INS provide Colorado law enforcement?

*Answer.* In an effort to train local law enforcement while conducting INS operations, the Denver District will shortly initiate Operation Common Ground. This operation will detail, for a period of 3 to 4 weeks, INS enforcement officers to rural communities to work with and train local law enforcement. The goal of this operation is to address the immigration issues of the locations while providing the local law enforcement officers with a better understanding of immigration law. This approach has already been successfully used in Steamboat, CO, for three weeks in February 1998.

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QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

INS RESTRUCTURING

*Question.* Hal Rogers on the House side appears set to abolish INS and divide your programs between the State Department, Labor Department, and some new Justice agency. This will likely be one of the most significant issues in the fiscal year 1999 Commerce, Justice and State bill. Could you provide us with your assessment of this proposal, which I believe came out of the Commission on Immigration Reform?

*Answer.* In its final report to Congress last fall, the Commission on Immigration Reform (CIR) called for significant reform to our Nation's immigration system. The major thrust of the CIR's proposed reform would move many immigration functions to the Department of State and Labor and would consolidate all immigration enforcement into a new Federal law enforcement agency within the Department of Justice.

In response to the CIR's recommendations, the President asked the Domestic Policy Council (DPC) to “evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws.” In conducting this review, the DPC, working closely with the Office of

Management and Budget, consulted with the Departments of Justice, Labor, and State, CIR staff, immigration experts and advocacy groups, and other White House offices, including the National Security Council. This review examined organizational and restructuring options including those formulated by the CIR and members of Congress. From this effort, the Administration established a new framework for reform, and the Justice Department contracted with a management consulting firm to provide an independent assessment of structural options and assist in making the Administration's framework "operational."

*Question.* What is your alternative?

*Answer.*

*The Administration's Framework for Change*

The DPC review process concluded that the CIR report correctly diagnosed many of INS' longstanding problems—insufficient accountability between field offices and headquarters, lack of consistency, need for greater professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the INS' ability to enforce our immigration laws effectively both at our borders and in the interior, and provide immigration and citizenship services efficiently. Improving the ability of the INS to pursue these critical priorities must be the goal of any reform plan.

After careful consideration and study, the Administration concluded that the most effective way to achieve this goal is to implement dramatic and fundamental reforms within the INS. The Administration's reform plan untangles INS' overlapping and frequently confusing organizational structure and replaces it with two clear organizational chains of command—one for accomplishing its enforcement mission and one for providing services. Each operation would be headed by an Executive Associate Commissioner (EAC) who would report directly to the Commissioner through the Deputy Commissioner.

The plan will eliminate the current field structure in which regional district offices serve both enforcement and service functions and will replace it with separate enforcement and service offices that bring the mix of staff and skills to local service caseload and enforcement needs. The result will be an INS organization with strengthened accountability and improved efficiency and effectiveness. The plan will allow each operation to focus its unique knowledge, skills, and abilities, while also retaining the essential integration functions needed to coordinate these operations.

*Improved Customer-Oriented Services*

*Creates new local service offices.*—The new immigration services operation would locate new service offices in immigrant communities around the country. These offices would focus on providing efficient and effective service, while maintaining the integrity of application processing. The offices would provide a range of services including: providing information to applicants, taking fingerprints and photographs, testing, and interviewing. Depending on community needs, some offices would be configured as full-service centers and others could serve as satellite locations to perform specific functions. These new service facilities would have a standard "look and feel" with clear signs, comfortable waiting rooms, evening and weekend hours, and other customer-friendly features.

*Establish accountability and clear lines of authority.*—The heads of the local service offices would report to an Area Service Director. The Area Service Director would report directly to the Executive Associate Commissioner for Immigration Services. Area Service Directors would have the flexibility to move case processing responsibilities among offices within their area to maximize efficiency.

*Establishes clear standards for customer service.*—The Area Service Directors would be held accountable for meeting a nationally-established standard for timely processing and courteous service at all locations throughout the area.

*Offers high-tech answers.*—This new framework provides high-tech ways for people to receive better service through remote service centers. As part of this restructuring effort, INS will re-examine the capabilities of the four service centers that handle the automated, bulk processing workload of the current district offices. These centers currently take applications, create electronic records of them, and conduct the pre-processing necessary before an examination is administered. Under the new structure, more work would be shifted to the service centers, thus allowing local offices to focus on core activities which require interaction with customers. In addition, the capabilities of the centralized phone centers which will provide information to applicants and the public will also be examined.

*A Strengthened and Integrated Enforcement Operation*

*Establish a single, coordinated enforcement function.*—The plan creates an operational chain of command dedicated solely to immigration enforcement, focuses com-

prehensively on illegal immigration problems at the border, and establishes better linkages with interior enforcement through a single point of accountability for performance. This approach would strengthen professionalism and improve results. This structure also would ensure priorities are shared and allow close coordination of day-to-day operations among each enforcement discipline.

*Integrating enforcement and strengthening accountability.*—The new enforcement operations areas would combine all functions related to the enforcement of immigration laws. Each enforcement area would be organized according to four functions, and led by a single director. The Area Enforcement Director would report directly to the Executive Associate Commissioner for Enforcement.

*Organizing enforcement areas by function.*—The enforcement areas would be organized around four functional goals: managing the border; inspections and management at ports-of-entry; investigations and removals; and detention.

—*Border Patrol.*—The Border Patrol would perform its current border management functions of deterring illegal immigration, apprehending illegal aliens, and working to dismantle smuggling rings.

—*Inspectors.*—By putting inspectors in the enforcement chain of command, the plan recognizes the critical role that ports-of-entry play in INS' border management strategy. This would give the ports a stronger role in the enforcement side of the agency and inspectors a direct reporting relationship to the Area Enforcement Director.

—*Investigations and Removals.*—This plan would also bring investigators, intelligence officers, and deportation officers into one multi-disciplinary component to focus on removals and the pursuit of fraud, smuggling, and illegal employment at the workplace. Offices in the field would be located in areas with the greatest demand for those functions—similar to the traditional Special or Resident Agent-in-Charge (SAC/RAC) law enforcement model used by the FBI.

—*Detention and Enforcement Support.*—This framework would improve the logistical coordination of transporting criminal and illegal aliens and detaining them in long-term facilities by centralizing the current district office detention and transportation operations. Under the new framework, this component would be better able to manage open bed space at INS and contract facilities and improve and monitor conditions at these facilities.

#### *Shared Support*

*Providing the right tools.*—The “shared support” operations (e.g., records and data management, technological support, employee relations, and administrative support) would serve as the administrative and technological backbone upon which both enforcement and service operations depend under the new framework. Under this new structural framework each side of the agency has the appropriate administrative and technological tools to do its jobs in the most efficient and cost-effective way. These would range from new computer software systems that are “user-friendly” for enforcement agents and service officers, to appropriate training to strengthen professionalism.

*Improving accountability.*—Under this restructuring plan the shared support function will be held accountable for meeting the needs of the enforcement and service operations in a timely and effective manner.

*Managing essential records.*—An important cohesive function of the shared support operation is the management of all of INS' files and electronic databases. INS' records are the foundation of its work—whether in law enforcement or the provision of services to its customers. For example, the information contained in those records tells an INS deportation officer that an individual has overstayed his visa and the last address at which he might be found. It also tells an adjudicator whether a person has ever entered without inspection, therefore jeopardizing the alien's eligibility to become a legal permanent resident.

#### *New “Strategy” Office*

*Setting priorities and assessing results.*—The Administration's proposed structure includes the creation of a small, new “strategy” unit that would focus on setting priorities, long-range strategic planning, and policy development, as well as analyzing the effectiveness of their implementation. The unit would draw heavily on staff from headquarters and the field, as well as create subject area task forces to draw on the expertise of individuals accountable for each program.

#### *New Chief Financial Officer Role*

*Enhancing accountability and efficiency.*—The new structure establishes a Chief Financial Officer to ensure effective allocation, control, and monitoring of the agency's finances. This would enhance accountability for managing the agency's re-

sources and ensure that immigrant services and enforcement have clearly separated and defined resource streams.

*Other Management Improvements*

INS recognizes that a fundamental restructuring is only one aspect of improving its ability to build a more effective organization. As part of its reform efforts, the agency also is planning management initiatives such as fundamentally redesigning outdated business processes and the creation of new training opportunities for employees.

*Conclusion*

Preserving our country's tradition as a nation of laws and a nation of immigrants requires one agency with clearly defined operational lines of authority and accountability. This new structure will allow our nation to better control its borders and provide improved service and benefits to the immigrant community. The Administration's plan is a bold initiative to strengthen the INS' capacity to accomplish this critical mission.

INTERIOR ENFORCEMENT

*Question.* Last year I raised the issue of local police arresting illegal aliens and INS officials telling them to let them go. I've read through your budget and you talk about interior enforcement initiatives. Yet I keep reading about the Southwest Border. Do any of your interior enforcement initiatives change INS presence in South Carolina?

*Answer.* In fiscal year 1997, the INS added 3 special agent positions to the Charleston, SC, Suboffice as part of the 10 Per State Congressional mandate contained in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. These special agents have reported on board and should create a more responsive relationship with state and local law enforcement authorities. In fiscal year 1999, INS is requesting 223 investigations program positions under the Interior Enforcement Initiative. Thus far, we have not begun the deployment planning process for fiscal year 1999 positions. If we were to receive all the positions requested in the fiscal year 1999 budget, I would expect to see positions allocated to the Atlanta District. As you know, the Charleston, SC, Suboffice is part of the Atlanta District, and this district has many of the industries that attract illegal alien workers.

BORDER PATROL GROWTH

*Question.* Commissioner Meissner, as you know, General McCaffrey, the Drug Coordinator, has proposed going up to 20,000 Border Patrol agents, from the current authorized level of 7,859.

Have you looked at what would be needed to increase this level, including what additional training load can be handled at the Charleston Border Patrol Academy?

*Answer.* The Border Patrol Satellite Academy at Charleston, South Carolina was initially established because INS' temporary training requirements for the next several years far exceeded the capacity of the FLETC. Initial plans called for INS to train approximately 4,000 Border Patrol agents from April 1996 to January 1999. With this training requirement in mind, the original plans were to close the temporary training facility in Charleston in fiscal year 1999.

In 1996, the Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, which called for an additional 1,000 Border Patrol agents per year through fiscal year 2001. Taking into consideration the authorization for 1,000 new agents per year, attrition, and personnel movement to other agency positions, the INS anticipates it will need to train approximately 2,000 new Border Patrol agents per year through fiscal year 2001. Beyond fiscal year 2001, just to maintain the increased staffing levels, INS anticipates it will need to train approximately 1,500 new Border Patrol agents per year indefinitely. The INS will also be training approximately 2,700 Immigration Officers in fiscal year 1998 and 2,300 in fiscal year 1999. Current projections indicate that the INS will need to train approximately 1,500 Immigration Officers per year through fiscal year 2002.

In addition, the Office of National Drug Control Policy (ONDCP) has recommended that an additional 1,000 Border Patrol agent positions be added in fiscal year 2002, and 700 more in fiscal year 2003, in order to reach a total Border Patrol agent strength of 12,500 by the end of fiscal year 2003. If the Congress acts on this plan, it will further increase the basic training requirements for both initial hires and replacements.

The INS is also experiencing a substantial increase in its advanced training backlog. A five-year analysis shows that in order to reduce the advanced training backlog, INS will have to provide advanced training to approximately 9,400 journeyman

and senior-level Border Patrol agents and 14,100 journeyman and senior-level Immigration Officers by fiscal year 2002 (this does not include the positions in the ONDCP proposal). Presently, INS conducts advanced training at the FLETC Advanced Training Facility in Artesia, New Mexico. It appears that a requirement by the Bureau of Indian Affairs to conduct additional basic training classes in Artesia, New Mexico, may impact FLETC's ability to accommodate INS' advanced training requirements at Artesia in the future.

In fiscal year 1995, when the training facility was planned for three years, neither the INS nor FLETC anticipated the massive hiring and training requirements. However, within the next five years, INS will be required to provide basic and advanced in-service training to approximately 20,000 Border Patrol agents and 24,000 Immigration Officers.

Still, the ultimate goal is to gradually phase down the Charleston operation and move completely back to FLETC sites. However, given the requirements stated above, INS is requesting that the Charleston facility remain open until FLETC is able to meet all of INS' basic and advanced training requirements. No phase-down of the Charleston operation should begin until adequate capacity at FLETC actually exists.

*Question.* INS would need to augment the mess hall and renovate additional quarters at the Academy if you had to exceed 2,000 trainees per year, wouldn't you?

*Answer.* Yes, if the Federal Law Enforcement Training Center cannot meet our needs, the INS would have to expand the Charleston Border Patrol Academy facilities. We would have to expand the sleeping quarters, driver training track, dining facility, firing range, and physical training facility. Additional classrooms and office space also would be required.

#### IMMIGRANT INVESTOR PROGRAM

*Question.* The Immigration Act allows immigrant visas for foreigners who invest in qualifying, job-creating enterprises in the United States. This program has been quite successful; however your general counsel unilaterally proposed to change the rules governing this program, and would propose such changes in a manner that would retroactively affect applications that have already been received and are under process. Six months ago your INS officials started holding up the program.

On February 4, Senators Spencer Abraham, Leahy, Inouye, Kennedy, and I wrote you expressing concern about this INS action, and we specifically stressed that any changes should be effective in the future and should not apply to applications already received.

We have not received an answer from you. Why?

*Answer.* My staff is working on a response to your letter, and we will send it as soon as it is completed. My staff also met with your staff and others on March 6 and March 9, 1998, to brief them on the investor visa program and hear your concerns in detail. We have provided your staff with a copy of a December 9, 1997, legal opinion by our General Counsel on the immigrant investor program, and are available to answer any questions that you may have concerning this program.

*Question.* My constituents have asked for a meeting with you to explain the positive job-creating aspects of this program. To date, your office has been unwilling to set such a meeting. Why?

*Answer.* On March 13, 1998, my Chief of Staff, the Deputy General Counsel, the Acting Assistant Commissioner for Adjudications, the Director of Congressional Relations and other staff met with attorneys representing your constituents in order to hear their concerns related to the immigrant investor visa program. This meeting has given your constituents the opportunity to meet with Service officials at the highest levels who understand the details of this programs and can best answer their questions and address their concerns. The Service is committed to an open and continuous dialogue with all parties interested in this program and others.

*Question.* When people up here argue that INS is not service-oriented and inaccessible, I hope you will keep this in mind. We write a law and then unelected, unappointed INS officials decide to unilaterally reinterpret it. This change could cost thousands of jobs.

*Answer.* Immigration and Naturalization Service officials have not unilaterally reinterpreted the law. After a thorough review of selected petitions under the immigrant investor visa program, the Service discovered that a number of petitions that are either pending or have been approved are, as matter of fact, not in compliance with the plain language of the law passed by Congress and long-standing regulations promulgated by the Service. The review of a number of immigrant investor petitions revealed that many aliens are filing petitions under which they will invest only a small portion of the amount of the capital required by the law. By law aliens

are required to invest either \$1,000,000, or \$500,000, depending on where the investment is made. Under the terms of the investment plans filed with some petitions, aliens are required only to invest about 10 percent of the statutory minimum (\$100,000 or \$50,000) in actual job-creating U.S. businesses. Under other investment programs little or no money is reaching job-creating U.S. businesses. While it is possible that, when the money from hundreds of aliens is pooled together, these smaller investments will create some jobs, the law passed by Congress requires that the investment by each alien create ten jobs and that each alien invest the full \$1,000,000 or \$500,000. An alien who does not demonstrate that he or she will create ten jobs, or who does not invest the required amount of capital, is not eligible for an immigrant investor visa. The Service will deny or revoke only those petitions that do not meet the requirements of the statute and regulations.

After identifying certain petitions that appeared not to comply with the law, the Service, on December 1, 1997, decided to delay the adjudication of petitions containing provisions identified by our General Counsel as not conforming to current law. The Service continues to adjudicate all other immigrant investor visa petitions. The entire investor visa program has not been put on hold. Also, there was no hold or delay of adjudication at the Service between August and December of 1997.

Some of your constituents may be under the impression that there was a hold beginning in August of 1997 because in August the State Department began, under applicable regulations, to consider returning petitions to the Service for revocation. The State Department in fact returned a number of petitions in August of 1997, and the return of these petitions has obviously delayed action on them. The Service's review of EB-5 petitions was in part initiated because of the problems identified by the State Department in these returned petitions, but the Service did not begin to hold cases for review until December 1, 1997. After that date, when the State Department became aware of the Service's review of certain types of petitions, the State Department began to prepare cases for return to the Service for possible revocation.

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QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE  
IMMIGRANT INVESTOR PROGRAM

*Question.* Since summer of last year, the Immigration and Naturalization Service (INS) has suspended the processing of certain investor immigrant visas (EB-5), which are issued to foreign investors who invest in a qualifying, job-creating enterprise in the United States.

I understand there is a review in progress at the INS on rules governing what types of investment plans are allowable under the investor visa program. While I do not object to a policy review, I am concerned about the length of time it is taking the INS to implement any administrative changes. Potential investments and jobs for Americans hang in the balance. For example, I am aware that potentially thousands of jobs are being threatened in the State of West Virginia alone. Hawaii is one of two states that is operating as a regional center and any prolonged delay will adversely impact our already sluggish economy.

The INS has heard from a host of Senators, Republican and Democrat alike, who have expressed concern at the INS' handling of this matter. On February 4, 1998, I and four other Senators sent a letter to the INS, requesting that any changes anticipated be made prospectively rather than retroactively. To date, there has been no response to our letter.

Congressional intent when passing this provision was to encourage foreign investment and job creation in the United States. We wish to ensure that the positive effect of this provision of law on the United States economy is not diminished.

How long will the suspension for the EB-5 cases continue?

*Answer.* After identifying certain petitions that appeared not to comply with the law, the Service, on December 1, 1997, decided to delay the adjudication of petitions containing provisions identified by our General Counsel as not conforming to current law. The Service continues to adjudicate all other immigrant investor visa petitions. The entire investor visa program has not been put on hold. Also, there was no hold or delay of adjudication at the Service between August and December of 1997.

Some of your constituents may be under the impression that there was a hold beginning in August of 1997, because in August the State Department began, under applicable regulations, to consider returning petitions to the Service for revocation. The State Department in fact returned a number of petitions in August of 1997, and the return of these petitions has obviously delayed action on them. The Service's re-

view of EB-5 petitions was in part initiated because of the problems identified by the State Department in these returned petitions, but the Service did not begin to hold cases for review until December 1, 1997. After that date, when the State Department became aware of the Service's review of certain types of petitions, the State Department began to prepare cases subject to the Service's review for return to the Service for possible revocation.

Those cases that are currently under review will be held until the Administrative Appeals Office of the Service can issue precedent decisions providing guidance to adjudicators and the public regarding the deficiencies in the petitions being held and on what types of investments comply with current law and regulations. This will take approximately 3 to 4 more months.

*Question.* What is being done to ensure that the positive effect of this provision of law on the U.S. economy is not going to be diminished by the INS actions?

*Answer.* The delay of the adjudication of certain petitions is not the result of a review of the rules of the EB-5 program, rather it is the result of the review of a representative sample of petitions to determine whether they comply with existing law. EB-5 petitions that do not contain the provisions that contravene current law continue to be adjudicated and the U.S. economy will continue to benefit from investments made by these aliens. The review of a number of immigrant investor petitions revealed that many aliens are filing petitions under which they will invest only a small portion of the amount of the capital required by the law.

By law aliens are required to invest either \$1,000,000 or \$500,000 depending on where the investment is made. Under the terms of the investment plans filed with these petitions, aliens are required only to invest about 10 percent or less of the statutory minimum (\$100,000 or \$50,000) in actual job-creating U.S. businesses. Under some investment programs it appears that little or no money is reaching job-creating U.S. businesses. While it is possible that, when the money from hundreds of aliens is pooled together, these smaller investments will create some jobs, the law passed by Congress requires that the investment by each alien create ten jobs and that each alien invest the full \$1,000,000 or \$500,000. An alien who does not demonstrate that he or she will create ten jobs, or who does not invest the required amount of capital, is not eligible for an immigrant investor visa. The Service will deny or revoke only those petitions that do not meet the requirements of the statute and regulations. To delay the processing of such petitions and possibly deny them will not undermine the positive effects that Congress intended the EB-5 program to have on the U.S. economy. Rather, it will ensure that investors are actually investing the amount of capital required by Congress and actually creating ten American jobs. The Service will thereby ensure that this program has the positive effect Congress intended it to have on the U.S. economy.

*Question.* Can the INS provide assurances that if any changes are anticipated in the EB-5 program they will be made prospectively rather than retroactively?

*Answer.* The Service does not intend to make retroactive changes in the rules governing the EB-5 program. The Service is applying current laws and rules to pending, and some approved, applications and may deny applications or revoke approvals based on those rules. Because the Service has approved some petitions in the past that do not conform to current law, it may appear to some that the Service's proper application of the law is a retroactive change in the rules. However, the Service has an obligation to faithfully apply the laws passed by Congress and its own published regulations.

We are making every effort to be fair to aliens who have entered the United States as immigrant investors. The Service has decided not to initiate rescission proceedings against aliens who have obtained lawful permanent resident status without conditions based on petitions that may have been improperly approved. Also, the Service has requested an opinion from the Office of Legal Counsel on whether the Service has authority to approve petitions to remove conditions on permanent resident status for aliens who have filed petitions determined not to be in compliance with current statute and regulations. If the Service does have the authority to approve such petitions, it will review petitions on a case-by-case basis to determine if an approval is warranted. With respect to aliens who have not yet entered the United States as immigrant investors, the Service believes that it is compelled to revoke EB-5 petitions that have been approved despite the fact that they do not comply with current law and deny new petitions that do not comport with current regulations.

## FEDERAL BUREAU OF INVESTIGATION

## QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

## DENVER METRO GANG TASK FORCE

*Question.* Director Freeh, the Metro Denver Gang Task Force is composed of federal, state, and local officials to address the issue of gang-related crime in the Denver Metro area.

Would you please provide the subcommittee with your views on the effectiveness of this Task Force?

What additional assistance can the FBI provide to the Metro Denver Gang Task Force?

*Answer.* The FBI has established 157 multi-agency Safe Streets Task Forces in 56 field offices. The mission of these task forces is to coordinate law enforcement efforts and address strategically the most prevalent violent crime problem in a community. This is accomplished in concert with local, state and federal agencies who have statutory jurisdiction. The emphasis is to reduce the incidence of violent crimes that pose the most serious threat to American society. This is accomplished by establishing long term, proactive investigations, focusing on violent crimes and the apprehension of violent fugitives.

The FBI's Denver Field Office has identified violent crime involving gangs as one of the most serious problems in Denver, Colorado. In response to this problem, the FBI in conjunction with local law enforcement, have joined together to form the Metro Gang Task Force. Although, the Denver Metro Gang Task Force is not a designated FBI Safe Streets Task Force, the task force has modeled itself after other Safe Streets Task Forces.

In 1997, the Metro Gang Task Force brought forth the first Racketeering Influenced Corrupt Organization prosecution against a violent street gang in Colorado. Historically, this street gang was responsible for a large percentage of violent crime in the area in which they operated. Based on feedback from local law enforcement and public officials, the Metro Gang Task Force has had an impact on reducing violent crime in the Denver, Colorado area.

The Metro Gang Task Force obtains funding from several sources, such as the Office of National Drug Control Policy, to meet the task force's operational and administrative expenses. The FBI provides specific case funding on FBI cases. At this time, the Denver Field Office has not made any specific requests for additional assistance with respect to the Metro Gang Task Force, but the FBI is willing to review any such request.

## INTERNATIONAL CRIME

*Question.* During hearings with Attorney General Janet Reno and Secretary of State Albright, I discussed serious new developments in international crime and its effect on Americans here at home and abroad. The Appropriations Committee, in its fiscal year 1998 Foreign Operations committee report, expressed concern about the increase in crime abroad and its direct and indirect impact on the United States. The committee also requested the Secretary of State to convene a new Secretaries' Task Force on International Crime, in cooperation with Attorney General Reno, the Secretary of Treasury, and the ONDCP Director, and report to Congress by March 28, 1998 on specific issues which the committee outlined.

Although Secretary Albright's report is not due to Congress until later this month, I would be interested to know what is the current status of your participation in the formation of this task force?

*Answer.* As of March 18, 1998, the FBI has not participated in the formation of this task force.

*Question.* Are there any preliminary thoughts you wish to share with us here today on what the Justice Department and the FBI can do to help countries reduce and prevent crime?

*Answer.* Yes. A substantial portion of FBI investigations have some foreign connection. Because international crime has rapidly become one of the FBI's most important challenges, the FBI has developed a strategy to address these challenges now and to reduce the impact of international crime on the citizens, economy, and the national security of the United States. Included in this strategy are three types of assistance to countries to reduce and prevent crime: foreign law enforcement training, the FBI Legal Attaché (Legat) program, and the assignment of criminal investigators to Drug Enforcement Administration (DEA) offices overseas pursuant to Resolution Six.

### *Foreign Law Enforcement Training*

As changes in the world order create new opportunities for democracy, an increase in criminal activity in emerging democracies and third world nations is occurring. To combat the threat posed by criminal activity abroad, the FBI is pursuing a broad spectrum of international training initiatives. The FBI's International Training Program supports the FBI's investigative mission by developing "cop-to-cop" relationships and building foreign law enforcement expertise.

The FBI manages the operation of the International Law Enforcement Academy (ILEA) in Budapest and provides instruction at the ILEA-South (Latin America and the Caribbean), which is currently managed by the Treasury Department. The FBI will also provide training at the proposed ILEA-Asia (to become operational in 2000). The ILEA's have served and will serve as the law enforcement training centers for officers from designated regions of the world. Training at the ILEA's is focused on the mid-level manager and is designed to meet the needs of the participating countries. All funding for the ILEA's is provided by the Department of State (DOS); however, the FBI and the other participating agencies provide instructors and program managers for the oversight of the ILEA's.

Currently, the FBI conducts international training courses, other than the ILEA's, with funding from the DOS through such acts as the Freedom Support Act, the Support for Eastern European Democracies Act, and the Foreign Assistance Act for International Auto Theft training initiatives.

- The FBI received funding from the DOS to implement National Crime Information Center (NCIC) training initiative. This funding is primarily for those foreign law enforcement entities that seek to implement a large-scale criminal data base that will serve the same purpose as the NCIC System.
- The FBI conducts in-country training courses in one- and two-week sessions in foreign countries to meet each country's particular training needs. The in-country training ranges from basic investigative techniques to internal audit courses.
- Other contributions to the FBI's International Training Initiative are the in-country Training Needs Assessments and Practical Case Training (PCT) initiatives. At the host government's invitation, the FBI, together with host country personnel, conducts an analysis of the country's crime problem and police training needs. The FBI then provides the host government with recommendations to enhance its techniques and capabilities through FBI assistance and training.
- The PCT initiative is an on-the-job training program that enables foreign police entities and FBI agents to work together on actual investigations of mutual interest. Foreign officers travel to the United States to participate in interviews, grand jury testimony, interaction with the U.S. Attorney's office, and hands-on experience with various investigative operational techniques. The PCT initiative also involves sending FBI agents to foreign countries to train their counterparts in the same way.
- At the FBI Academy in Quantico, Virginia, the FBI provides traditional executive development programs, that is, the National Academy, the National Executive Institute, and the Law Enforcement Executive Development Seminar, and includes officials from the emerging democracies around the world in these training initiatives.

### *Legat Program*

The FBI Legat is the front line of defense in keeping foreign-based crime as far away as possible from U.S. shores. Legats are operational links with foreign law enforcement and security agencies. As of March 19, 1998, there are 92 highly trained investigators in 32 cities, working to develop the strongest possible law enforcement relationships in key countries around the world. These relationships have proved themselves many times in critical situations when the success of an investigation hinges on expedient host country support and cooperation.

### *Resolution Six*

To coordinate investigations of multi-jurisdictional, international drug trafficking organizations and their attendant money laundering operations with all foreign agencies that assist the United States, the Department of Justice (DOJ) Office of Investigative Agency Policies (OIAP) issued Resolution Six concerning the conduct of DOJ criminal investigations overseas. The FBI will provide criminal investigative personnel to certain DEA overseas offices. To date, the FBI has assigned three agents to the DEA offices at Bogota, Colombia; Mexico City, Mexico; and Bangkok, Thailand.

## QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

## COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA)

*Question.* Judge Freeh, we are obviously behind schedule on implementing the Communications Assistance for Law Enforcement Act. As I understand it, industry claims that the FBI has tried to enhance its capabilities and capacity to conduct court-ordered electronic surveillance in a digital environment. How do you respond? Why has it been so difficult to reach an agreement that the Justice Department and industry can live with?

*Answer.* The purpose of CALEA is to preserve law enforcement's ability to conduct electronic surveillance commensurate with the authority embodied in underlying electronic surveillance statutes. The FBI, on behalf of all federal, state and local law enforcement, has sought to maintain electronic surveillance capabilities and to ensure sufficient capacity exists in the future to accommodate all lawfully-authorized electronic surveillance requests. However, industry has not agreed with the capabilities we consider necessary to enable law enforcement to receive the same information in the future that it previously received through traditional interception methods. With such different views toward implementation requirements, it has been difficult for law enforcement and industry to reach agreement. However, law enforcement has been working diligently over the last eight months to address industry's concerns while maintaining important law enforcement requirements.

Some in industry have expressed concerns with respect to a set of capabilities that law enforcement believes is required if it is to continue to meet evidentiary and minimization requirements in the digital age. These are the so-called "punch list" missing capabilities that are not included in industry's proposed CALEA standard. In an effort to respond to industry concerns regarding the legality of these items, the Department of Justice undertook an extensive legal review of law enforcement's "punch-list" missing capabilities and provided industry its legal opinion. The Department concluded that nine "punch list" missing capabilities were required by CALEA and the underlying electronic surveillance statutes.

With respect to industry's concerns over law enforcement's capacity requirements, the FBI has developed application language within the Final Notice of Capacity which allows telecommunications carriers and manufacturers to determine the impact of its switching systems. The Final Notice of Capacity contains a high-end capacity ceiling that law enforcement would expect from any one switch if a carrier chooses to deploy a switch-based solution. The Final Notice of Capacity also defines a ceiling for both call identifying information-based interceptions and call content-based interceptions. The Final Notice of Capacity was published in the Federal Register on March 12, 1998.

Recent meetings between the Department, the FBI and the telecommunications industry have concluded with a commitment by the industry and law enforcement to work together intensively and cooperatively for the next 60 days. During this 60-day period, industry and law enforcement will: (1) assess the technical feasibility of developing solutions that fully meet law enforcement requirements; (2) clarify the financial implications of developing solutions that fully meet law enforcement requirements; and (3) develop corresponding CALEA solution development timelines. While the 60-day exercise is underway, the Department and the FBI filed a deficiency petition with the Federal Communications Commission (FCC) opposing the interim standard adopted by the telecommunications industry. Industry and law enforcement are continuing technical and pricing discussions during the 60-day period.

*Question.* What happens if industry is not compliant under the law? What disincentives are there for the industry to be in non-compliance?

*Answer.* CALEA requires the telecommunications industry to develop and deploy CALEA-compliant solutions in their networks by October 25, 1998, with or without an industry adopted standard. CALEA allows a court to issue enforcement orders against a telecommunications carrier after that date if a carrier is unable to comply with an affirmative request from law enforcement for lawfully-authorized electronic surveillance on their equipment, facilities or services. Those carriers who cannot comply with a lawfully-authorized electronic surveillance request are subject to \$10,000 per day fine per surveillance court order.

The Attorney General recognizes the telecommunications industry's concern over the compliance date and has offered not to pursue enforcement actions against a carrier under section 108 of CALEA with regard to the CALEA mandate that a carrier meet the assistance capability requirements by October 25, 1998. The Attorney General would also support a carrier's petition to the FCC requesting extensions of the October 25, 1998, compliance date. Forbearance and support of extension re-

quests would be contingent upon industry's good faith efforts to develop a solution that is consistent with law enforcement's requirements.

The law enforcement community asserts that fully CALEA-compliant solutions must allow law enforcement to maintain the integrity of interceptions and the ability to intercept the same information that it previously received through traditional methods, that is, before the advent of advanced telecommunications services and features necessitated electronic surveillance efforts to be effected within a carrier switch or network facilities. Law enforcement believes that the capabilities and capacity that it is seeking will neither enlarge nor reduce the authority found in underlying electronic surveillance statutes.

#### FEDERAL BUREAU OF INVESTIGATION ACADEMY

*Question.* Director Freeh, one of the things that I am always asked about by local law enforcement officials when I journey in my state is the FBI State and Local Academy at Quantico. The problem is that it is very difficult to get a law enforcement officer into the Academy. For a small state like South Carolina we are told that there just aren't many opportunities, and our Agent in Charge can nominate only one or two people per class.

But when I asked my staff to take a look at this issue, they pointed out that the FBI reserves about 10 percent of the available space for foreigners who are nominated by your legal attachés overseas.

Given the limited nature of spaces available and the number of American law enforcement officials who want to attend the Academy, why are you reserving these spaces for foreigners? Isn't that why we agreed to let you establish a training school in Budapest?

*Answer.* The National Academy (NA), which began in July of 1935, has included international students since the fourth session of the program. In fact, the number of students from friendly foreign governments invited to attend the NA was increased by President John F. Kennedy in an effort to build bridges of cooperation among law enforcement agencies worldwide.

When the NA program relocated to the FBI Academy in Quantico, Virginia, the total number of students were increased to 250 per session (1,000 per year) and the number of international students averaged in the upper twenties. In the last two years, the NA has expanded to 270 students per session; however, the number of international students has remained the same. Upon relocation of the DEA to the Justice Training Center (anticipated in the summer of 1999), the NA plans to expand each session to 300 students (1,200 per year) without an increase in international student participation.

The FBI believes international students provide a valuable element to the NA experience and the domestic law enforcement attendees. They share their experience in law enforcement, their culture, and through this interaction both domestic and international students develop a better understanding of the law enforcement profession.

The sharing of the NA experience between domestic and international students inaugurates a lifelong relationship. One of the most effective methods of building rapport and eliciting law enforcement cooperation from foreign countries is through training. The value of these relationships to U.S. law enforcement is that they have a worldwide network of contacts to assist them in carrying out their duties especially when matters become extra-territorial.

The purpose of opening the International Law Enforcement Academy (ILEA) in Budapest was not to replace the opportunity for a limited number of foreign law enforcement officers to attend the NA. The curriculum offered at the ILEA in Budapest is based upon a key concept of the NA, namely, bringing together law enforcement officers from varying jurisdictions and sizes of departments so that students may build "cop-to-cop" relationships among their classmates and exchange ideas, experiences, and practices. The ILEA training academy at Budapest allows a greater number of foreign law enforcement officers to receive training that is based upon the NA approach. Finally, given the growing trans-national nature of many crimes problems, state and local law enforcement students attending the NA often look forward to the opportunity to share their NA experience with a limited number of foreign law enforcement officials.

#### PUERTO RICO

*Question.* Director Freeh, I was wondering if you could discuss the situation in Puerto Rico. I've heard that the drug and corruption problem there is severe and that it is a hardship post for FBI and DEA agents.

How bad is the situation and is Puerto Rico a platform to bring to narcotics into the mainland United States?

Answer. The overall crime problem in Puerto Rico and the Caribbean is serious. Causal factors center principally around Puerto Rico, which is a drug transit zone and a center for drug/gang activity. Colombian, Dominican and Puerto Rican criminal groups transport illicit drugs into the Commonwealth of Puerto Rico and the continental United States. Other significant factors, which contribute to the overall crime problem in Puerto Rico, include drug-related violent crime, money laundering, illegal immigration and alien smuggling.

Colombian drug traffickers use Dominican transporters to receive airdrops, off-load drug shipments and transport drugs into the United States. Dominican criminal groups are used because of their expertise in smuggling aliens and contraband into the United States and their willingness to violate the law. Dominican drug distribution organizations also control much of the retail drug distribution in the Northeastern United States and are expanding their operations to other cities along the Eastern seaboard. It has been estimated that between 7 and 12 tons of cocaine are smuggled into Puerto Rico each month and that 80 percent of this cocaine is transported to the United States. An inter-agency assessment concluded that approximately 33 percent of cocaine entering the continental United States, does so via the Caribbean.

With regard to retention of FBI agents in Puerto Rico, the FBI is conducting an on-site review/assessment of the issues related to Puerto Rico as a post of duty that will be completed in the near future. It addresses a number of sub-issues including safety and health care for FBI employees and their families, housing and education for their children, taxes/surcharges imposed by the Commonwealth of Puerto Rico, and the overall cost of living. Various options are being explored to address the retention issue. These issues are currently being addressed in a separate working group with the Department of Justice.

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QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (IAFIS)

*Question.* Under the FBI's incremental build approach for the IAFIS, you have been making available some functions of the new system to State and local law enforcement at early dates, rather than waiting until the full system is available for operations. I am told that Federal, State and local users are very receptive to this approach and are enjoying successes because of it. What accomplishments have been achieved from the early availability of certain IAFIS functions to Federal, State, and local users?

Answer. While the primary purpose in adopting the incremental development approach was to reduce the risk of systems integration, the FBI has been able to deploy some IAFIS capabilities early. The first two, of a total of six, IAFIS builds were completed in 1996. These two builds provided FBI latent fingerprint specialists with the capability to conduct a limited number of latent fingerprint searches per day against several small fingerprint data bases representing approximately 500,000 criminal subjects.

Using this capability, the FBI latent specialists have, as of March 19, 1998, been able to identify 21 latent fingerprint images from old cases that they had not been able to identify prior to the introduction of this new technology. In some cases, the results confirmed the identity of subjects previously known and connected with the crime. In many others, however, new, previously unknown subjects were identified, providing the investigators with new leads in the case. Local, State, and Federal agencies have been made aware of this capability and are being encouraged to submit important unsolved cases to the FBI Laboratory for processing against these data bases.

The full potential of IAFIS will only be realized when the need to transport and process paper fingerprint records is eliminated. The ability to provide positive identifications of criminal subjects while they are still in custody can only be effected if fingerprints are captured and transmitted electronically from local, State, and Federal agencies to the FBI for processing. Many local, State, and Federal criminal justice agencies do not currently have the technology to enable them to capture and transmit fingerprint records to the FBI electronically.

In 1997, as an additional initiative under the IAFIS project, the FBI began the development of an inexpensive fingerprint card scan system that could be made available to State and Federal agencies to help them develop the capability to submit fingerprints electronically. Several pilot versions of this system, known as the

Interim Distributed Imaging System (IDIS), were deployed during the summer of 1997, and the first full function IDIS was installed at the Colorado Bureau of Investigation in December 1997.

In order to support the transmission of electronic fingerprint records from State agencies using the IDIS, the FBI also had to provide a communications network. The CJIS Wide Area Network (WAN), an integral part of IAFIS design, was developed and deployed early in order to fill this need. With an intensive effort beginning in the spring of 1997, the FBI successfully completed connections to all 50 State identification bureaus by October 1, 1997. Using IDIS and the CJIS WAN, several State and Federal agencies are currently transmitting fingerprint records electronically to the new fingerprint facility in Clarksburg, WV.

Furthermore, over the last year, as IAFIS nears completion, INTERPOL has shown increasing interest in using IAFIS standards and technology to exchange criminal justice information among its member countries. Since it would benefit law enforcement to have the same standards in place not only nationally but world-wide, the FBI has been working closely with INTERPOL to foster their participation. In January of this year the FBI installed an IDIS at INTERPOL headquarters in Lyon, France, and effectively demonstrated that fingerprint data and other images could be transmitted internationally using Internet technology. The success of this pilot has led the FBI to rename IDIS the "International" Distributed Imaging System.

Another accomplishment is the conversion of the 32 million criminal fingerprint card master file into digital images and the loading of these digital fingerprint images into the fingerprint image storage and retrieval subsystem. The fingerprint image storage and retrieval subsystem became operational in October 1997. Today, FBI fingerprint examiners are using the subsystem to conduct over 40,000 fingerprint comparisons each day. As a result, local, State, and Federal users are receiving a significant benefit because their fingerprint identification requests are being processed more quickly and response times have been significantly reduced.

*Question.* In early 1997, the FBI was reporting a fingerprint card processing backlog of almost 2.9 million cards, with an average receipt of over 51,000 cards per day. To alleviate this backlog, the FBI committed itself to hiring 1,100 new employees for its operations in Clarksburg. What is the current status of the backlog of fingerprint cards?

*Answer.* As of the close of business March 9, 1998, the FBI total count was 540,956 fingerprint cards, down from approximately three million at the beginning of calendar year 1997.

*Question.* What are your current average receipt and turnaround times for both civil and criminal submissions?

*Answer.* The combined daily average receipts for criminal and civil fingerprint cards for fiscal year 1998, from October 1997, through February 1998, are 47,837 fingerprint cards per day with average closeouts running at 56,770 per day for the same time period. The current turnaround time as of March 3, 1998, is 34 days for criminal fingerprint card submissions and 24 days for civil fingerprint card submissions.

*Question.* What are your projections for 1999?

*Answer.* Based on the trend for the past ten years, the FBI anticipates fingerprint receipts totaling approximately 14 million cards in fiscal year 1999.

*Question.* How does this compare to the situation which existed in early 1997?

*Answer.* If these 14 million fingerprint cards are realized, it will represent an increase of 1.2 million cards, and an 8.9 percent increase compared with receipts in fiscal year 1997.

*Question.* The FBI has done a remarkable job in hiring its fingerprint identification staff in West Virginia. I have visited and am impressed with the new facility in Clarksburg. This new facility is at least as large as space the Criminal Justice Information Services (CJIS) Division formerly occupied in Washington, D.C. Operating this new stand-alone facility requires a number of services such as maintenance, shipping, warehousing, automotive fleet, security, and utilities, which were funded by the FBI overhead at FBI Headquarters when the division was still located there. Now that all of CJIS Division functions have been relocated to Clarksburg, do you anticipate funding requirements for Clarksburg facility operations and maintenance that are not included in the fiscal year 1999 budget request?

*Answer.* The CJIS Division Complex is located on 986 acres and consists of: (1) nine buildings, providing over 781,000 square feet of space for a computer center, offices, storage, and infrastructure activities, (2) three miles of roads, and (3) parking for over 2,000 vehicles. As of March 2, 1998, the CJIS Division had 3,013 personnel assigned to the facility in Clarksburg, West Virginia. As you note, the CJIS Division has assumed the responsibility of performing many functions that were previously handled by other FBI Headquarters Divisions. Now that the complex has

been operational for over two years, the CJIS Division, using historical data, estimates that the annual cost for operations and maintenance (O&M) of the Complex at approximately \$4.074 million in direct funding. Through 1998, the FBI funded the O&M of the facility through the funding appropriated annually for the Revitalization and Relocation project. As IAFIS development funding will be nonrecurrent once the system comes on line, it will be necessary to address potential shortfalls in O&M funding in future budget requests. Estimated annual O&M costs are summarized in the following table:

*Estimated West Virginia Complex O&M Costs*

<i>Item</i>	<i>Cost</i>
Electric .....	\$845,000
Water .....	74,100
Sewer .....	37,050
Gas .....	256,500
Building Maintenance Supplies .....	1,026,000
Site Repairs/Landscape Maintenance/Custodial .....	1,282,500
Trash Removal .....	57,000
Security Uniforms/Equipment .....	105,450
Automotive Supplies .....	31,350
Internal Communications and Electronic Building Management Systems .....	359,100
<b>Total Direct Funding Requirement .....</b>	<b>4,074,050</b>

*Question.* I am told that connecting the IAFIS to more than 50 other Federal, State and local control terminal agencies will require a dedicated, secure telecommunications network called the CJIS Wide Area Network, or CJIS WAN. I understand that the CJIS WAN was implemented using IAFIS development funding but that recurring operating and maintenance costs will be needed. What are the estimated annual operating costs for the CJIS WAN for 1998 and 1999? Are you anticipating operating and maintenance requirements for the CJIS WAN that are not included in the fiscal year 1999 budget request?

*Answer.* The CJIS WAN was successfully connected to all 50 States by October 1, 1997, using IAFIS development funding. As IAFIS development funding will be nonrecurrent once the system comes on line, it will be necessary to address potential shortfalls in O&M funding in future budget requests. Estimated operating and maintenance costs for 1999 are listed on the following table.

*Estimated CJIS WAN O&M Costs*

<i>Item</i>	<i>Fiscal year 1999</i>
Leased telephone circuits .....	\$1,687,200
Technical support equipment .....	114,000
Engineering and Operations support .....	795,800
Maintenance of hardware and software .....	114,000
<b>Total Funding Requirement .....</b>	<b>2,711,000</b>

The telecommunications costs include the leased line recurring costs and maintenance services provided by Sprint, the FBI's FTS 2000 service provider. The projected costs were derived from pricing data obtained from Sprint. Engineering and Operations support includes contracted support to augment FBI staffing to provide on-going administration of the CJIS WAN. Hardware and software maintenance support projections are based on estimates provided by vendors for equipment used as part of the CJIS Hub installed in the CJIS Division at the FBI West Virginia Complex.

*Question.* The CJIS Division will be bringing on-line three major systems in 1999: the IAFIS, NCIC 2000, and National Instant Check System. I would expect that these activities will require a high level of interaction with systems users across the nation, as well as the need for regularly scheduled audits of State operations for compliance with policies governing these systems. I am told that to be responsive to the law enforcement and criminal justice communities will require additional funds to support CJIS Division travel activities. Are current levels for travel funds available for providing training and related services to the law enforcement and criminal justice community, as well as performing scheduled audits of State Control Terminal Agencies, sufficient to meet anticipated demand in 1999?

Answer. Bringing on-line the National Instant Check System, NCIC 2000, and IAFIS will require additional travel by FBI staff to prepare State and local end-users and technical staff to ensure a smooth start-up of these three major systems. These demands will be in addition to regularly-planned travel for system audits, training, and advisory policy board meetings. The level of funding available in the 1999 budget will necessitate the establishment of priorities for travel.

*Question.* Are additional funds needed to protect the significant investment in these valuable criminal justice systems?

Answer. The FBI always wishes to maximize its interaction and assistance to the criminal justice community at the local, State and Federal level. The types of services provided by the CJIS Division requires constant interaction with users to identify their requirements and modify, when agreed to, policies and procedures to meet their requirements. Travel to numerous locations throughout the United States and some foreign locations is required in order for the CJIS Division to liaison properly with law enforcement agencies.

The implementation of the new automated systems will require additional travel by CJIS Division employees to: (1) provide training to the users on the use of the new systems, and (2) audit the users to ensure the accuracy of the data contained within the systems. For example, after deployment of the NCIC 2000 system, the States will have a three-year transition period to convert existing systems to the new capabilities. State and other Federal agencies will require assistance from the FBI as they convert their systems. It is anticipated that the frequency of technical conferences will increase with additional attendees in fiscal year 1999 due to the implementation of the new systems.

*Question.* The new Integrated Automated Fingerprint Identification System (IAFIS) is scheduled to become operational in the third quarter of 1999, or mid-1999. I understand that, for a while, the FBI will be operating both the current system and the IAFIS in parallel while you make the transition from one system to the other. IAFIS development funding will be reduced in the fiscal year 1999 budget as you come to the end of the system development phase; yet I am concerned that funding be available to operate the system during this transition period. Does the FBI still plan for the IAFIS system to meet its target for full operational capability in fiscal year 1999?

Answer. The FBI still expects to deliver a fully operational IAFIS system in fiscal year 1999 as planned.

*Question.* Do you anticipate IAFIS operational costs in fiscal year 1999 that are not currently covered by IAFIS development funding?

Answer. For 1999, the amount of funding requested for the Revitalization and Relocation project will support IAFIS through the third quarter of 1999 when the system comes on line. The final costs for delivery of the IAFIS system will determine the availability of funds for operations and maintenance (O&M) during the fourth quarter of 1999. Shortfalls, if any, would have to be covered from other FBI funds. As IAFIS development funding will be nonrecurred once the system comes on line, it will be necessary to address potential shortfalls in O&M funding in future budget requests. The estimated O&M requirements for IAFIS for the fourth quarter of 1999 are listed in the following table:

<i>Item</i>	<i>Cost</i>
Hardware Maintenance .....	\$461,337
Software Maintenance .....	1,534,921
System Engineering and Technical Assistance (SETA) .....	1,179,781
Operations Personnel .....	381,647
Renewals for Commercial Off The Shelf (COTS) Software .....	340,202
Service Provider Training .....	1,115,112
Prerequisite Training .....	285,000
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Total Direct Funding Requirement (one-quarter only) .....	5,298,000

#### DRUG ENFORCEMENT ADMINISTRATION

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

#### MEXICO DRUG CERTIFICATION

*Question.* Once again this year, the Administration has taken the controversial step of certifying that Mexico is fully cooperating with the United States in the drug war. It has been widely reported that you disagree with that decision, particularly

in light of the continued corruption and increased drug violence in Mexico in the last year.

What role does DEA play in the certification process?

Answer. During the course of the drug certification process, I provided the Attorney General with DEA's factual assessment of the drug enforcement situation in the various countries being evaluated for certification purposes. My comments are limited to law enforcement issues, and I do not make a recommendation as to any country. The Attorney General then makes her recommendation to the Department of State.

*Question.* Did DEA recommend to the Administration that it not certify Mexico this year? What specific facts led the DEA to make the recommendation that it made?

Answer. As I have previously indicated, I did not make a recommendation to the Attorney General as to whether or not Mexico should be certified. I simply updated her on the state of drug enforcement efforts in Mexico.

*Question.* Do you think it would bring more credibility to the certification process if a law enforcement agency like the Justice Department or DEA took the lead role in the certification decision?

What role does the State Department play in the work the DEA does with Mexico regarding drug trafficking? Which federal agencies are the most informed about the specific counternarcotics activities undertaken by a particular country and the level of cooperation the United States receives from particular countries?

If Congress were to change the certification law, is there any reason why the Justice Department or DEA could not assume the lead responsibility for advising the President on whether a country is fully cooperating with the drug effort?

Answer. Law enforcement agencies such as DEA provide policy makers with specific and unbiased information regarding the performance and progress of the anti-narcotics efforts of the various countries being considered for certification. We have the ability to provide an assessment of each nation's progress against the organized criminal syndicates who control the drug trade in their country and their ability to both accept and share sensitive information in a secure manner. There are a number of other social, economic and political variables outside the drug law enforcement arena, which have become part of the certification process. I believe that the current role of law enforcement is appropriate.

Concerning cooperative efforts between the State Department and DEA on drug related issues in Mexico, the Department of State, Bureau for International Narcotics and Law Enforcement Affairs (INL) works closely with DEA in providing both training and law enforcement related equipment to the Government of Mexico. Currently, all purchases of equipment by DEA for the foreign counternarcotics operations of host nation law enforcement are facilitated by INL. Through the publication of the International Narcotics Control Strategy Report (INCSR), INL provides statistics, derived from data supplied by Mexican authorities, on eradication efforts, drug seizures, and arrests in Mexico.

There are a number of law enforcement and other government agencies in the United States that are well-versed in a variety of drug-related issues in Mexico, including: the Department of Justice's Criminal Division, the Office of National Drug Control Policy, the Federal Bureau of Investigation, the U.S. Customs Service, the Border Patrol, the Central Intelligence Agency, and the Department of Defense, in addition to the Department of State.

*Question.* Do you agree with the Administration's decision to decertify Colombia, but grant it a national interest waiver, while fully certifying Mexico? Were these decisions consistent given each country's level of cooperation? How would you compare the level of cooperation received from Colombia with that of Mexico? Did Mexico do a better job, a worse job, or about the same?

Answer. As you know, I have made a policy decision within DEA not to comment on the ultimate certification decisions of the President, because certification is a process for diplomatic and political institutions. As a law enforcement agency, DEA is primarily responsible for investigating and incarcerating the leaders of the organized drug crime syndicates that control the flow of drugs to and within our country. We work closely with our host nation law enforcement counterparts to identify and target the leaders of these drug syndicates and their methods of operation. Based on these operations, we provide advice to diplomatic and political officials regarding the extent of the drug problem and progress made by nations where drug command and control operations are based. In terms of the cooperation that the United States receives from Mexico and Colombia in the drug law enforcement arena, we have received varying degrees of cooperation from Colombia and Mexico, based, in large part, on their institutional strengths and weaknesses.

*Mexico*

In Mexico, the Government of Mexico has made some progress by reconstituting its drug law enforcement infrastructure since the disclosure of the scandalous drug corruption of General Gutierrez-Rebollo last year. The Mexican Government must also be credited with placing the law enforcement pressure on the Amado Carrillo-Fuentes organization that resulted in the death of Amado Carrillo-Fuentes, although his organization continues to operate, and a reign of violence has been unleashed as his would-be successors battle for control of the organization.

Some progress also has been made in the development of law enforcement cases. For example, former Jalisco state Governor Flavio Romero de Velasco was jailed on January 24, 1998, in connection with his ties to drug lords Rigoberto Gaxiola Medina and Jorge Abrego Reyna Castro. Romero is accused of laundering drug money, accepting bribes, and providing a safe haven for drug lords in his western state between 1977 and 1983.

While there have been some positive developments in United States-Mexican drug law enforcement cooperation, unfortunately, the Government of Mexico has made very little progress in the apprehension of known syndicate leaders who dominate the drug trade in Mexico and control a substantial share of the wholesale cocaine, heroin, and methamphetamine markets in the United States. There have been a number of procedural changes as the Mexican Government restructures its institutions charged with enforcing the drug laws. New personnel have been brought in to replace corrupt or ineffective officials. However these changes have yet to produce significant results. The ultimate test of any progress is measured by apprehending the syndicates' leadership and bringing them to justice.

One promising program for cooperative law enforcement with the Government of Mexico was a proposed series of Bilateral Border Task Forces (BTF's). In 1995, the United States and the Government of Mexico developed the concept of the BTF's, which, as envisioned, were to be located in Mexico, at locations along the United States-Mexican border. The main objective of these task forces was to target the major Mexican drug trafficking organizations and their command and control centers operating at various points along the border. The BTF's were to be composed of Mexican counternarcotics agents from the now disbanded National Counter-Drug Institute (INCD), along with United States law enforcement agents from the DEA, FBI, and U.S. Customs Service. The task forces were to be physically located in Mexico, with United States law enforcement agents traveling to Mexico on a daily basis, from home offices in the United States. In concept, the goal of these task forces was for the United States "commuter" agents to bring their Mexican counterparts in the BTF's timely information from drug investigations in the United States.

Regretfully, the BTF's have yet to achieve their full potential, due in large part, to the lack of sustained financial support for the program by the Government of Mexico. DEA continues to provide both extensive financial resources and intensive training to the Mexican vetted units, but there have been few significant arrests, drug seizures, or intelligence leads developed by these vetted units.

The Government of Mexico is attempting to build a reliable civilian law enforcement agency to replace the former anti-drug agency, INCD, which had been seriously corrupted at virtually every level. The new agency is called FEADS, Special Prosecuting Office for Crimes Against Health. The Organized Crime Unit (OCU), operating in the FEADS headquarters in Mexico City, was set up in 1997, pursuant to the Organized Crime Law passed in 1996. The DEA has provided assistance to the OCU in the development of personnel selection systems and extensive narcotics enforcement training to the new OCU agents.

Although reconstitution of law enforcement institutions is under way in Mexico, this is a difficult and lengthy process that may take decades. Several programs have been initiated, but the institution-building process is still in its infancy. There are now some individuals and small organizations with whom we are able to interact on specific cases. We limit this exchange, however, to individual cases when we are sure the information would not put our agents or sources of information at risk.

The problems of establishing a corruption-free law enforcement infrastructure are not insurmountable. However, it is essential that it be established because of the enormous damage these criminal organizations, based in Mexico, are causing to U.S. citizens, as well as to Mexican. The only effective law enforcement strategy is to bring these criminals to justice and ensure that they are punished in a manner commensurate with their vicious acts.

*Colombia*

In Colombia, the political environment continues to hinder United States Government counterdrug efforts. Divergent anti-drug agendas within the Colombian Government, a frail judicial system, widespread official corruption, and a weak institu-

tional resolve to confront the drug problem continue to limit Colombia's ability to cooperate with the U.S. Government in the counterdrug arena. In addition, Colombia is struggling with a violent insurgency and counterinsurgency both of which have links to drug trafficking. Our continued counterdrug efforts and accomplishments in Colombia are a testament to the professionalism and dedication of the Colombian drug law enforcement forces.

The Colombian National Police (CNP) is a major law enforcement organization with a historical tradition. The CNP had significant corruption problems in the 1980's and early 1990's, but took the dramatic steps necessary to address that corruption and have progressed to become a professional and trusted ally.

Over the past two and one-half years, all of the top Cali drug lords have been either captured by the CNP, died, or have surrendered to Colombian authorities. These unprecedented drug law enforcement successes were the culmination of years of investigative efforts by the CNP and the DEA. The CNP continues to pursue significant drug investigations, as follows:

- In April 1997, as the result of critical intelligence provided by the CNP, Venezuelan authorities arrested Colombian drug lord Justo Pastor Perafan. Perafan was extradited to the United States for prosecution in May 1997. Perafan's trafficking organization smuggled multi-ton quantities of cocaine to the United States and Europe via containerized maritime cargo.
- In August 1997, Julio Caesar Nasser David was arrested by the CNP. Nasser David headed a major polydrug trafficking and money laundering organization based out of Colombia's North Coast. His organization smuggled multi-ton quantities of cocaine and marijuana via shipping and containerized cargo. Over \$200 million in drug proceeds have been seized from Nasser David by the DEA and Swiss authorities. Nasser Davis also is charged in the United States with serious narcotics felonies.
- North Valle del Carca drug lord Jose Orlando Henao Montoya surrendered to Colombian authorities in September 1997, to face illicit enrichment and money laundering charges.
- In February 1998, the CNP arrested Colombian drug trafficker Jose Nelson Urrego. Although primarily linked to the Northern Valle del Cauca drug organization, Urrego also has provided drug transportation services to the Medellin and Cali cartels.

The fact that the CNP, and other members of Colombia's law enforcement community, were able and willing to pursue operations against the drug underworld is a testament to their professionalism and dedication. The CNP's counterdrug successes have come at a high price. In 1997, more than 160 CNP personnel died in the line of duty—most of whom were involved in counterdrug operations.

However, Miguel Rodriguez Orejuela and his associates, who comprised the most powerful international organized crime group in history, initially received ridiculously short sentences for their crimes. In January 1997, his brother, Gilberto Rodriguez Orejuela was sentenced to 10½ years in prison on drug trafficking charges. As a result of Colombia's lenient sentencing laws, however, Gilberto may serve only five years. Miguel, originally sentenced to 9 years, was later sentenced to 21 years on Colombian charges based on evidence supplied by the United States Government. With further sentence reductions, Miguel is expected to serve less than 13 years in prison. The sentences imposed and actual time to be served are woefully insufficient and not commensurate with the gravity of the offenses.

Even now, the Rodriguez-Orejuela brothers are able to run part of their illicit operation from prison cell blocks equipped with private quarters, telephones, indoor soccer facilities and a private kitchen, due to Colombia's lax prison system. As a consequence, even though they are in prison, they remain among the most powerful cocaine traffickers in the world. Colombia's inability to control their operations fully is the major factor in the rise of independent Colombian trafficking groups.

Last year, the Colombian National Police took control of four maximum security prisons from the Colombian Bureau of Prisons, in an effort to prevent traffickers from carrying out their operations from jail. In June 1997, the CNP raided a dozen communications centers in Bogota and Cali that were being used by the jailed drug lords to manage operations. Nevertheless, the jailed drug lords remain able to continue to direct some aspects of their trafficking operations from prison, albeit with greater difficulty than before the CNP actions.

The dysfunctional Colombian justice system lacks the expertise and resources necessary to prosecute and incarcerate most criminals.

- In October 1997, a Colombian judge dismissed murder charges against jailed Cali drug trafficker Ivan Urdinola. Although the judge's decision is under investigation by Colombian authorities, Urdinola may be released from prison in 1998. There is clause in Colombia's new extradition law which states that the

law will not be applied retroactively. This clause ensures that the Cali drug lords, and other Colombian drug traffickers, will not face extradition for crimes committed prior to December 17, 1997, the date that the constitutional extradition amendment became law.

—Colombia's lenient sentencing codes remain intact. These codes, which permit substantial sentence reductions for surrender, confession, cooperation, and work/study, continue to allow most drug traffickers to serve prison sentences that are low by international standards.

In June 1997, the Government of Colombia approved the creation of the Aviation Control Program. As of October 1, 1997, all Colombian-registered aircraft are subject to search and inspection by the CNP. The CNP systematically identifies all Colombian aircraft by utilizing tamper-resistant stickers placed throughout the aircraft. Each sticker has a bar code that, when read, allows the CNP to check the sticker information with a database of all parts and serial numbers registered with that aircraft. Each aircraft is subject to search every six months for illegal alterations to the aircraft and/or illicit drug residue.

The CNP leadership also has taken important steps in recent years to counter the effects of corruption on their organization. Since the early 1990's, the CNP has dismissed more than 14,000 police officers for corruption. The CNP continues to be enthusiastic in its support of new "tools" to root out corruption. One of these important "tools" is the program of special units, made up of DEA-trained and vetted Colombian police officers who continue to work closely with DEA to conduct sensitive investigations.

We can and will continue to fully identify and build cases against the leaders of the new criminal groups from Colombia as well as the resurgent splinter groups of the old Cali syndicate. These criminals have already moved to make our task more difficult by withdrawing from positions of vulnerability and maintaining a much lower profile than their predecessors. A number of initiatives hold promise for success:

—Our Country Team's Flow Reduction Strategy will complement the air bridge interdiction program by focusing USG resources on those cocaine transportation and production organizations located south and east of Colombia's Andes Mountains.

—The U.S. Embassy's Information Analysis/Operations Center (IAOC) will be increasingly utilized to coordinate and analyze tactical information regarding the transportation and production activities of drug trafficking groups active in the Colombian territories south and east of the Andes Mountains. The IAOC is comprised of Embassy personnel from the DEA Bogota Country Office and U.S. Military's Tactical Analysis Team. Indirect support and staffing also are provided by the Defense Attaché Office and the State Department.

—The special unit program, funded under the Andean Initiative, will make it possible to convert existing partially vetted units of the CNP into fully vetted teams. These teams of investigators will work closely with DEA to conduct drug investigations.

In sum, although significant progress has been made in Colombia on the drug enforcement front through the efforts of the CNP, the weak and tainted political and judicial systems within the country continue to hinder long-term success in the country's continued fight against drug trafficking. In Mexico, although there appears to be willingness on the part of the country's leadership to attack the operations of the major Mexican drug syndicates, progress is slow, and the corruption within the country's law enforcement institutions will continue to make success a daunting task.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

HIDTA

*Question.* Mr. Constantine, we in Colorado appreciate the help and support of the DEA and the Justice Department in the operation of the Rocky Mountain HIDTA. This new high intensity drug trafficking area designation under General McCaffrey's ONDCP already has had a significant impact on coordinating law enforcement efforts in targeting illegal drug trafficking in Colorado, Utah, and Wyoming.

What are your plans this year to expand the DEA's support of the Rocky Mountain HIDTA and other drug trafficking initiatives in the West?

*Answer.* The Rocky Mountain High Intensity Drug Trafficking Area (HIDTA) covers a three state region (Colorado, Utah and Wyoming) with each state adapting the

HIDTA program to its specific needs based on local problems and trafficking threats. The Rocky Mountain HIDTA was authorized and funded as part of the fiscal year 1997 appropriation. First year funding for federal agencies participating in this HIDTA was dedicated primarily to the establishment of a joint intelligence center. DEA has taken the leadership role in establishing this intelligence center which includes members of numerous federal, state and local law enforcement agencies within the Rocky Mountain HIDTA region. The intelligence center, located in the DEA's Denver Division Office, is currently managed by a DEA supervisor and includes one DEA Special Agent and Intelligence Analyst.

DEA takes no direct funding from the Rocky Mountain HIDTA; instead, DEA has encouraged area officials to direct HIDTA funding to state and local agencies in an effort to provide them with the resources necessary to engage in joint enforcement programs and task force operations with DEA, while channeling more of their own manpower, investigative and equipment support into existing programs. DEA Denver currently has 43 Special Agents operating in enforcement groups in the State of Colorado. Although none of these agents are specifically designated HIDTA agents, each of these agents work on a case-by-case basis with their state and local counterparts on HIDTA related investigations.

The DEA Denver Division supports the Rocky Mountain HIDTA through interaction between our established operational and support groups and HIDTA participating agencies. Each element in DEA's organizational structure cooperates across a wide cross section of HIDTA participating agencies in all of the initiatives established by the Rocky Mountain HIDTA. In the near future, DEA will be opening a new Post of Duty in Steamboat Springs, Colorado, consisting of two DEA Special Agents. These agents will also work closely with other participating agencies on HIDTA structured initiatives.

DEA played a key role in developing the Rocky Mountain HIDTA methamphetamine strategy, with a DEA Assistant Special Agent in Charge (ASAC) acting as chairman of the Methamphetamine Investigative Support Team (MIST). The DEA Denver Clandestine Laboratory Group is the cornerstone of the Colorado Methamphetamine strategy. The DEA supervisor and nine Special Agents, who work closely with the Douglas County Sheriff's Deputy assigned to this group, will support all the members of the Methamphetamine Investigative Support Team. This support will include technical and investigative assistance, training and equipment. The MIST will work to combat the continuing increase in the number of clandestine laboratories in Colorado.

DEA's Denver Task Force, with six Special Agents and a supervisor, works with seven state and local officers from five participating agencies in support of identified HIDTA initiatives. This task force also works in coordination with three additional local task forces who receive program funding in furtherance of Rocky Mountain HIDTA initiatives.

DEA's Denver Transportation Group, includes a DEA supervisor and five Special Agents who work with seven Denver Police Department detectives in support of the HIDTA Transportation Initiative. DEA has, in turn, supported the Denver Police Department's HIDTA Narcotics Trafficking Initiatives by assigning one Special Agent full-time to their Major Peddler Unit.

DEA is supporting the Aurora Police Department HIDTA initiatives through the assignment of two Special Agents full time to their Metropolitan Gang Task Force. In addition to DEA personnel, this unit includes representatives from the Aurora Police Department, Denver Police Department, FBI, and the National Guard. The primary objective of the task force is to target major gangs and the violence associated with these groups.

The DEA office in Colorado Springs has a co-located task force which includes a DEA supervisor, five Special Agents, and six state and local officers assigned from four HIDTA participating agencies. The office supports several of the HIDTA initiatives including the Drug Transportation Initiative and the Gangs/Violence initiative.

DEA's Glenwood Springs Resident Office has a task force comprised of a DEA supervisor, four Special Agents and seven state and local officers from four departments, all of which are participating in the area HIDTA. Again, the office supports several initiatives, including the Transportation Initiative, the Gangs/Violence Initiative and the Methamphetamine Initiative. The office also provides support to several Western Slope departments, including Grand Junction and the Mesa County Sheriff's Office, in their investigative efforts in support of HIDTA initiatives. Opening of a proposed DEA Post of Duty for the City of Grand Junction, Colorado is currently being reviewed by personnel at DEA Headquarters.

A DEA Post of Duty has officially been approved for Steamboat Springs, Colorado. Two Special Agents will be assigned to this area to work with a local, three county,

GRAMNET (Grand, Moffat and Routt County Narcotics Enforcement Team) task force. The Steamboat Springs Post-of-Duty will open in upcoming months.

The Investigative Support Center (ISC) is presently staffed with a DEA supervisor, one DEA Special Agent, a DEA Intelligence Analyst and seven analysts from HIDTA participating agencies. This unit provides indices checks (e.g., NADDIS, CCIC, TECS, etc.) for HIDTA participating agencies and, to date, has provided case support to 26 separate HIDTA investigations. This unit has performed a vital role in providing investigative support for agencies with previously limited intelligence capabilities. The ISC has also provided training and specialized assistance to a number of HIDTA participating agencies.

The DEA Denver Division has provided direct support to the Rocky Mountain HIDTA training initiative through the provision of instructors, space, lesson plans and training materials. The expertise garnered by DEA through years of training has been made available to HIDTA participating agencies and their members through the teachings of qualified, experienced DEA instructors.

In sum, the unique quality of the Rocky Mountain HIDTA is that all investigative efforts include combined federal, state and local cooperation under HIDTA umbrella initiatives. In the future, DEA will continue its leadership role in unifying other agencies under the HIDTA program.

*Question.* Will additional DEA agents be assigned to Colorado to work with the Rocky Mountain HIDTA?

*Answer.* While DEA Special Agents in Colorado are not specifically designated as HIDTA agents, each of our enforcement groups, whether full-time or on a case-by-case basis, work with state and local units who receive HIDTA funding. In fiscal year 1998, our Denver Field Division received a total of five additional Special Agents. Three of these agents will be assigned to DEA offices in the State of Utah, while the remaining two agents will be assigned to DEA's new office in Steamboat Springs, Colorado, which is slated to open in the near future. As previously indicated, plans for the opening of an office in Grand Junction, Colorado are also under review. As is the case in our existing offices in Colorado and throughout the Denver Field Division, the new DEA Special Agents assigned to these offices will work on high profile investigations with local agencies receiving HIDTA funding.

DEA is committed to providing the utmost support to other federal, state, and local agencies in the fight against drug trafficking. It is DEA's intent to continue to increase the number of DEA Special Agents assigned throughout the United States, including those assigned to the Denver Field Division.

#### METHAMPHETAMINE

*Question.* Mr. Constantine, I know you share my concern about the growing problem of methamphetamine, especially its dangerous impact in the Western United States. Just with the past 10 days, the police chief of Grand Junction, Colorado—Chief Gary Konzak—stated how the grand valley area is “in jeopardy” from methamphetamine.

Last year, the Treasury Subcommittee which I chair, addressed the methamphetamine problem, with a new ONDCP and the Justice Department received additional funding for the DEA to combat this problem.

What are the agency's plans this year to increase efforts to fight methamphetamine?

Will the agency please look into the meth problem in the Grand Junction area, throughout Colorado, and the Rocky Mountain region generally, and report back to this committee its findings and recommendations?

*Answer.* In answering your question, let me first begin by addressing the methamphetamine problem from a national perspective and then move to an explanation of the problem and our efforts within the State of Colorado and more specifically, in the City of Grand Junction.

#### *National Methamphetamine Perspective*

Over the course of the past several years, DEA has been aggressively addressing the growth of methamphetamine trafficking across the U.S. through our Methamphetamine Enforcement Initiative. This initiative has provided the agency with an integrated and coordinated strategy in support of the National Drug Control Strategy, and the National Methamphetamine Strategy. It focuses our intelligence and enforcement efforts against the organized drug syndicates, independent domestic methamphetamine traffickers, and rogue chemical companies responsible for the smuggling, production, and distribution of methamphetamine throughout the U.S. Through our demand reduction efforts, the training of state and local law enforcement officers, and our major investigative efforts, we are committed to ensuring that methamphetamine does not become the “crack” cocaine of the 1990's.

The cornerstone of our national investigative strategy is to focus on attacking the command and control functions of the organized criminal syndicates that control virtually all of the cocaine, heroin, and methamphetamine trafficking in the United States today. This task is accomplished through the extensive use of Title III wire intercepts against the communications infrastructure of these organizations.

Today, it is estimated that upwards of 80 percent of the available supply of methamphetamine in the United States is produced by Mexican organized crime syndicates. The Mexican syndicates' dominance of the methamphetamine market can largely be attributed to two factors. First, Mexican organized crime has established access to enormous quantities of the precursor ephedrine from wholesale sources of supply on the international market. Second, these criminal groups regularly produce unprecedented quantities of high-purity methamphetamine in Mexican and Californian super labs, which is then trafficked to states across the U.S., including Colorado.

The Amezcua-Contreras Brothers, operating out of Guadalajara, Mexico, are the world's largest smugglers of ephedrine and clandestine producers of methamphetamine. The Amezcua Organization obtains large quantities of precursor ephedrine through contacts in Thailand and India, which they then use to make methamphetamine for subsequent distribution to Mexican trafficking groups operating in major U.S. population centers. The effectiveness of the national investigative strategy in targeting the methamphetamine trafficking operations of the Amezcua Organization can be best witnessed in Operation META.

Operation META demonstrated just how extensive the involvement of the major Mexican trafficking organizations is on this country's domestic methamphetamine trade. This multi-agency wiretap investigation targeted drug traffickers associated with the operations of the Amezcua-Contreras Organization, which was supplying its U.S. cells with methamphetamine, precursor chemicals, and cocaine.

Drug traffickers along the border, such as those associated with the Amezcua Organization, have a major impact on the drug trafficking and violent crime situation throughout the United States. Our Southwest Border Strategy brings together many federal, state and local law enforcement agencies and prosecutors' offices in a coordinated effort to target major drug traffickers operating along the Southwest border of the United States. Operation META, an OCDETF investigation conducted as part of this strategy, resulted in more than 100 key arrests.

In addition to the methamphetamine operations of the major Mexican drug trafficking organizations, in recent years, the United States has witnessed a rapid expansion in the number of small, independent, methamphetamine organizations operating throughout the country. The illicit manufacturing of methamphetamine in smaller, "mom and pop" operations, which typically produce anywhere from two to three ounces, to a pound of methamphetamine, can take place anywhere the operator can set up laboratory equipment to synthesize the product (e.g. motel rooms, apartment complexes, industrial areas, farms, a neighbor's house, etc.). The caustic, flammable and explosive chemicals required by "cooks" to produce methamphetamine endanger the lives of not only the criminals, but law enforcement personnel and other innocent bystanders as well.

Over the course of the past two years DEA has dedicated significant agency resources to nationally address the growth of the burgeoning methamphetamine trade. In fiscal year 1997, we expanded our overall interdiction and chemical control efforts along the Southwest Border through an enhancement of 54 Special Agents for the Southwest Border Initiative. In June 1997, we established a Special Operations Section to target Mexican methamphetamine command and control operations.

During fiscal year 1997, we also conducted a total of 23 one-week clandestine laboratory investigative and safety training classes for state and local law enforcement officers at sites in San Diego, California, Overland Park, Kansas, and at the FBI Academy/Camp Upshur in Quantico, Virginia. A total of 914 state and local officers were trained. A one-time transfer of funds from ONDCP allowed DEA to provide much needed clandestine laboratory safety equipment (e.g., air monitors, air purified respirators, fire resistant clothing, etc.) to each state and local officer completing the course.

We also produced and distributed nationwide a new public awareness videotape entitled "Methamphetamine—Trail of Violence." A series of clandestine laboratory awareness posters and two videotapes, one which details and illustrates the chemicals found in the new "Nazi" formula labs, and another called "Chemical Time Bombs," were also distributed to clandestine laboratory enforcement teams throughout the U.S. In fiscal year 1996 and 1997, several of our field divisions held conferences to educate state and local authorities on the growth and hazards associated with methamphetamine trafficking, production and abuse in the United States.

Over the course of fiscal year 1997, DEA made a total of 5,780 arrests for the manufacture and wholesale trafficking of methamphetamine and seized 1,366 clandestine methamphetamine laboratories. We also initiated a total of 3,209 methamphetamine cases and seized 1,175 kilograms of methamphetamine and amphetamine.

In fiscal year 1998, DEA received a resource enhancement of 60 Special Agents and \$11.046 million to execute a three-prong approach for attacking methamphetamine production, trafficking and abuse in the U.S. This approach entails: (1) increased enforcement to target major methamphetamine trafficking organizations; (2) hazardous waste removal and laboratory services; and (3) clandestine laboratory training to DEA personnel and state, local and foreign law enforcement organizations.

Because of the hazardous nature of the waste produced, clandestine laboratory sites require professional, costly cleanup services. In addition to the aforementioned funding, in fiscal year 1998, the COPS program provided us with a one-time reimbursement of \$9.5 million for state and local clandestine laboratory cleanup and training. This funding included a total of \$5 million for state and local clandestine cleanup operations and \$4.5 million for clandestine laboratory training for state and local officers. To date, DEA has provided clandestine laboratory training to over 2,000 state and local officers across the U.S. With the additional \$4.5 million provided to the agency in fiscal year 1998 through the COPS program, we anticipate training an additional 1,600 state and local law enforcement officers over the course of the next two years.

For fiscal year 1999, in an effort to build upon the Southwest Border Initiative and the National Methamphetamine Strategy, we are requesting the additional resources necessary to implement a comprehensive approach for targeting and investigating methamphetamine trafficking and production. This approach will increase domestic enforcement efforts; enhance chemical control; expand intelligence programs; and improve environmental protection. The request includes an enhancement of 100 Special Agents to target methamphetamine trafficking in emerging markets and/or producer states.

#### *Methamphetamine in the Rocky Mountain Region and Colorado*

Regarding the methamphetamine situation in the Rocky Mountain Region, and more specifically, within the State of Colorado, nearly every office within the DEA Denver Field Division reports an alarming increase in the use and trafficking of methamphetamine in recent years. Throughout the Denver Field Division's four-state area of responsibility (Colorado, New Mexico, Utah and Wyoming), methamphetamine trafficking is controlled primarily by organizations based in Mexico with distribution cells in both Mexico and California. Much of the methamphetamine encountered through the Division's enforcement and interdiction efforts is transported into Colorado from Southern California and, to a lesser extent, directly from Mexico.

Small domestic clandestine laboratories have increased significantly throughout the Division as well. During the second quarter of fiscal year 1998, a total of 59 methamphetamine laboratories were seized by DEA offices within the Denver Field Division, as compared to 42 during the second quarter of fiscal year 1997. Most of these laboratories were "mom and pop labs," capable of producing small but steady quantities of methamphetamine. With methamphetamine "recipes" readily available on the Internet and precursor chemicals attainable through veterinary supply companies, hardware and discount stores, high-purity methamphetamine is produced throughout the Rocky Mountain region with relative ease.

Interstate 70, a major east-west highway connecting the West Coast to the Midwest and Eastern United States, traverses Colorado from the Utah border, through Grand Junction and Denver, to the Kansas border. Consequently, law enforcement officials in the Grand Junction area report increases in both methamphetamine interdiction seizures and local methamphetamine distribution.

According to Drug Abuse Warning Network (DAWN) statistics, methamphetamine emergency room incidents in the City of Denver increased from 31 in 1992, to 106 in 1996. Methamphetamine treatment admissions increased in the city by 300 percent between 1991 and 1996. In 1997, preliminary data shows that 18.5 percent of methamphetamine treatment admissions in Denver were new users.

In 1997, almost 90 percent of methamphetamine users entering treatment in the City of Denver were Caucasian, and almost one-third were 25 years of age or younger. According to an ethnographic study by the University of Colorado School of Medicine, most methamphetamine smokers are middle to lower class suburbanites who are attempting to enhance work performance or maintain more than one job.

DEA's Colorado Springs Resident Office (RO) reports that Mexican-produced methamphetamine continues to pervade Southern Colorado, exceeding the availability of cocaine in the area. Methamphetamine is gaining in popularity and has become the drug of choice for many users. The impact of methamphetamine trafficking in Colorado Springs has been seen through rising overall crime rates, particularly burglaries, assaults, and murders. The Colorado Springs Police Department has identified an organized network of methamphetamine users that has been known to commit numerous systematic burglaries in order to garner enough money to purchase the drug.

Our Glenwood Springs RO, which includes the Grand Junction area of Colorado, reports that methamphetamine is readily available in ounce, pound and kilogram quantities. Multi-kilogram quantities are regularly encountered through interdiction efforts on the highway and at the local bus terminal.

DEA arrest statistics in Colorado reflect the growing impact of methamphetamine distribution and use throughout the state. In Denver, methamphetamine accounted for 8.7 percent (38) of all DEA arrests (436) in fiscal year 1995. In fiscal year 1996, methamphetamine accounted for 12.8 percent (60) of all arrests (468). In fiscal year 1997, methamphetamine accounted for 19.5 percent (92) of all arrests (471). During the first two quarters of fiscal year 1998, methamphetamine accounted for 20.8 percent (60) of all arrests (288).

A similar trend is evidenced by the growing number of methamphetamine investigations initiated by DEA in the City of Denver. Methamphetamine investigations represented 14.77 percent (35) of all cases initiated by DEA in Denver (237) in fiscal year 1995. In fiscal year 1996, methamphetamine investigations represented 15 percent (35) of all new cases initiated (232). In fiscal year 1997, methamphetamine investigations represented 19.8 percent (50) of all cases initiated (252). During the first two quarters of fiscal year 1998 methamphetamine investigations represented 27.9 percent (29) of all cases initiated (104).

Both the DEA Colorado Springs RO and the Colorado Springs Police Department report that methamphetamine is the top investigative priority in Southern Colorado. In fiscal year 1995, methamphetamine accounted for 28.9 percent (35) of all arrests (121) made by the Colorado Springs RO. In fiscal year 1996, methamphetamine accounted for 20.9 (18) of all arrests (86). In fiscal year 1997, methamphetamine accounted for 27.1 percent (35) of all arrests (129). During the first two quarters of fiscal year 1998, methamphetamine accounted for 27.6 percent (16) of all arrests (58).

Methamphetamine investigations represented 21.1 percent (11) of all cases initiated by DEA in Colorado Springs (52) in fiscal year 1995. In fiscal year 1996, methamphetamine investigations represented 22.4 percent (15) of all new cases initiated (67). In fiscal year 1997, methamphetamine investigations represented 31.7 percent (26) of all cases initiated (82). During the first two quarters of fiscal year 1998, methamphetamine investigations represented 45.9 percent (17) of all cases initiated (37).

Arrest statistics provided by our Glenwood Springs RO reflect a similar trend. In fiscal year 1995, methamphetamine accounted for 7.7 percent (5) of the total arrests (65) made by the Glenwood Springs RO. In fiscal year 1996, methamphetamine accounted for 20.6 percent (14) of all arrests (68). In fiscal year 1997, methamphetamine accounted for 22.7 percent (34) of all arrests (150). In the first two quarters of fiscal year 1998, methamphetamine accounted for 20.9 percent (18) of all arrests (86).

In fiscal year 1995, methamphetamine investigations represented 25 percent (8) of all cases initiated by DEA in Glenwood Springs (32). In fiscal year 1996, methamphetamine investigations represented 24.4 percent (11) of all new cases initiated (45). In fiscal year 1997, methamphetamine investigations represented 25 percent (21) of all cases initiated (84). During the first two quarters of fiscal year 1998, methamphetamine investigations represented 21.6 percent (8) of all cases initiated (37).

The Glenwood Springs RO reports that the vast majority of the methamphetamine encountered in Western Colorado is transported from Southern California, to Denver and the Midwestern United States. Mexican-produced methamphetamine is transported primarily by Mexican couriers traveling via bus, train, and automobile from California and Mexico. During the second quarter of fiscal year 1998, the Glenwood Springs RO was involved in six separate multi-kilogram seizures of methamphetamine, all of which was destined for points east. Our Glenwood Springs RO reports that during the second quarter of fiscal year 1998, more seizures and undercover buys focused on methamphetamine than in previous quarters. Additionally, current deployments by DEA Denver's Mobile Enforcement Team (MET) are target-

ing Mexican methamphetamine traffickers in Eagle and Garfield Counties in Colorado.

The City of Grand Junction has experienced a significant impact from the flow of methamphetamine from out-of-state sources. More frequent and larger quantities of the drug are being encountered in highway and bus station interdictions, as well as in local investigations. According to the Grand Junction Police Department, fourteen search warrants executed since January 1, 1998, resulted in 25 arrests for methamphetamine and weapons charges. Eighty percent of the investigations currently being pursued by the Grand Junction Police Department's Narcotic Unit are targeting methamphetamine traffickers. Of all the investigations being conducted by the Department's General Detective Bureau, 60 percent are methamphetamine-related. Additionally, local authorities report an increase in methamphetamine abuse among local residents. Fully 90 percent of all drug use charges are for methamphetamine violations.

Recent investigations suggest that Grand Junction may be evolving into a staging area for distribution of methamphetamine throughout Colorado. Earlier this year, a DEA Denver MET deployment targeted a methamphetamine organization, with a California source of supply, who utilized a Grand Junction hotel room as a distribution center. Another investigation being conducted by the DEA Glenwood Springs RO involves a trafficker and money launderer who moved his base of operations from California to Grand Junction. To date, six pounds of methamphetamine have been seized in this investigation. Yet another case by the Glenwood Springs RO began by targeting a local cocaine dealer in Aspen, Colorado. Subsequent investigation led to the ultimate source of supply, a Mexican organization in California. One of the group's distributors, who was arrested with eight pounds of methamphetamine, operated out of Grand Junction and indicated that he trafficked 100 pounds of methamphetamine per month in the area.

During the second quarter of fiscal year 1998, DEA Special Agents, in conjunction with Grand Junction Police Officers, made the following seizures at the Greyhound Bus Station in Grand Junction:

- On January 9, 1998, two Mexican brothers in this country illegally were found to be carrying a total of approximately seven pounds of methamphetamine. They both stated that they were en route from Los Angeles to Topeka, Kansas.
- On January 14, 1998, a passenger was found to be carrying approximately ten pounds of methamphetamine. The passenger stated that he was traveling from San Francisco, California, to Denver.
- On January 30, 1998, a passenger was found to be carrying approximately five pounds of methamphetamine. The passenger claimed to be traveling from Los Angeles to Marshall, Iowa.
- On February 12, 1998, two individuals were found to be carrying just over five pounds of methamphetamine. The passengers stated that they were traveling from Anaheim, California, to Denver.

Operation Pipeline highway interdiction efforts have also netted significant methamphetamine seizures throughout the State of Colorado. For example, on February 6, 1998, the Colorado State Police seized 3,447 grams of methamphetamine during a highway stop in Morgan County, Colorado. The driver had a California identification card, but claimed to be coming from Mesa, Arizona. He was on record for his involvement in another DEA case in Utah. Additionally, INS records indicate that he was deported from El Paso, Texas, to Mexico in 1994.

On March 25, 1998, during a highway interdiction stop outside Glenwood Springs, almost 47 pounds of amphetamine was discovered in a vehicle bearing California plates. The driver and the passenger claimed that they were going to Sioux City, Iowa. Three days later, on March 28, 1998, another highway interdiction stop led to the seizure of six pounds of methamphetamine. The vehicle had California license plates and the driver had a California license. It was determined that the passenger of the vehicle, who was in the United States illegally, was a member of the same organization responsible for the 47 pound seizure three days prior. DEA Special Agents conducted a controlled delivery of the six pounds of methamphetamine, which was destined for Greeley, Colorado.

#### *Recommendations*

In the years to come, DEA will continue to address the threat posed by domestic and international methamphetamine trafficking through aggressive law enforcement initiatives, intelligence collection and dissemination, federal, state and local training programs, and demand reduction initiatives. Within the Rocky Mountain Division, we will support regional task forces established with other federal, state and local agencies, sharing resources to present a unified front in attacking the growing regional methamphetamine traffic.

In the State of Colorado, we will continue to develop our cooperative statewide methamphetamine strategy in an effort to combat the growing problems posed by area methamphetamine trafficking. This strategy includes HIDTA coordinated investigations in the areas of Intelligence, the Southwest Border, Gang/Drug-related Violence, Clandestine Laboratories, and Interdiction. The strategy also includes efforts to improve regional demand reduction activities and heighten public awareness regarding the dangers of methamphetamine use.

The methamphetamine strategy will focus our investigative efforts against the command and control operations of the major organized crime syndicates thereby working to significantly impact the drug trafficking situation in the State of Colorado. We will also continue our plan for office expansion throughout the state, beginning with the opening of a two-agent Post-of-Duty in the City of Steamboat Springs, and moving on to other areas such as Grand Junction, which are replete with methamphetamine trafficking and abuse.

In the end, we as a nation must continue our efforts in the methamphetamine arena until the specter of the national methamphetamine crisis diminishes and the safety and well being of our communities and children are restored.

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QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

DRUG CERTIFICATION

*Question.* Administrator Constantine, last year we spoke at length about the Administration's certification of performance in counternarcotics efforts. This year the President certified Mexico as cooperating, and allowed Colombia a certification based on U.S. national interests.

Were you consulted on these certifications, and were you in agreement with all of them?

*Answer.* During the course of the drug certification process, I provided the Attorney General with DEA's factual assessment of the drug enforcement situation in the various countries being evaluated for certification purposes. My comments are limited to law enforcement issues, and I do not make a recommendation as to any country. The Attorney General then makes her recommendation to the Department of State.

*Question.* How much progress is Mexico really making? Does this improvement extend to areas at the border, like Baja California, where most honest law enforcement officials have been killed by the drug cartels?

*Answer.* The Government of Mexico has made some progress by reconstituting its drug law enforcement infrastructure since the disclosure of the scandalous drug corruption of General Gutierrez-Rebollo last year. The Mexican Government also must be credited with placing the law enforcement pressure on the Amado Carrillo-Fuentes organization that eventually led to the death of Amado Carrillo-Fuentes during plastic surgery to alter his appearance. Despite his death, his organization continues to operate and a reign of violence was unleashed last summer as his would-be successors battled for control of the organization.

Some progress also has been made in the development of law enforcement cases. For example, former Jalisco state Governor Flavio Romero de Velasco was jailed on January 24, 1998, in connection with his ties to drug lords Rigoberto Gaxiola Medina and Jorge Abrego Reyna Castro. Romero is accused of laundering drug money, accepting bribes, and providing a safe haven for drug lords in his western state between 1977 and 1983.

While there have been some positive developments in U.S.-Mexican drug law enforcement cooperation, unfortunately, the Government of Mexico has made very little progress in the apprehension of known syndicate leaders who dominate the drug trade in Mexico and control a substantial share of the wholesale cocaine, heroin, and methamphetamine markets in the United States. There have been a number of procedural changes as the Mexican Government restructures its institutions charged with enforcing the drug laws. New personnel have been brought in to replace corrupt or ineffective officials. However these changes have yet to produce significant results. The ultimate test of any progress is measured by apprehending the leadership and bringing them to justice. This is, of course, a challenge for both our countries, as more traffickers operate on both sides of the border. The Arellano-Felix brothers, for instance, are known to have traveled to the United States.

One promising program for cooperative law enforcement with the Government of Mexico was a proposed series of Bilateral Border Task Forces (BTF's). In 1995, the United States and the Government of Mexico developed the concept of the BTF's, which, as envisioned, were to be located in Mexico, at locations along the U.S.-Mexi-

can border. The main objective of these task forces was to target the major Mexican drug trafficking organizations and their command and control centers operating at various points along the border. The BTF's were to be composed of Mexican counter-narcotics agents from the now disbanded National Counter-Drug Institute (INCD), along with United States law enforcement agents from the DEA, FBI, and U.S. Customs Service. The task forces were to be physically located in Mexico, with United States law enforcement agents traveling to Mexico on a daily basis, from home offices in the United States. In concept, the goal of these task forces was for the United States "commuter" agents to bring their Mexican counterparts in the BTF's timely information from joint drug investigations in the United States.

Regretfully, the BTF's have yet to achieve its full potential, due in large part, to the lack of sustained financial support for the program by the Government of Mexico. DEA continues to provide both extensive financial resources and intensive training to the Mexican vetted units, but there have been few significant arrests, drug seizures, or intelligence leads developed by these vetted units.

The willingness of major Mexican trafficking organizations to murder and intimidate witnesses and public officials has been a key factor in the threat they pose to both the United States and Mexico today. Drug traffickers continue their brazen attacks against both the United States and Mexican law enforcement officials and their sources of information.

Over the past two years, a number of officials in or from Tijuana have been murdered in what are believed to be drug-related killings. However, it is an overstatement to say that "most honest law enforcement officials in Baja California have been killed by drug cartels." The motivation behind the deaths of these officials is not always clear. While some were likely killed in retaliation for the actions they were taking against major trafficking organizations, others are suspected of working in collusion with traffickers and are believed to have been killed as a result of trying to work both sides. Unfortunately, few of these murders have been solved, resulting in less confidence in law enforcement's capability and resolve to tackle the major drug organizations.

The violent activities of the Mexican Drug Syndicates are not limited to Baja California, but are common all along the United States/Mexico border. Often this violence involves rival drug organizations and/or innocent bystanders. For example, in the State of Chihuahua, since the July 1997, death of major drug lord Amado Carrillo-Fuentes, a battle for control of the lucrative Juarez drug smuggling corridor has ensued. Over 50 people have been killed in Juarez as a result of this power struggle. The violence associated with the competing groups was epitomized in a gangland style machine-gun shooting at the Max Fin Restaurant in Juarez in August 1997. Six drug traffickers and two innocent bystanders were killed in that incident.

The Government of Mexico is attempting to build a reliable civilian law enforcement agency to replace the former anti-drug agency, INCD, which had been seriously corrupted at virtually every level. The new agency is called FEADS, Special Prosecuting Office for Crimes Against Health. The Organized Crime Unit (OCU), operating in the FEADS headquarters in Mexico City, was set up in 1997 pursuant to the Organized Crime Law passed in 1996. The DEA has provided assistance to the OCU in the development of personnel selection systems and have provided extensive narcotics enforcement training to the new OCU agents.

Although reconstitution of law enforcement institutions is under way all across Mexico, this is a difficult and lengthy process that may take decades. Several programs have been initiated, but the institution-building process is still in its infancy. There are now some individuals and small organizations with whom we are able to interact on specific cases. We limit this exchange, however, to individual cases when we are sure the information would not put our agents or sources of information at risk.

The problems of establishing a corruption-free law enforcement infrastructure are not insurmountable. However, the need for sound law enforcement institutions in Mexico is urgent because the trafficking organizations are getting more powerful every year. The only effective law enforcement strategy is to bring these criminals to justice and ensure that they are punished in a manner commensurate with their vicious acts.

#### SUBCOMMITTEE RECESS

Senator GREGG. The subcommittee stands in recess until tomorrow at 10 a.m., when we will hear testimony from the Secretary of Commerce.

Thank you very much.  
[Whereupon, at 12:06 p.m., Tuesday, March 3, the subcommittee  
was recessed, to reconvene at 10 a.m., Wednesday, March 4.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**WEDNESDAY, MARCH 4, 1998**

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

The subcommittee met at 9:57 a.m., in room S-146, the Capitol,  
Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Domenici, and Hollings.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF WILLIAM M. DALEY, SECRETARY OF COMMERCE

ACCOMPANIED BY:

**W. SCOTT GOULD, CHIEF FINANCIAL OFFICER/ASSISTANT SEC-  
RETARY FOR ADMINISTRATION**

**MARK E. BROWN, DIRECTOR, OFFICE OF BUDGET**

SECRETARY DALEY'S SUMMARY STATEMENT

Senator GREGG. The subcommittee will come to order. Thank you, Mr. Secretary, for being early. I am not going to take any time for an opening statement, so let's go right to the Secretary to see what he has to say. I understand Senator Hollings is coming, but he said he is running a little late, and we should start.

Secretary DALEY. Thank you, Mr. Chairman. I am pleased to present the President's 1999 budget request for the Department of Commerce. Not since Senator McClellan sat in your seat, and C.R. Smith, the 18th Commerce Secretary sat in mine, has a President submitted a balanced budget. So I am extremely delighted to be part of this new era.

This is the first budget that I have had the opportunity to really participate in putting together.

So I think as I stated last year to you, I believe strongly that we must hold every position and program to a stern test: is it the most efficient and cost-effective way to get the job done. And I believe this budget reflects that.

## ECONOMIC GROWTH

Our request for \$4.9 billion ensures we continue to help grow the economy without growing ourselves, and at the same time investing in areas that our strategic plan has identified as most important for the next century. The request is a \$701 million increase, or 16.7 percent over the 1998. Two-thirds of that is for the 2000 census. Without that census, the increase would be 5.6 percent.

Let me highlight what is new in four strategic areas, beginning with economic infrastructure and trade in particular. I had the opportunity 2 weeks ago to visit Asia, and obviously our trade deficit with Asia will rise because of the economic difficulties in Asia right now. I tried to be very frank with our friends in Asia, and stated that there is no quicker way to undermine support to help them recover than to see either new trade barriers or foot dragging on prior commitments.

## TRADE DEFICIT

I made it clear that this administration and the Congress must know that the increase in our trade deficit is not due to such practices. With this in mind, our budget request strengthens efforts to insure that other countries are complying with trade laws. This includes expanding our trade compliance activities, including increasing staff to meet our new responsibilities under the Uruguay round for enforcement of antidumping and countervailing duty laws.

At the same time we want to expand our trade promotion. Last year, our advocacy helped American firms with 60 contracts, together worth about \$18 billion. Even so, we are still outmanned and outgunned by several of our key competitors.

I refer you to chart 1, Mr. Chairman, which is attached to my statement. This compares what countries spend in nonfinancing export promotion programs which are basically those activities that we do at Commerce. For every 3 cents which we spend, Japan and Germany spend 5, the United Kingdom, 7, France 18, and Canada 33 cents. This is per \$1,000 of GDP.

Chart 2 looks at the relative staffing levels for export promotion, per \$1 billion of GDP. Again, we are among the lowest. Our competitors are investing vastly more than we do. We do, however, accomplish more with less. But if these disparities persist, we risk losing sales and contracts in emerging markets around the world. For that reason, we want to add a small number of staff overseas for our commercial service offices.

Let me also mention that the President wants to help communities and workers adversely affected, whether it is by trade, technology, or other factors. Focusing on trade, specifically, we do propose \$250 million over 5 years to help these communities as part of a new initiative under the Economic Development Administration.

## DECENNIAL CENSUS

Second, the census is the most important job which we will undertake in this Department over the next 3 years, one of the most important undertakings which the Government can take.

President Clinton has directed me to produce the most efficient, cost effective, and clearly the most accurate census in the history of our Nation. A total of \$856 million is budgeted, which is an increase of \$466 million. The staff will increase by 5,500 in 1999. By any measure, the census is a massive and complex undertaking. We need to make preparations to count more than one-quarter of 1 billion people who do not readily respond to Government questionnaires. We need to complete the address list for 118 million residences, get computers operational, and finalize our statistical design.

Finally, we will have to fill at least 260,000 related jobs at the peak in 2000. For the 1990 census, we found we had to recruit 10 people for every 1 that was actually employed. Some people we recruit do not show up for employment tests, some people who pass the test don't come for training, and some who pass the tests and training do not show up to work. There is a high turnover, as you can imagine, of those who are employed. And all this is going on in an economy where we have more jobs than we have people available.

#### CENSUS SAMPLING

Our request assumes the use of sampling, since we remain firmly committed to it. I do recognize that there is a great difference on the Hill regarding this issue. So we have included \$36 million to keep the option for a nonsampled census. But in our view, without sampling, costs will go way up, and accuracy way down.

Third, with regards to technology, innovations have created new industries and transformed existing ones. But as the keeper of critical economic data, we are straining to keep up.

#### UPGRADING STATISTICS

Our industry classifications were developed when Franklin Roosevelt was President, and our current measures of poverty were developed at about the same time Senator Glenn first visited space. As he revisits space, we would like to revisit these numbers.

So we are requesting \$57 million to upgrade our Nation's statistics. We are requesting an additional \$141 million for several ongoing initiatives across the Department to promote cutting edge innovations.

For example, next year we will start constructing an advanced measurement laboratory in Gaithersburg. We have a small request of \$2.3 million, but it is an important one, we believe, if we want to expand the very successful Baldrige awards into both health care and education.

Fourth, we will increase our investments in several sustainable development areas, seeking an additional \$123 million for NOAA. The loss of life and property damage caused by El Niño is devastating. We cannot prevent the bad weather, but we can predict it so that communities and businesses can better prepare themselves. We predicted that El Niño would be as devastating as it has been 6 months in advance, better than it has ever been done before.

I refer you at this time, Mr. Chairman, to chart No. 3. We would like to increase average lead time for flash flood warnings to 42 minutes, which would be up 18 minutes from 1994. In chart 4, we

want to increase average lead time for tornado warnings to 11 minutes, which is up 6 minutes from 1994.

We already have made great strides and this saves money as well. For example, in the last 4 years, we have become 25 percent more accurate at predicting where hurricanes will strike. And for each mile of coast line that does not need to be evacuated, we save at least \$1 million.

#### NATURAL DISASTER INITIATIVE

Just yesterday I announced a 5-year, \$305 million initiative to help communities better prepare for and recover from natural disasters. This is one example of how we can pull together the incredible resources of this Department, working more effectively by trying to work closer together.

#### MANAGEMENT REVIEW

Our budget request also will fully fund the recommendations of our management review of the National Weather Service, which Gen. Jack Kelly oversaw, who is now the new Director of the National Weather Service. His management challenge is daunting, but I do have confidence in him and his new team's ability to deliver.

We also are requesting an additional \$35 million to better manage marine fisheries and \$22 million to assess pollution runoff problems. Many of you may recall the terrible pfiesteria outbreak in the Chesapeake Bay region, and this is exactly the sort of problem which we plan to address.

Let me close on this, Mr. Chairman: last year you had a number of concerns which I promised to address. I said I would reduce the number of political positions by 100, and we have done that. I said we would address longstanding security issues, and we have done that, cutting the number of current security clearances by more than one-third, with many more to come. I also said that we would reform the Advanced Technology Program and the Minority Business Development Administration, and I believe strongly that we have made substantial progress in both of those areas.

Last year you asked me many questions regarding trade missions. One year later, after putting new guidelines in place and visiting 21 countries, I can say that when the American Government stands behind our businesses, we do have tremendous impact.

Last year our trade missions alone brought billions of dollars in new business to American firms and workers. It has been a most productive year that would not have been possible without your support and the support of this entire committee.

#### PREPARED STATEMENT

I thank you and look forward to an even more successful year as we get into 1999, and I look forward to any questions that you or the members may have.

Thank you, Mr. Chairman.

[The statement follows:]

## PREPARED STATEMENT OF WILLIAM M. DALEY

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to give a report on our successes of the past year at the Department of Commerce and to present our \$4.9 billion budget request for fiscal year 1999.

But even before I begin my report and discuss my proposal for the fiscal year 1999 budget, I want you to know what a pleasure it is to be part of a truly historic effort to bring the first balanced budget request before the Congress since C.R. Smith, the 18th Secretary of Commerce. As the 32nd Secretary of Commerce, I have worked hard to assure we are doing more with less, while still providing key investments to help the nation prepare for the next century.

Last year, I promised several actions to improve the management and operations of the Department and to respond to past criticisms. I'm pleased to report that we have:

- Reduced political staffing at the Department by the 100 positions that I promised. Our new ceiling of 156 will be maintained.
- Revised our trade mission criteria to assure open selection of participating companies. Through the efforts of our Advocacy Center, we supported \$6.8 billion in U.S. content exports in fiscal year 1997.
- Addressed long standing security issues throughout the Department, in response to the President's national security review. Security clearances have been reduced by 27 percent. I am appointing a Deputy Assistant Secretary, who will report directly to the CFO to head our new efforts. I will be reorganizing many existing security offices within the Departmental structure and increasing overall security resources by 25 percent.
- Moved aggressively to address issues on the IG's top ten list of weaknesses. Four have been dropped from the IG's most recent list, including NOAA satellite programs, the National Marine Fisheries Service Seafood Inspection Performance-Based Organization (PBO), the NOAA Vessel Buyout Program and the Advanced Technology Program's (ATP) commercial pricing and incremental funding.
- Made progress on several remaining weaknesses identified by the IG, including reforming the NWS based on General Kelly's study, NIST's capital improvements facilities program, and Departmental management of procurement deficiencies, information technology, property management and oversight functions, and financial management systems.

## FISCAL YEAR 1999 BUDGET

The fiscal year 1999 budget I'm presenting is \$4.9 billion, \$701 million over fiscal year 1998 and a 16.7 percent increase. Fully two-thirds of the increase funds the costs of the 2000 Census. Without the Census, our budget increases by 5.6 percent, to cover inflation and key investment programs that I will describe in a minute.

The Department has not set off on a path of growth—we continue to be the smallest cabinet agency and have 3,300 fewer employees on board today than at the start of this administration. Setting aside the Patent Office staffing, which is paid for by fees, and the Decennial Census, we will not grow overall in employment through the end of fiscal year 1999.

Our Strategic Plan, submitted last September under the provisions of Government Performance and Results Act (GPRA), focuses on three themes: economic infrastructure; science/technology/information; and resource and asset management and stewardship. The materials I have submitted to support this budget—our Annual Performance Plan, our Budget-in-Brief, and bureau budget justifications—build from the plan. Performance measures in each document provide the annual slice of outcomes we anticipate will occur with the funding of the budget request.

Through our plans, we are helping to grow the economy, without growing ourselves. We may be small, but we will keep doing the big work that will expand opportunities for American workers and American businesses. If you look at how American corporations have done well in the last decade—they got leaner. But they also invested in new products and factories that are their future.

So, this budget manages in a way that invests in our future. Our future is trade; it is making government work better in a new economy, where technology is the engine for growth; it is fostering what we call sustainable development; and it is conducting the best Census ever.

## ECONOMIC INFRASTRUCTURE

First is the area of trade. The President talked at length about this in his State of the Union address. Today record high exports account for fully one-third of our

economic growth. The President wants to keep it that way. Government-wide, we will be strengthening trade advocacy, trade promotion, and the Trade Promotion Coordinating Committee.

In fiscal year 1999, ITA's budget will allow us to: provide advocacy support to U.S. firms for 700 overseas projects, with a total project value of \$145 billion. Gross exports derived from advocacy will reach \$12 billion; create a minimum of 10,500 New-to-Export firms and 36,800 New-to-Market firms; increase the number of firms receiving export assistance through the U.S. and Foreign Commercial Service from 11,500 to 14,000; and review 15 more applications for free trade zones to support an increase of 25,000 jobs.

Let me highlight these changes in outputs proposed in our fiscal year 1999 budget with an example of the work of our U.S. Export Assistance Centers (USEAC). The Deep South Bowling Pro Shop, Inc., has increased its international sales from \$75,000 in 1995 to \$850,000 in 1996. By seven months into 1997, Deep South Bowling had exceeded 1996 sales and had entered five international markets. Since March 1996, the Delta USEAC has been providing trade statistics, trade leads, contacts, and market research and trade finance services to Deep South Bowling. With the advice of the Delta USEAC, the company has also implemented a new marketing tool—an Internet website—that has generated a tremendous response, with approximately 35 percent of all inquiries originating outside the United States. These types of experiences are repeated each working day throughout the country.

Likewise, we will move to provide for compliance with our trade laws by: expanding the Trade Compliance Center's activities and developing a database for use in monitoring compliance; increasing staff to initiate 130 Antidumping/Countervailing Duties (AD/CVD) Sunset Reviews; implementing the National Defense Authorization Act of 1988, Chemical Weapons Convention, the Fastener Quality Act, encryption controls, and preventive enforcement to stop illegal shipments before they reach their destination; and decreasing export licensing processing time from 35 days in fiscal year 1997 to 33 days in fiscal year 1999; and commodity classifications from 25 days in fiscal year 1997 to 20 days in fiscal year 1999.

At the same time, the President knows that some workers and communities have not shared in the benefits of trade. As he said in his State of the Union message, we help communities in a special way when their military base closes. So, we propose \$250 million, over five years, to help communities adjust as part of a brand new Economic Development Administration program. The new program will operate under existing authorities used successfully under EDA's Defense program over the past five years.

Let me give you an example of the type of results we might expect from the trade impacted communities program based on the Defense program results. In September, 1994, EDA provided \$750,000, with \$250,000 in local funds, to establish a \$1 million Revolving Loan Fund to the Berkeley-Charleston-Dorchester Council of governments to provide capital for business development loans to assist in recovery from the effects of the Charleston Naval Base complex closure that was identified in BRAC 93. This fund has been very successful; to date it has leveraged \$12.6 million in private sector dollars, and created or saved 591 jobs. An additional 906 jobs are projected to be created over the next 3 years.

By the way, I want to note here what a fine job EDA has done to seek new ways to meet the requirements of GPRA. Studies completed for EDA by Rutgers University provide the basis from which we project that EDA's fiscal year 1999 public works investments could produce 49,000 new jobs over the next nine years—at an average cost of around \$3,000 per job. They will also leverage private investment of \$1 billion. We are looking for ways throughout the Department to include in our budget and Annual Performance Plan measures that let Congress and the American public know what the funds we seek will produce.

Our support for Minority Business remains strong, and we will be adjusting its programs under new leadership this year. In fiscal year 1999, the \$28 million requested will allow MBDA to assist in obtaining more than 900 contracts, valued at \$600 million, for assisted companies. We will broaden and expand the scope of business assistance which MBDA offers by developing an MBDA Intranet; hiring a Chief Information Officer; establishing an interagency Minority Business Council; initiating more collaborative efforts with community, state and federal agencies, including SBA; and maintaining an electronic process to match business opportunities with minority-owned businesses.

#### SCIENCE, TECHNOLOGY, AND INFORMATION

Second, we will invest more to make government work better in our new economy. Technological change has created dynamic new industries and transformed existing

ones. We also have seen innovations in government. Yet as the keeper of the critical economic data, we are straining to keep up.

For example, the discrepancy between the government's product-side (GDP) and income-side (GDI) measures prevents an accurate assessment of the Nation's productivity and our ability to sustain the current level of economic expansion without renewing inflationary pressures. And our industry classifications were developed more than 60 years ago. Our current measures of poverty were developed when John Kennedy was President. To address these problems we will invest \$57 million to upgrade our nation's statistics. This request includes:

- Improving our measure of Gross Domestic Product and other key economic statistics by better monitoring of industries, goods, and services, especially in rapidly growing sectors such as services and computers.
- Updating income and poverty measurement to incorporate the now substantial non-cash programs such as food stamps and housing assistance, and tax changes such as the earned income tax credit.
- Expanding the American Community Survey, a major statistical tool of the future, from testing and evaluation to a more robust level of data collection (from 9 to 37 sites) in preparation for comparisons with Census 2000 data.
- Incorporating the North American Industry Classification System (NAICS) into all Census Bureau economic data, including releasing over 200 reports from the 1997 Economic Census in the new format and converting 70 percent of all surveys to NAICS.

Technological change has been responsible for as much as half of the economic growth in the United States in the last 50 years. You can see the growth-inducing power of technology even at the level of individual firms. A Commerce Department analysis shows that firms using advanced technologies are more productive and profitable, pay higher wages and increase employment more rapidly than firms that do not.

The evidence is convincing. At the macroeconomic level, the industry level, and the firm level, technology is the engine of economic growth. And the so-called enabling technologies—such as mass production, machine numerical control, and the transistor—have been powerful engines of growth.

The Department will continue to invest in several high impact technology initiatives that will help American firms adopt technologies to grow faster, export more, pay higher wages and hire more people. An additional \$141 million is requested for these efforts.

For the Advanced Technology Program, we are requesting \$260 million total. We will continue to strengthen this program while living within the limitations on new programs that Congress has provided. We propose to grow the program to \$399 million over the next five years, and we continue to believe that ATP is fulfilling its mission to promote and enable innovative industrial R&D as a driver for the Nation's economy. We have strong evidence of this in a recent analysis of more than 200 ATP projects that shows that the program has stimulated and accelerated the pace of technology development, and is enabling significant technological breakthroughs, not just simple incremental advances. Catalyzed by this work, industry already has identified more than 1,000 potential applications for these technologies, many offering dramatic improvements over existing technology.

We appreciate the inclusion of significant construction funds for NIST in the fiscal year 1998 budget, and have included \$40 million of a total of \$218 million needed over 44 months for the construction of the Advanced Measurement Laboratory (AML) in Gaithersburg. We've asked for \$115 million in advanced appropriations for AML construction, and want to work with you to assure approval of funding in a cost effective manner this year. We have the most talented scientists in the world, and they need world-class laboratories.

One such scientist is Dr. William Phillips of NIST. He was awarded the 1997 Nobel Prize in Physics for his pioneering research in laser cooling of atoms. His exceptional work highlights a key role of Commerce in pushing the limits of measurement science and laying the foundations for the basic measurement technology support required by U.S. science and industry. His research may lead to dramatically improved measurements of time and length, which are likely to be needed by U.S. industry in the development of advanced technology in the next century.

I'd also like to offer one more example of the critical importance of our technology programs. By catalyzing innovation in enabling technologies and strengthening essential measurement and standards capabilities, we provide two fundamental ingredients in the complex recipe for technology-led economic growth. However, we do not overlook another key ingredient—the capacity of the Nation's smaller firms to grow, create jobs, and improve the economy. Through the Manufacturing Extension Part-

nership network, we assist the Nation's smaller manufacturers in adopting new technologies and improving their business practices.

The budget for the Manufacturing Extension Partnership program actually reflects a slight reduction as MEP Centers increase their matching share of operating costs. However, we will be supporting operations at the same number of centers, and expect to reach 30,000 companies through MEP, increasing sales for those companies by \$389 million. MEP's successes are built one firm at a time.

For instance: a comprehensive evaluation by the California Manufacturing Technology Center, affiliated with the NIST MEP, helped A&R Tarpaulins, a 17-person company in Fontana, California, to increase sales by two-thirds—about \$600,000—and to halve its inventory costs. To accommodate continued growth, this minority-owned manufacturer of truck cover systems and industrial fabrics also added seven new employees to its payroll.

A lot of creative work is being done in healthcare and education. We need to recognize and promote improvements in productivity and effectiveness in these sectors, that are so fundamentally important to our society, using the Baldrige Award approach. Both the education and healthcare sectors say they want to share in these successful techniques. The Foundation for the Malcolm Baldrige National Quality Award—which endowed the business award with more than \$10 million when it began in 1987—has committed to raise \$15 million for healthcare and education awards if the Federal government does its share. The time is ripe, and we are requesting \$2.3 million to do it.

Protecting intellectual property so that Americans reap the benefit of their efforts is of critical importance to me as well. The budget for the Patent and Trademark Office (PTO) increases by \$95 million, all funded through fees, in fiscal year 1999. PTO will increase employment by 830 FTE, with total employment rising to 6,358 FTE. PTO will use the increased staffing to immediately address growing workloads. By the end of fiscal year 1999, PTO will process 75 percent of all patent inventions within 12 months, for an average cycle time of 13.8 months, and will provide trademark applicants a three month turnaround on first action notices. These increases allow PTO to put the maximum effort feasible into patent and trademark production. Investments in automation and reengineering will yield electronic receipt of trademark applications in fiscal year 1999 and processing of trademark applicants in 2002; of international patent applications in 2000, and of all patent applications in 2003. To secure these improvements, and with the expiration of the PTO surcharge at the end of fiscal year 1998, the Administration proposes to maintain patent fees at current levels while forgoing CPI increases this fall and next fall. This will provide consistent fees for the immediate future, and allows \$116 million to be returned to the Treasury in fiscal year 1999 to support a balanced Federal budget.

Commerce is also a leader in promoting an advanced telecommunications structure in America. Our Information Infrastructure Grants program will continue at about the fiscal year 1998 level of \$22 million but will increase the number of model programs demonstrated from 332 to 382. Additionally this year we will provide new funding to help public broadcasting stations keep pace as the industry converts to digital equipment. Nation-wide coverage for public broadcast recipients will be maintained at 95 percent.

#### SUSTAINABLE DEVELOPMENT

Third, we will invest in several sustainable development areas. This goal provides the effective management and stewardship of our Nation's resources and assets to ensure sustainable economic opportunities. Our investments in sustainable development are intended to make sure our environment is healthy; that we have the best weather service on earth; and that all Americans are helped should disaster strike.

The National Oceanic and Atmospheric Administration (NOAA) represents 43 percent of the Department's budget; and has the biggest increase this year, outside of the Census Bureau, of \$123 million. In large measure, the increase represents the costs of the next weather satellites that we must procure to provide continuous polar-orbiting and geostationary coverage in the future. But I would like to highlight some of the other significant work going on within NOAA that supports our plans in Commerce and greatly benefits the Nation.

Weather is not just an environmental issue—it is a major economic factor. At least one trillion dollars of our economy is weather sensitive. For example, the problems caused by El Niño this year are apparent on both coasts. Continued advances in science since the last El Niño in 1982 allowed NOAA to successfully forecast, six months in advance, the 1997/1998 El Niño, one of the biggest meteorological events of this century. They have been working with other agencies that have El Niño re-

sponse and emergency preparedness responsibilities, including FEMA, AID, and state and local authorities, to provide advance notice to the public to help reduce loss of life and property. Our forecasts are important to many sectors of the economy, helping water resource managers, agricultural decision-makers, energy managers, state and local emergency planners to plan more efficiently.

In addition to our El Niño research and forecasting, a fundamental responsibility NOAA has is understanding global carbon dioxide, greenhouse gas trends, and other trends that have great impact on sustainable development issues. We are working hard to ensure effective communications of the state of this science to policy-makers worldwide. In 1997, Dr. Dan Albritton of our Aeronomy Laboratory in Boulder, served as science advisor to the U.S. delegation at the Kyoto Conference on Climate Change. In this role, he ensured the U.S. delegation had full access to the best available scientific understandings of climate change in their negotiation of the Kyoto Protocol. An increase of \$4 million is requested to continue to improve our understanding of climate and air quality.

We are increasing the funding for National Weather Service (NWS) operations by \$28 million and \$17 million for operation of new technology. This will fully fund the recommendations of my management review of NWS to assure the best quality weather services in the World. I announced a new Director for the National Weather Service two weeks ago. General Jack Kelly, former head of the Defense Weather Service and leader of the management review, will assume his duties shortly. We also will put in place a Chief Financial Officer for NWS. As part of my Natural Disaster Reduction Initiative (NDRI), the Weather Service will expand efforts to improve flood forecasting, as was done in the Pacific Northwest this past year. The Seattle Times praised them with the headline: "NWS Forecasters Hit Bulls-Eye Twice." Other aspects of our NDRI include efforts in NIST to make buildings and utility lines more resistant to natural disasters. And we will use EDA to reduce the response time to communities or regions seeking assistance after a disaster. This initiative brings together the many parts of Commerce that help build disaster-assistance jobs and communities.

However, we still have some work to do in this area. While the hardware procurement for the Advanced Weather Interactive Processing System (AWIPS) is underway and systems are working well, I cannot certify that I have a satisfactory program that I can deliver to you for \$550 million at this point. I am reviewing my options, and have asked our CFO to keep you advised of our actions at each step along the way. We are verifying all costs using a contractor, and NOAA is providing the day to day management that the AWIPS program deserves.

Our sustainable development initiative will provide an increase of \$35 million in our fisheries programs. With these increased resources, NOAA will be able to assess 79 percent of the 231 identified fish stocks and 27 out of 39 Fishery Management Plans will have access controls implemented. We will develop 25 recovery plans for depleted marine mammals and endangered species, and we expect to see improvements for some 15 species next year. Further, a portion of these funds will continue restoration of West Coast salmon stocks, a Presidential priority, through multi-agency recovery programs and coordination with private land owners.

The President's budget includes \$22 million for the Clean Water Initiative. These funds provide the necessary resources to meet both the scientific and management needs to address polluted run-off, the major source of pollution in coastal waters today. Polluted run-off problems can be seen everywhere including harmful algal blooms, pfiesteria, red and brown tides, as well as hypoxia in the Gulf of Mexico. The consequences of polluted run-off are significant for the national economy. Last year, for example, in the Chesapeake Bay, \$40 million was lost to the local economy because of the pfiesteria outbreak. It is estimated that over \$1 billion has been lost during the past decade because of harmful algal blooms. Of the \$22 million, \$12 million is included in the Coastal Zone Management program to support state efforts to address polluted run-off; \$9 million is for scientific research and monitoring of harmful algal blooms, including pfiesteria; and \$1 million is to address toxic pollution through the Coastal Resource Coordinators program.

Though I am describing our fiscal year 1999 budget request, I would like to note an important initiative the Department is involved with in 1998 that links to our fiscal year 1999 budget request. As part of the United Nations-designated 1998 Year of the Ocean, Commerce is continuing its commitment to the health and sustainability of our oceans. I am proud to say that I am co-leading, with Secretary Dalton of the United States Navy, the Federal government's efforts in this important area. In particular, NOAA is focusing its efforts on improving the quality of coastal waters, protecting habitat for marine resources, understanding and predicting the role of the oceans as a driver of global climate, making marine transportation safer and

more efficient, and building awareness of the importance of oceans in our daily lives. Our fiscal year 1999 efforts will build on this foundation.

Finally, for NOAA, I want to point out that we are seeking to resolve the long-standing problem of providing adequate ship time to conduct NOAA's missions. Funds are provided in the Administration's projections for the four years starting in fiscal year 2000 to acquire the equivalent of four additional ships. Whether we construct new ships or provide the days at sea by other means, we think this initiative will put NOAA's ocean going requirements on firm footing.

DECENNIAL CENSUS

The fourth, and last, area for investment is the 2000 Census. President Clinton directed me to perform the best census ever. That means producing the most efficient, the most cost-effective, and the most accurate census in the history of our nation. A total of \$856 million is budgeted for fiscal year 1999 to conduct the 2000 Census, an increase of \$466 million. It will be a crucial year—the year final preparations are made. The decennial staff will increase from 4,204 to 10,378. The funds will be used to complete the work on addresses; set up the field infrastructure; print questionnaires; and develop the computer system.

The Administration remains firmly committed to conducting the most accurate census possible, and to this end, the funding we have requested assumes the use of sampling in 2000. The budget provides all the funds necessary for sampling. In addition, we have included \$36 million for planning and testing census methodologies and acquiring additional field offices. This is in compliance with the Administration's agreement with Congress to maintain "two tracks" and allow for a final decision on the use of sampling by March 1, 1999. A great deal more money will be required to fund a non-sampling census should Congress decide to do so. Without sampling, the cost of the Decennial Census will increase, and its accuracy, especially with regard to groups that are traditionally undercounted, will decrease. I look forward to working with you on this important issue.

Thank you, Mr. Chairman, for this opportunity to review the progress we've made at Commerce in my first year as Secretary, and our requirements for the coming fiscal year. Last year I stated that we would hold every program and position to a stern test: keeping those we need in order to meet our goals, and searching for new and more efficient ways to get the job done. Our plans and budget reflect this approach. It has been a productive year, and I look forward to working with you and the Members of the Committee to pass our budget.

CHART 1.— <i>Non-Financing Export Promotion Programs</i>	
Canada .....	0.33
France .....	.18
United Kingdom .....	.07
Germany .....	.05
Japan .....	.05
United States .....	.03
1996 Expenditures per \$1,000 1995 GDP.	

CHART 2.— <i>Relative Export Promotion Staffing Levels</i>	
France .....	2.80
Canada .....	1.53
United Kingdom .....	1.00
Germany .....	.50
Japan .....	.28
United States .....	.28
1996 Staff per \$1 billion of 1995 GDP.	

CHART 3.—*National Oceanic and Atmospheric Administration Flash Flood Warnings*

[Average lead time (in minutes)]	
1994 act .....	18
1995 act .....	26
1996 act .....	39
1997 act .....	40
1998 estimate .....	40
1999 projection .....	42

CHART 4.—*National Oceanic and Atmospheric Administration Tornado Warnings*

[Average lead time (in minutes)]	
1994 act .....	6
1995 act .....	9
1996 act .....	10
1997 act .....	10
1998 estimate .....	10
1999 projection .....	11

Senator GREGG. Thank you, Mr. Secretary, and I would like to acknowledge the fact that you have done a very good job of living up to the statements that you made last year to this committee relative to a variety of areas—political appointees, management improvements, and trade issues. A very impressive first year as leader of the Department of Commerce, and I have a lot of respect for the efforts you put in.

A couple of specific questions. You mentioned that you are starting this new initiative which is a cross-agency effort on the issue of disasters. What is the title of it?

NATURAL DISASTER REDUCTION INITIATIVE

Secretary DALEY. Natural disaster reduction initiative.

Senator GREGG. Where are you getting the funds for that? How are you allocating the \$315 million?

Mr. BROWN. \$55 million is from NOAA, \$3 million from EDA, and \$3 million from NIST.

Senator GREGG. So it's how much? It's not \$315 million?

Mr. BROWN. \$61 million. It is \$305 million over 5 years.

Senator GREGG. OK. So \$55 million is coming from NOAA?

Mr. BROWN. Yes, sir.

Senator GREGG. And what accounts will that come out of?

Mr. BROWN. It is a combination of the Weather Service and the National Ocean Service within NOAA.

Senator GREGG. Is this going to be new people, a new program, or is it just going to be people and program reoriented to be working as a team with other agencies?

Mr. BROWN. NIST is new funding, about \$3 million. And then NOAA's \$55 million is new funding for the Weather Service for many of the recommendations of General Kelly's review.

Senator GREGG. We would like to get a comprehensive statement of where the money is coming from, what it represents in the new program, if it represents a reallocation of resources, and how that

is going to affect the different agencies so that we can see how the money is flowing throughout the Department.

Secretary DALEY. We will get that to you.

[The information follows:]

U.S. DEPARTMENT OF COMMERCE NATURAL DISASTER REDUCTION INITIATIVE

The fiscal year 1999 request is for \$61 million in new budget authority as described below.

The Natural Disaster Reduction Initiative links several Commerce programs that have the common goal of reducing and mitigating the economic and environmental impacts of natural disasters.

This initiative will improve the Nation's planning and response to natural disasters, significantly reducing the loss of life and property. It includes funds to provide better planning, improve available information, improve infrastructure design and construction, and promote long-term economic recovery from disasters.

FUNDING LEVELS

[In millions of dollars]

	Fiscal year—					Total
	1999	2000	2001	2002	2003	
NIST .....	3	3	3	3	3	15
EDA .....	3	3	3	3	3	15
NOAA .....	55	55	55	55	55	275
Total .....	61	61	61	61	61	305

*NIST*

Additional resources (13 full-time equivalent employees and \$3 million) will initiate a research program to develop standards to reduce the potential damage to critical economic infrastructure, lifelines, and communications systems.

*EDA*

\$3.4 million in funding will support local post-disaster economic recovery efforts to accelerate recovery after disasters and before supplementals are enacted. Specifically, the funds will allow EDA to enhance its relationship with the Federal Emergency Management Agency (FEMA) by more effectively coordinating early post-disaster recovery response, and building local capacity in communities through joint EDA-FEMA sponsored recovery and mitigation training, to more effectively plan and implement actions to safeguard jobs and insulate their local economy from future disasters.

*NOAA*

Funding will support:

*NOS*.—\$4.5 million (assessing coastal risks and hazards, damage assessment and restoration, harmful algal blooms and hypoxia research).

*NMFS*.—\$2.3 million (habitat conservation and damage assessment and restoration).

*OAR*.—\$7 million (improving predictions/weather research, health of the atmosphere, HPCC mesoscale modeling, space weather hazards, hypoxia, aquatic nuisance species/NISA implementation).

*NESDIS*.—\$1.1 million (environmental observing services).

*NWS*.—\$40 million, including \$28.3 million and 8 FTE to be associated with the restoration of operational infrastructure based on the Kelly Report recommendations, continuation of weather service modernization, surface observing system, upper air observing systems, advanced hydrological predictions).

*Program Support*.—\$0.1 million (Gulf Stream IV jet operations).

Senator GREGG. I notice we have been joined by the chairman of the full committee, which is an honor and a privilege. As it is the tradition of this committee to always recognize the chairman whenever he attends, I will recognize the chairman of the full committee if he should have some questions or thoughts.

## NOAA FEES

Senator STEVENS. Thank you very much, Mr. Chairman, and Senators. I am sorry I am a few minutes late, Mr. Secretary.

I only have two comments. We have had some conversation about it—the ex-vessel value of fish being unloaded at the dock being subject to tax. It reminds me, we had a similar proposal during the last administration, and it suffered an untimely—or a timely death. Let's put it that way. I hope this one goes the same way.

I am disturbed about Coast Guard user fees, too. Both of them start off so small that they are almost unobjectionable. But once they get in place, they are subject to being raised by just executive action. I think we have to take a very serious look at that.

I do not know what the rest of the committee thinks about it, but I cannot understand those two provisions of the bill. Other than that, I am very pleased with the overall presentation, Mr. Chairman, and look forward to the hearing. Thank you.

Senator GREGG. Well, I think the chairman has obviously flagged two items that will go down to the sea. [Laughter.]

Secretary DALEY. If I could just briefly respond, we did have a good conversation, Mr. Chairman, about this. I know that this was brought up once before, and it was a substantially higher amount and was immediately disposed of.

We do feel that obviously the cost of many of our activities have gone up. We feel that the users and the beneficiaries of much of our activities should pay a part of that cost, and it is a difference that I am sure will be worked out shortly. But we appreciate your comment.

Senator GREGG. I have some other questions, but let me yield to Senator Hollings.

Senator HOLLINGS. Thank you, Mr. Chairman.

## NOAA CORPS

While Chairman Stevens is here, let me make note that we wrote you about the NOAA Corps. It has been very interesting watching Government up here, first hand, now, for 31 years, and noticing that Government develops a sort of esprit and a dedication.

I remember the old Environmental Science Services, where they took the Uniformed Division of the Coast and Geodetic Survey. That unit became the NOAA Corps, which gets us right up to the present where we are now seeing recommendations that you get rid of the NOAA Corps. The Department of Commerce's own study shows it saves absolutely nothing, and on the contrary, it decimates a dedicated public service which need not be done.

The truth of the matter is I'll never forget a fellow named Mike Dingman, who used to head up the Signal Corp. When Ronald Reagan came to town he requested a study of the Government agencies in order to reorganize and cut them back and determine whether or not they were worthwhile.

I served on the Grace Commission at this time. But Dingman headed up the study of Federal employees. And I will never forget his report whereby he constantly said, maybe the assistants and deputy secretaries in Government agencies would not be able to last very long in private, free enterprise. But he said that the rank-

ing folks in the innards of Government, grades 18, 19 and coming on down, would be paid by private industry three and four times more.

I can tell you right now to get the word of a U.S. Senator, private industry would pay us \$400,000 to \$500,000 per year. There isn't any doubt in my mind.

So you have these valuable people in the NOAA Corps who are doing an outstanding job. And just for a fetish of getting rid of the Government, we now have this move to disband them. You see the whole intent when Republicans came to town here 2 or 3 years ago was to get rid of the Government, abolish your Department, abolish Energy, Education, Housing, and everything else like that, and they saw an opportunity to show they had done something. So they got rid of Tourism—which was a mistake. We were hardly spending a thing on it.

I have a question about the statistics, for them to show that something was done—don't just stand there, do something, get rid of something, let's get rid of the NOAA Corps. And ATP. [Laughter.]

Which is really doing a wonderful job. Senator Stevens and I wrote to you about it. I think we ought to hold on to them. I mean, we in the Congress are determined not to get rid of the NOAA Corps.

Secretary DALEY. Well, Mr. Chairman, and Senator, it is obvious that Congress has been pretty adamant about their desire not to do away with the corps.

We are trying to evaluate exactly what is the minimum number of officers we need in the corps. There is a disagreement, obviously, on the need to have these people in the military, or in uniform, I should say. The Navy, as I understand it, except for their fighting ships, is staffed by civilian people, not uniformed people, I should say a minimum amount of military people.

Senator HOLLINGS. But you see, the Congress is putting all the schoolchildren in uniforms. [Laughter.]

Oh, yes. We are beginning to love that now. And we think they ought to have uniforms. As they do up in New Hampshire. I've seen them. [Laughter.]

Senator GREGG. Very nice uniforms.

Senator HOLLINGS. They are. They all have the same clothes. They've got everything—

Senator GREGG. They're called parkas.

Senator HOLLINGS. In any event, you should look into the uniform issue.

Secretary DALEY. We will.

Senator HOLLINGS. And I, like the chairman, commend you. You have gotten some things going. With respect to the fishing fleet, we finally got some money for the NOAA fleet. And you and I, Senator Gregg, put some money in there, and Senator Stevens and I and others have been trying to develop that fleet. Because again it is going to save money. It provides jobs, and it is a needed program.

#### AWIPS

On AWIPS, specifically, how are you going to do this program for \$550 million? You did the right thing. You created the software

within your Department of Commerce. And you got the plan ongoing, but I think we are going to have to put more money in. I don't see how you can do it with the commitment at \$550 million.

We are just going to have to get more money. Isn't that right?

Secretary DALEY. Well, it looks as though, Senator, to be able to provide the level of service that the citizens need, we will not be able to do it for \$550 million. I am waiting, to be honest with you, to meet with General Kelly, who had a series of evaluations done on exactly how much more over the \$550 million we will need, and what sort of cuts, if we do have to cut any sort of functionalities, will be necessary in order to keep the amount over \$550 million to a minimum. So I hope to have that report and give it to the committee within the next 10 days. To be very frank with you, we have improved the AWIPS program by bringing in the software design into the Department.

I am extremely disappointed at the fact that what has been assured to me as being able to be done by the Weather Service, and that was to live within the cap, is not possible at this point. And I think General Kelly will address that. It is, in my opinion, a very serious problem that reflects poorly on the budget management by the Weather Service of their operation. At the same time, we plan to be talking to the primary contractor on this project, to see and discuss with the people in the budget department and with the people in the General Counsel's Office as to what options we may have with that contractor.

Senator HOLLINGS. Well, I commend you. You are on top of it, and you are working it, and I trust you will let us know what is realistically needed. I can't see the Congress, with El Niño and other natural disasters, voting to cut Weather Service and weather projections.

And like you say, you have 25 percent improvement on surveys and estimates and everything else of that kind.

So, Mr. Chairman, I think this is good. I have some concerns regarding EDA and other matters, but let me yield to you and see what other questions we have.

Senator GREGG. Well, AWIPS, obviously, is a major issue. I do acknowledge as you do that the Secretary has aggressively pursued it, and obviously you have some problems there.

I guess my reaction is, hopefully, the problems are properly in order now, and you have them under control. If that is the case, the next step is to make sure we get what we need as a system, and not in order to arbitrarily reach the cap, which I can understand from management's standpoint we need to reach and not exceed.

But if we end up just staying with a cap, because it's the cap, and end up losing some flexibility that the system might otherwise have, then that maybe undermines the whole process. It is a tough management call. You are going to have to make it. We know you are on top of it.

Secretary DALEY. It is difficult, Mr. Chairman, and quite frankly I am disappointed that we assured the Congress that we would be able to live with the cap. We would have been better off if we had had a better handle on the situation so we could have been more honest 1 year ago when we made that assurance. And that is why

I am, at this point, unable to give you the assurance of exactly what the amount is.

Senator GREGG. Well, when you give us the amount, give us the programmatic activities that you are going to include, and if you are dropping any programmatic activities, the ones that you are going to drop.

Secretary DALEY. Those will be the options that I am waiting for from General Kelly, and then we will forward them to you immediately.

#### DECENNIAL CENSUS SAMPLING

Senator GREGG. OK. On the census, you mentioned the issue, as far as this Department is concerned, relative to the Congress' funding issues, and also from a public policy standpoint. Do you see a way of reaching an accommodation with the House on this issue?

Secretary DALEY. Well, we must reach some accommodation by the spring of 1999 in order to have the confidence so that as we put the actual program together and finalize it being put together in 1999 that we are all on the same wavelength.

If we were not to do sampling the cost would be substantially greater. There is a Supreme Court case that has been filed. The court may decide for all of us this issue. If they don't, then it gets back to where the political system is going to solve the problem.

I am hopeful that we can solve it and sampling will survive. As I mentioned, we believe strongly. I understand the politics of the debate, but at the same time, doing the census either way presents an incredible management challenge.

It is the largest peace time mobilization. As I mentioned, just in filling the slots, 260,000 people are employed at any given time, is going to be a very difficult task.

So I would very much hope that by the end of this session—early in 1999, this issue has got to be settled one way or the other. Am I optimistic? I am generally an optimistic person, but it is going to be tough.

The sort of statements being made by the inspector general and the GAO in reports reflects their criticism and comments and concerns based upon the uncertainty of where Congress and the administration is going—the traditional or the sampling. And that is really the heart. Even though the inspector general and GAO both support, and it is strongly stated there, sampling, the heart of their concern is the fact that there is this uncertainty that continues. So that is a long answer. The short answer would be I am optimistic that it can be resolved.

Senator GREGG. Are there meetings? Is there a process for reaching an agreement beyond just waiting for the Supreme Court to make a decision?

Secretary DALEY. Last fall there was an agreement reached to get us through this process, to change the dress rehearsals so that the dress rehearsal in Columbia, SC, will use the traditional method. And then try to have a review based upon how the dress rehearsals go. And then from our perspective, we will have a better understanding of the accuracy and the cost effectiveness of both methods.

But I think it will either take a Supreme Court decision to give us a clear answer. If the court were to rule that sampling was unconstitutional, obviously that would end it, at least for the time being. On the other hand, if there is no definite decision by the Supreme Court, we will have to resolve it. We do have ongoing discussions with the House and the House leadership, but this year we seem to be buying a little time and peace to get through the dress rehearsals.

#### PATENT AND TRADEMARK OFFICE RELOCATION

Senator GREGG. Now, the Patent and Trademark Office has requested the ability to move to a new campus, which would cost \$1.3 billion—at least that is the initial estimate, which is a phenomenal amount of money to build a building for the Patent and Trademark Office. And we have just been through building a building downtown on Pennsylvania Avenue, which was a disaster. We have a concern, as I have expressed to you in private meetings, that could also be a disaster.

I am just wondering what sort of management initiatives are being taken to first make a decision as to whether or not this type of move is necessary, whether this type of construction is necessary, and if it is necessary, how do we do better than what happened downtown, working, obviously, with GSA.

Secretary DALEY. First of all, we do feel that there has to be—and this began in 1995—a review of the needs of the PTO. We are presently in about, I think, 17 locations in the Crystal City area, and the need to consolidate into a fewer number of buildings is extremely important to us for a better operation.

At the same time, these leases in the 17 buildings are in the process of expiring, so they have to be renewed. The needs of the PTO and the costs to them are going to be substantial, whatever option we choose, of staying in the locations, or fewer locations. If those buildings and the space needs of the PTO can be met by some rather substantial improvements in those buildings, or the option of going to a new building that GSA would be the landlord of and we would be the tenant of, and would pay rent that would be less than the rent we are paying now in all of these locations when we add it up in the present location.

I am as sensitive as you, Mr. Chairman, to the fact that this is a substantial amount of money, and is a major step by PTO. But we feel strongly that this review had to be done, and at this rate it is moving forward in a way that I think we will get the best dollar in rent that we will have to pay, for the taxpayers.

But we will continue to be sensitive. We have had four or five reviews done on different aspects of this. I have asked in the last 3 days, for a study to be done of the needs, comparisons of other locations and other consolidations that have taken place recently in the Government, and would like by the middle of April to have that study done. And, obviously, we will transmit it to you immediately. But the bottom line is our space needs in PTO will cost a tremendous amount of money. Whether it is in the consolidation into one or a number of buildings has got to be determined. GSA would be the landlord, and we would be their tenant, paying less than what we are paying now. That's the goal.

Senator GREGG. Well, I can only speak for myself, but I don't resist the idea of moving. I don't resist the idea of even building a whole campus if that is the concept. What I am concerned about is that it be done with efficiency and that it not end up being a disgrace, so the taxpayers don't end up feeling that they have been taken to the cleaners the way they were downtown in a building which, regrettably, ended up with the name Ronald Reagan on it. So as we step into this water, I want to make sure that we are not making the same mistakes we made before so many times, when the Government decides to do a project of this size.

Secretary DALEY. Well, we will keep you very informed of how we are moving, and what is happening with this process. And, as I say, as soon as this study is given to me it will be given to you.

I am as concerned as you about the appearance to taxpayers. And at the same time, we do need to do it, and I think we have to do it in a judicious way that doesn't raise this spectacle of what has happened with other buildings.

Senator HOLLINGS. What about the Portals Building? The FCC doesn't want to go there. How about the Patent Office going there?

Secretary DALEY. To be honest with you, Senator, I am not sure whether that building would meet our needs technically. First of all, I am not sure about the amount of space in that building.

Senator HOLLINGS. It is not enough?

Secretary DALEY. No, sir.

Senator GREGG. You are looking for 2 million feet?

Secretary DALEY. A little less than 2 million. Right now we have about 1.7 million.

Senator HOLLINGS. Well, I think the point ought to be made on the record that the Patent Office doesn't cost the taxpayers a red cent. I mean, they more than pay their way with the fees and everything else like that. Just like we make money on drug enforcement from the sale of all the planes, properties, and everything else that we seize.

When you come right down to it, they ought to take care of the needs of the Patent Office. Like the chairman, I am concerned that we don't waste money. But we ought not to be puny with the Patent Office, because they have been more than paying their way through their fees over the years.

#### UNDER SECRETARY FOR TECHNOLOGY

With respect to the Under Secretary for Technology, Mary Good has been gone for quite a while. Do you have a replacement yet?

Secretary DALEY. Gary Bachula has been the Acting Under Secretary, and has done a fine job. At the same time, Senator, we have a name that has been going through the process, and we hope to have that nomination put to the Hill very shortly. It has been through a rather long and tedious process of vetting, as they call it. So we hope to have that nomination from the President very shortly.

#### MANUFACTURING TECHNOLOGY CENTERS

Senator HOLLINGS. With respect to the manufacturing technology centers, they have been working, and working extremely well to

the point that both authorizing committees now have lifted the sunset provisions. Do you support that?

Secretary DALEY. We do support that. There has been a reduction in the funding, as you will see in 1999, because there was a schedule that had been laid out in the legislation that the Federal portion of funding was reduced from 50 to 40 to 33 percent and more of that would be local support. So there is some very small reduction in the funding. But we do support that concept.

Senator HOLLINGS. And your September study showed that the program had really accelerated research and development in the technology area. That there had been over 1,000 new applications and 210 projects with over 100 patents filed. And many of the applications, I have noted here, are brand new technologies. The program is working.

Secretary DALEY. It is working. We have done very well, especially reaching out, as you know better than anyone, Senator, to the small- and medium-sized businesses.

Senator HOLLINGS. Some have suggested that the National Academy of Sciences make a study of the Advanced Technology Program. It would suit this Senator, because the National Academy of Sciences made a study that supported the program's inception. That's how we started it. Would you object to the National Academy of Sciences making a study?

Secretary DALEY. Not at all. Because I think they would show what we feel, and that both ATP and MEP have been huge successes.

#### ASSISTANCE TO COMMUNITIES AFFECTED BY TRADE DISLOCATION OR TECHNOLOGY IMPROVEMENT

Senator HOLLINGS. Regarding the amount of moneys in EDA. The President announced the program in his State of the Union, talking about your famous accomplishments with trade impacted communities. Instead of 100,000 jobs, there have been estimates of up to 600,000. I think 400,000 is more accurate, from studies that I can find. Do we have sufficient funds in the Economic Development Administration to take care of that impact?

Secretary DALEY. Well, we are asking for additional funds, about \$250 million over 5 years. We are trying to put a concerted effort together to give additional assistance to communities that are affected by trade dislocation or technology improvement.

Most of the dislocations in jobs over the last couple of years have been more technology related than trade related. But in some areas of the country, the impact to a community because of a trade dislocation is rather enormous. So we are attempting to put a program together in EDA that will specifically be targeted to those needs, and we feel strongly that EDA's success in so many other ways, in working with local communities, will be replicated in this program.

#### IMPACT OF ASIA ECONOMY ON UNITED STATES IMPORTS AND EXPORTS

Senator HOLLINGS. As Secretary of Commerce, what is your judgment of the Asia financial crises, the impact on commerce and the economy here in the United States?

Secretary DALEY. Well, there is no doubt that it is going to have an impact. As these economies drop in their activities, our exports will be affected.

As I mentioned earlier in my statement, Senator, on my trip last week we tried to once again strongly indicate to the three places I went to, Japan, Korea, and Singapore, the need to make sure that the market opening activities that have been going on and the commitments that have been made are lived up to.

There is no doubt, with our strong economy, that our consumers will continue to be rather ravenous in their appetite, as well as our companies, and our imports will increase, and they will increase by the end of the year rather substantially.

Regarding our exports, there seems to be a disagreement right now. Many of the business leaders have expressed the opinion that they do not foresee in the near future a tremendous negative impact on their exports. That was the analysis of many of the Business Council members last week.

But we have real concerns about the potential impact, because when you have such a slow down in the economies in Asia, which has been a major part of our export growth, that is going to have an impact probably in the second half of this year, not the first half. So the bottom line is that our imports, as you know, are going to increase substantially.

Senator HOLLINGS. Well, we have a vote, as the chairman indicated. Let me just reiterate his comments. You have done an outstanding job. I used to go around the halls trying to count heads to see how many votes I could get so they wouldn't abolish the Department. But you have given us character and credibility, even with the other side of the aisle, which is wonderful. And I thank you, sir.

Secretary DALEY. I appreciate that.

Senator GREGG. I think we have 7 minutes on the vote. Senator Domenici is here.

Senator HOLLINGS. I'm sorry. I didn't notice. You're so quiet when you came in. He was our chairman, you know. Been around this thing for years.

Senator GREGG. I know. Between the two of you, you have 10 times more knowledge than I have.

Senator DOMENICI. Senator Hollings, I would agree that Secretary Daley has added some real distinction to this office. But I wouldn't get carried away about it.

Senator HOLLINGS. Well, I like to be fair and reasonable. [Laughter.]

Senator DOMENICI. I think we're just not in a mood right now to get rid of departments, but you can rest assured that when the time comes, Commerce will be at the top of the list again. You will have to go back to work. Commerce and Energy are one and two, or two and one, depending on from whom we hear. Of course, we have a little bit of kinship, you and me, because I don't want to get rid of the Energy Department, and you don't want to get rid of Commerce. So we may be brothers before this is finished.

Senator HOLLINGS. Oh, yes.

Senator DOMENICI. In any event, Mr. Chairman, I just wanted to make a general observation, and I don't know whether this helps

you or harms you. I want to repeat, as the Budget Committee reports out the discretionary pot of money, all the discretionary spending, which is bound by a statutory cap in terms of dollars, both budget authority and outlays, that the CBO has just told us that it is now equivalent to a freeze in program authority, that number, and essentially it's about \$2 billion in outlays less than a freeze.

I note without adding them all up, Mr. Secretary, the \$700 million increase that is in here for Commerce, that two-thirds of it is for the census. I understand that. Nonetheless there is a \$700 million increase when we must operate under a freeze.

I note with interest that the Justice Department part of the bill is \$2.6 billion higher than last year. I only say this because it looks to me like it's going to be very hard to give anybody increases of any significance.

Senator GREGG. We also have big problems with trust funds, too.

#### PATENT AND TRADEMARK OFFICE FEES

Senator DOMENICI. That's correct. Now, what I really wanted to talk about, and it is as much a principle with me as it is dollars. Essentially, we have a Patent and Trademark Office that many of us have been worried about for a long time. We hope it is as modern as it can be, and we hope our patent and trademark laws are as modern as they can be—although it is interesting that they have been in existence with very few changes for many, many years, with a dramatically changing economic and market world.

The President, in his budget, by using some new language, actually puts money into this bill, Senator Hollings, to be spent on appropriated accounts by raising the Patent Office's fees, to a degree significantly in excess of what is needed to run the office.

So we have a fee situation that is being used to supplement the General Treasury in terms of collecting taxes, even though we don't call them that, and then spending them.

I have already spoken to the Secretary. It is not his fault, saying that is going to meet with a lot of opposition, especially since the President did it this year with such abandon. It is not just in this program, but he did it throughout the budget.

So in order to spend more money, he has got user fees and the like that he is collecting, that he asked us to collect. I am quick to say, there is nothing illegal about that. There is nothing antibudget about that. But it just is a very interesting approach when you have caps that you have already agreed to, in terms of what your domestic spending was going to look like. Then you come in the back door and spend a considerable amount more. In fact, we think we are over \$120 billion in new spending through this and other approaches.

Mr. Secretary, is it not a fact that if we were to adopt the President's plan with the new designation for the PTO surcharge—otherwise it would expire—but he puts it back in so we will be collecting more than is needed to run the office efficiently?

Secretary DALEY. We do collect more than we need at this time. And you are right, Mr. Chairman. There obviously are funds that are unused and have been for the last couple of years.

Senator DOMENICI. So the interesting thing is the President puts in a rescission of that surcharge, and then comes in another way and designates it as something new and puts it back into the bill. I think we ought to be careful about that, because how many of these are we going to do in the budget year?

Also, I am of the opinion that programs like EDA and those that are related to it, that they ought not to be getting significant increases either this year when we have the problems we've got, and there are a few increases requested in those programs.

Senator Hollings, if I thought a new program, and there is a new program here contemplated, if I thought a new program would help the cities that are adversely affected by changing exports and imports, I would be right there with it. I don't find that very many of the Federal programs that come into those communities do very much good other than put in some executives to run things, and give you a few little pluses here and there in an economic development plan. I just think the local communities have a tough job replenishing the lost jobs with new ones, and I don't think we can make it very much easier. So I personally don't want any more new programs, but I might lose out on that \$50 million one. I don't know.

Senator GREGG. Well, we've got about 4 minutes until the vote. Have you voted?

Senator DOMENICI. I have not.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. So I think we will just wrap up the hearing. There are some questions we want to submit to you.

Secretary DALEY. Certainly.

Senator GREGG. I would say, generally, on the NOAA accounts that obviously this committee is very interested in the NOAA accounts, and always has been, Senator Stevens and myself, Senator Hollings and a few others.

Senator HOLLINGS. I also have some questions, Mr. Chairman, to submit.

Senator GREGG. Very good.

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

#### ADDITIONAL COMMITTEE QUESTIONS

##### GOVERNMENT PERFORMANCE AND RESULTS ACT [GPRA]

*Question.* How are the agency's annual performance goals linked to the agency's mission, strategic goals, and program activities in its budget request?

*Answer.* Our annual performance goals are cited in our fiscal year 1999 detailed budget justifications and Budget in Brief. They are linked to the common set of goals and objectives contained in the Commerce Strategic Plan and Fiscal Year 1999 Annual Performance Plan, which bring all of the Department's program activities together under three Strategic Themes.

*Question.* Could you describe the process used to link your performance goals to your budget activities?

*Answer.* All bureaus have participated in the development of the Commerce Strategic Plan, and have contributed to the development of its three strategic themes and program-oriented goals and objectives. Our bureau budget requests are organized around those Themes, goals, and objectives.

*Question.* Does the agency's Performance Plan link performance measures to its budget? Does each account have performance measures?

*Answer.* Yes. The Fiscal Year 1999 Annual Performance Plan contains performance measures for each major program, and provides an appendix linking them to the budget requests. Each bureau has performance measures.

*Question.* To what extent does your performance planning structure differ from the account and activity structure in your budget justifications? Do you plan to propose any changes to your account structure for fiscal year 2000? Will you propose any changes to the program activities described under that account structure?

*Answer.* Our performance planning structure (i.e., our program structure) and our account/activity structure are the same. We will not contemplate any proposed changes for our account structure or program activities in fiscal year 2000 until we have completed the fiscal year 2000 planning process later this spring and summer.

*Question.* How were performance measures chosen?

*Answer.* Performance measures were proposed initially by bureau program, policy, and budget staffs, and were selected in final form after negotiations with Office of the Secretary and Office of Management and Budget staffs.

*Question.* How did the agency balance the cost of data collection and verification with the need for reliable and valid performance data?

As is true of all other agencies, Commerce struggles with the need to balance the costs of data collection/verification with the need to provide programs and services at the least cost to the American people. Where possible, we use existing data sources and data verification processes, in order to avoid requesting additional resources for data collection. In some cases, this has meant using surrogate (rather than specifically-designed) measures.

In our initial stages of GPRA implementation, we found that this data issue actually consists of two elements: deciding what and how to measure our activities, and then securing the data we need to measure them. In most cases, we have reached consensus on the first element, but we and other agencies are rapidly approaching the point where existing data do not satisfy the needs of GPRA, and where the resources needed in order to gather the desired data are in short supply.

*Question.* Does your plan include performance measures for which reliable data are not likely to be available in time for your first performance report in March 2000?

*Answer.* Our Fiscal Year 1999 Annual Performance Plan identifies the performance measures which we believe are important to use but for which we currently lack data and data sources. Although addressing these problems will be a priority for us in the second half of fiscal year 1998, it is not yet clear if we will have the necessary data for our first Annual Performance Report, due in March 2000.

*Question.* What are the key performance goals from your Fiscal Year 1999 Annual Performance Plan that you recommend this subcommittee use to track program results? For each key annual goal, indicate whether you consider it to be an output measure ("how much") or an outcome measure ("how well"). State the long-term (fiscal year 2003) general goal and objective from the agency strategic plan to which the annual goal is linked.

*Answer.* See Attached listing.

## CHAPTER 4—A: ECONOMIC INFRASTRUCTURE

### (PERFORMANCE MEASURES)

Chapter 4—A sets forth goals, objectives, and performance measures for program activities described in Chapter 1 and links them to our budget request.

Chapter 4—A of the Annual Performance Plan contains goals, objectives, and quantitative performance measures pertaining to economic infrastructure. The performance measures are numbered to correspond to the goals and objectives discussed in Chapter 1.

#### 1.0 EXPORT GROWTH

##### *1.1 Implement the President's National Export Strategy in conjunction with the Trade Promotion Coordinating Committee.*

ITA's fiscal year 1999 budget request is \$286.5 million, with 2,329 FTE.

*1.1.1 Strengthen trade advocacy, trade promotion, and the Trade Promotion Coordinating Committee. (ITA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Projects (#) .....	590	650	700	Output.
Value of exports (\$B) .....	111	135	145	Output.
Satisfied customers (percent) .....	.....	.....	.....	Output.
Projects successfully completed (percent) .....	11	12	14	Output.
Gross exports supported (\$B) <sup>1</sup> .....	7	10	12	Outcome.
Gross jobs supported (#) <sup>1</sup> .....	.....	.....	.....	Outcome.

<sup>1</sup> ITA's efforts to quantify "additionality" (i.e. value added from its trade programs) and the related performance measures listed above ("Dollar value of gross exports supported" and "Number of gross jobs supported") although focused, remain a work in progress.

Note.—For some measures, quantitative means are not fully appropriate or may not be available at this time. In these instances, we explain the approach we are using to assess progress in footnotes. The use of shading throughout Chapters 4A–4C indicates that measurement areas will receive priority attention in fiscal year 1999.

*1.1.2 Increase trade assistance targeted to small and medium-sized businesses. (ITA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Counseling sessions (#) .....	534,903	363,762	378,279	Output.
Clients (#) .....	335,883	180,996	193,035	Output.
Satisfied customers from counseling (percent) .....	95	95	95	Output.
Matching services (#) .....	1,384	1,410	1,410	Output.
Custom agency reports (#) .....	14,938	17,372	17,648	Output.
Satisfied customers (percent) <sup>1</sup> .....	.....	.....	.....	Output.
Reports distributed (#) .....	502,425	524,242	542,619	Output.
Trade events (#) .....	473	440	465	Output.
Firms attending (#) .....	11,982	10,290	10,825	Output.
Satisfied customers from events (percent) <sup>1</sup> .....	.....	.....	.....	Output.
New-to-export firms (#) .....	10,021	10,541	10,649	Outcome.
New-to-market firms (#) .....	33,957	35,339	36,806	Outcome.
Gross exports supported (\$) .....	.....	.....	.....	Outcome.
Gross jobs supported (#) .....	.....	.....	.....	Outcome.
Firms that actually export (percent) .....	30	32	32	Outcome.

<sup>1</sup> ITA is examining several survey methodologies aimed at accurately measuring customer satisfaction.

*1.2 Enforce U.S. trade laws and agreements to promote free and fair trade.*

*1.2.1 Expand trade law enforcement efforts. (ITA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Applications reviewed (#) .....	84	100	115	Output.
Applications processed (#) .....	122	122	122	Output.
Entries monitored (#) .....	4,600	4,800	5,000	Output.
Petitioners counseled (#) .....	54	54	54	Output.
Investigations conducted (#) .....	11	11	11	Output.
AD/CVD orders issued to the U.S. Customs Service (#) .....	7	7	7	Output.
Requests processed (#) .....	225	225	225	Output.
Reviews conducted (#) .....	147	147	147	Output.
AD/CVD sunset reviews conducted (#) .....	.....	65	130	Output.
Gross exports (\$B) .....	17	20	22	Outcome.
Gross jobs supported (#) .....	370,000	380,000	400,000	Outcome.
Duty-free scientific equipment imported/made available to U.S. non-profit educational/research institutions (\$M) .....	34	34	34	Outcome.

	Fiscal year—			Key annual goal
	1997	1998	1999	
Duty-free articles imported to improve quality of life for disabled (\$K) .....	230	235	240	Outcome.

*1.2.2 Expand compliance monitoring efforts. (ITA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Number of agreements entered into database .....	220	100	10	Output.

*1.3 Strengthen and institutionalize trade advocacy efforts, placing special emphasis on the “Big Emerging Markets” (BEM’s) and major projects.*

*1.3.1 Continue emphasis on trade with the BEM’s without losing focus on mature markets. (ITA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Agreements (#) .....	6	6	6	Output.
Satisfied customers (percent) .....	100	100	100	Output.
Contribution from cooperators (percent) .....	72	67	67	Output.
Gross exports supported (\$) .....	.....	.....	.....	Outcome.
Gross jobs supported (#) .....	.....	.....	.....	Outcome.

*1.4 Restructure export controls for the twenty-first century.*

BXA’s fiscal year 1999 budget request is \$52.2 million, with 433 FTE.

*1.4.1 Streamline and reform U.S. export controls. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Licensing decisions (#) .....	10,554	10,100	10,100	Output.
Commodity classifications completed (#) .....	3,359	4,200	4,200	Output.
Applications process within statutory time frames (percent) ...	99.8	98	98	Outcome.
High risk transactions denied (#) .....	317	303	303	Outcome.
Low risk transactions facilitated (#) .....	8,715	8,500	8,700	Outcome.
Average processing times for license application (days) .....	35	34	33	Output.
Average processing times for commodity classifications (days) .....	25	22	20	Output.
Commodity classifications processed within regulatory time frames (percent) .....	25	35	50	Output.

*1.4.2 Promote export control cooperation with the independent states (NIS) of the former Soviet Union (FSU), the Baltics, Central Europe, and other countries in order to facilitate legitimate trade in high-tech goods and technology, and to help stop the proliferation of specific items to rogue states and terrorists. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
International cooperative exchanges (#) .....	36	40	42	Output.
Establishment of effective NIS control system elements .....	.....	.....	30	Outcome.

*1.4.3 Implement the Nation's encryption export policy. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Encryption commitment plan and progress report reviews (#) .....	37	41	100	Output.
Encryption key recovery agent reviews (#) .....	9	50	100	Output.

*1.4.4 Oversee domestic implementation of the Chemical Weapons Convention. (BXA)<sup>1</sup>*

	Fiscal year—			Key annual goal
	1997	1998	1999	
CWC inspections (#) .....			40	Output.
CWC facility agreements (#) .....			140	Output.
Data declarations processed (#) .....			2,000	Output.

*1.5 Maintain a fully effective law enforcement program and protect U.S. national security, foreign policy, nonproliferation of dual-use commodities, counter-terrorism, nonproliferation of chemical weapons, and public safety interests.**1.5.1 Investigate criminal and administrative violations of the specific statutes and regulations, and impose civil sanctions for those violations. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Completed enforcement investigations (#) .....	998	1,100	1,350	Output.
Investigations accepted for criminal or administrative remedies (#) .....	60	66	73	Outcome.

*1.5.2 Develop and implement measures to prevent export control law violations, including reviews of unlicensed shipments as well as conducting pre-license checks and post-shipment verifications concerning licensed transactions. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Pre-license checks completed (#) .....	379	400	500	Output.
Post shipment verifications completed (#) .....	301	325	375	Outcome.

*1.5.3 Conduct export enforcement outreach with the U.S. export community, and expand outreach and education programs to train U.S. exporters how to identify and avoid illegal transactions. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Enforcement seminars (#) .....	4	6	8	Output.
Anti-boycott help phone calls (#) .....	1,226	1,300	1,300	Output.
Firms assisted through enforcement outreach (#) .....			800	Output.

<sup>1</sup>The CWC is a new activity for BXA.

1.6 Facilitate transition of defense industries.

1.6.1 Promote U.S. economic security, technological competitiveness, and defense diversification. (BXA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Defense industry advocacy assistance requests (#) .....			130	Output.
Strategic industry analyses (#) .....	716	485	485	Output.
Value of facilitated exports (\$B) .....	2.3	5.0	5.0	Outcome.

2.0 IMPROVED ECONOMIC STATISTICS

2.1 Strengthen the public's understanding of the U.S. economy and its competitive position by improving Gross Domestic Product and other national, regional, and international economic accounts data.

ESA's fiscal year 1999 budget request is \$53.7 million, with 570 FTE. Census' fiscal year 1999 is \$1.19 billion, with 16,510 FTE.

2.1.1 Develop new and improved measures of real GDP and prices. (ESA)

2.1.2 Provide updated measures of the Nation's investment, savings, and wealth. (ESA)<sup>2</sup>

	Fiscal year—			Key annual goal
	1997	1998	1999	
Develop new methods and source data .....	( <sup>1</sup> )	( <sup>2</sup> )	( <sup>3</sup> )	Output.
Extend quality adjustments and improve measurement of hard-to-measure goods and services .....	( <sup>4</sup> )	( <sup>5</sup> )	( <sup>6</sup> )	Output.
Developed improved measures of capital stock .....	( <sup>7</sup> )	( <sup>8</sup> )	( <sup>9</sup> )	Output.
News releases of BEA data (#) .....	49	50	50	Output.

<sup>1</sup> Extended BEA's new chain weighted measures of output and prices to all 5 major accounts, including estimates of Gross State Product, National wealth, GDP by Industry, and International Investment.

<sup>2</sup> Begin revising and updating estimation methods for components contributing to the \$100 billion statistical discrepancy between the product and income estimates of GDP.

<sup>3</sup> Develop updated source data and associated estimating methods for the 10 major product-side components and the 4 major income-side components accounting for the bulk of the statistical discrepancy.

<sup>4</sup> Extended quality adjustments to another key high-tech product, telephone switching equipment.

<sup>5</sup> Extend quality adjustments to additional high-tech products, such as cellular phones and prepackaged software.

<sup>6</sup> Develop new concepts and methods for measuring hard-to-measure goods and services, such as custom computer software and financial services.

<sup>7</sup> Developed updated depreciation and valuation methods that raised the estimate of the Nation's productive capital stock by 22 percent.

<sup>8</sup> Initiate research on developing regional capital stock estimates for all 50 states.

<sup>9</sup> Develop estimates of the Nation's capital stock and investment in computer software. Such estimates will address much needed modernization in BEA's estimates used in analyzing productivity and the Nation's growth potential

<sup>2</sup> Objective 2.1.1 and 2.1.2 have the same performance measures.

*2.1.3 Provide improved measures of U.S. international trade and finance. (ESA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Development of new measures of international transactions.	Incorporated first benchmark data on U.S. portfolio investment abroad in 50 years into balance of payments accounts; the updated sample and increased coverage resulted in raising the estimate of U.S. investment abroad by \$333 billion.	Publish results of benchmark survey on trade in 5 of the most important types of "affiliated" services.	Extend annual selected services surveys to collect key data quarterly on large and rapidly growing types of international trade, such as insurance, finance, transportation, computer and information services and communication services.	Output.

*2.2 Improve national and local census and survey data through better business practices and public cooperation.*

*2.2.1 Develop efficient and innovative business practices to improve cost, timeliness, and the quality performance of Census data. (ESA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Operational processing centers (Decennial Census) (#) .....	.....	.....	.....	4 Output.
Operational Regional census centers .....	.....	12	12	Output.
Final 1998 Dress Rehearsal results released (#) .....	.....	.....	.....	3 Output.
1998 Dress Rehearsal redistricting products released .....	.....	.....	.....	3 Output.

*2.2.2 Increase the level of public cooperation by simplifying public response, building partnerships, and implementing a customer focused marketing plan. (ESA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Response rate for cross sectional surveys (percent) .....	93	91-95	91-95	Output.
Data releases describing economic status of all U.S. households (#) .....	16	16	16	Output.
City style addresses canvassed (percent) .....	.....	.....	100	Output.
Non-city style addresses canvassed (percent) .....	.....	25	100	Output.
Planned field partnerships established (percent) .....	3	42	89	Output.
Census forms printed (percent) .....	.....	.....	100	Output.
Response rate for American Community Survey (percent) .....	98	95-98	95-98	Outcome.
Program participation for American Community Survey (# of sites) .....	8	9	37	Outcome.

**3.0 JOB CREATION AND ECONOMIC HEALTH OF OUR COMMUNITIES**

*3.1 Establish, retain, or expand commercial, industrial, and high-technology enterprises to stimulate the creation of private sector jobs for unemployed and underemployed residents of economically distressed areas.*

EDA's fiscal year 1999 budget request is \$398.0 million, with 285 FTE.

*3.1.1 Build, rebuild, and expand vital public infrastructure facilities that offer substantial employment potential and improve the capacity for economic growth in distressed areas. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Public Works-Jobs created and/or retained (# direct, non-project, indirect) .....	50,400	54,000	49,000	Outcome.

*3.1.2 Overcome specific capital market gaps and encourage greater private sector participation in economic development activities by establishing or expanding revolving loan funds in economically distressed areas. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Economic Adjustment Revolving Fund Federal, State, local non-EDA dollars invested (\$M) .....		<sup>1</sup> 12 <sup>2</sup> 1.5	<sup>1</sup> 31.5 <sup>2</sup> 4.0	Outcome.

<sup>1</sup> Private.

<sup>2</sup> Other.

*3.2 Help distressed communities adversely affected by defense-related downsizing, natural disasters or economic dislocation and build their capacity to stimulate, maintain, or expand economic growth.*

*3.2.1 Promote comprehensive, inclusive economic planning in distressed communities to identify economic problems, assess the availability of local and non-local resources, and formulate and implement realistic development strategies. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Planning and Economic Adjustment strategies—Increased community participation (Grantee self evaluation out of 10) .....		8.5	8.5	Output.

*3.2.2 Provide technical assistance to communities to solve specific economic development problems, respond to development opportunities, and build and expand local organizational capacity in distressed areas. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Technical assistance—Quality of evaluation or feasibility study (Grantee self-evaluation out of 10) .....		9.1	9.1	Output.

3.3 *Provide new knowledge, analyses and technical information which serve both to assess economic development problems and to mobilize non-federal resources for their solutions at the local level.*

3.3.1 *Study and research emerging and anticipated economic development problems. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Research and evaluation.		Research results disseminated thru conferences, publications, & Internet to practitioners.	Research results disseminated thru conferences, publications, & the Internet to practitioners.	Output.

3.3.2 *Provide technical assistance to local governments, community-based organizations and small businesses on economic development-related issues through colleges and universities.<sup>3</sup> (EDA)*

3.3.3 *Aid firms and industries injured by import competition by providing technical assistance in diagnosing problems and assessing opportunities through business assistance centers. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Trade adjustment assistance—Sales and employment (jobs created/retained for all firms completing programs) (percent increase):				
Sales		+ 20	+ 20	Outcome.
Jobs		+ 10	+ 10	

#### 4.0 SUPPORT FOR MINORITY BUSINESS

4.1 *Improve opportunities for minority-owned businesses to have access to the marketplace.*

MBDA's fiscal year 1999 budget request is \$28.1 million with 120 FTE.

4.1.1 *Match procurement opportunities with minority business enterprise capability electronically. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Matched (#)		500	1,000	Output.
Dollars matched (\$M)		10	20	Outcome.

4.1.2 *Bring together Federal, State, local and private sector resources for minority business enterprises. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Memoranda of Understanding (MOU's) signed (#)	117	140	200	Output.
Business assisted (#)	1,000	1,500	1,750	Output.
Value of assistance (\$M)	30	45	53	Outcome.

<sup>3</sup> Measures are being developed under a national research grant.

*4.1.3 Provide management and technical assistance to minority business enterprises. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Business assisted (#) .....	7,518	7,819	8,053	Output.
Management and Technical Assistance (M&TA) hours approved .....	126,294	131,346	135,286	Output.
Contracts approved (#) .....	825	858	884	Output.
Value of contracts approved (\$M) .....	221	220	226	Outcome.

*4.1.4 Establish business resource centers through joint ventures to assist minority business enterprises. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
BRC's (#) .....	7	8	11	Output.
New business served (#) .....			400	Output.

*4.1.5 Arrange delegations of pre-qualified minority companies to participate in domestic and international trade missions. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Domestic/international trade missions (#) .....		2	7	Output.
Business assisted (#) .....	20	40	140	Output.
Amount (\$M) .....		5	17	Outcome.

*4.1.6 Create franchise opportunities with major corporations for minority business enterprises. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
MOU's signed (#) .....		1	4	Output.
Business assisted (#) .....		1	4	Output.

*4.1.7 Create opportunities for minority business enterprises through acquisitions, mergers and joint ventures. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Agreements (#) .....		1	25	Output.

*4.2 Improve the opportunities for minority-owned businesses to pursue financing.*

*4.2.1 Promote minority business lending with financial institutions. (MBDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
MOU's signed (#) .....	5	20	30	Output.

## 4.2.2 Arrange loan pre-qualification for minority business enterprises. (MBDA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Approved loan packages (#) .....	900	600	600	Output.
Value (\$M) .....	211	160	160	Outcome.

## 5.0 TECHNOLOGICAL INNOVATION

## 5.1 Provide technical leadership for the Nation's measurement and standards infrastructure, and assure the availability of essential reference data and measurement capabilities.

US/OTP's fiscal year 1999 budget request is \$10 million, with 50 FTE. NIST's budget request is \$715.0 million, with 3,295 FTE.

5.1.1 Anticipate and address the Nation's most important needs for physical and information-based measurements and standards. (TA)<sup>4</sup>

	Fiscal year—			Key annual goal
	1997	1998	1999	
Standard Reference Materials (SRM) available (#) .....	1,278	1,293	1,308	Output.
SRM units sold (#) .....	39,358	38,928	38,142	Output.
Standard Reference Database (SRD) titles available (#) .....	58	60	62	Output.
SRD units distributed (#) .....	5,102	5,200	5,300	Output.
Calibrations and tests performed (#) .....	8,902	9,000	8,900	Output.
National Voluntary Laboratory Accreditation laboratories enrolled (#) .....	854	900	900	Output.

## 5.1.2 Strengthen the national system of standards, measurement, measurement traceability, and conformity assessment. (TA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
NIST patents filed and licenses issued (#) .....	44	40	40	Output.
Standards committees involving NIST staff (#) .....	1,167	1,175	1,175	Output.
Requests to the central NIST WWW server (#) .....	978,563	1,000,000	1,000,000	Output.

## 5.1.3 Provide leadership in harmonizing international measurements and standards to facilitate international trade. (TA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Leadership positions held by NIST staff on international committees (#) .....	48	59	59	Output.

<sup>4</sup>The Department of Commerce is among the agencies participating actively in the Research Round Table, which is developing consensus approaches to planning/measurement issues under the "Alternative Format" provision of GPRA. The Alternative Format is built upon peer review and economic impact studies. NIST's Measurement and Standards Laboratories are evaluated annually by the National Research Council and this information will also be used. Objectives 5.1.1, 5.1.2, 5.1.3, and 5.2.2 will use the Alternative Format.

*5.2 Improve the technological capability, productivity, and competitiveness of small manufacturers.*

*5.2.1 Build an effective, nationally-integrated system of manufacturing extension services that is widely accessible to small businesses. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Companies served by extension service providers (#) <sup>1</sup> .....	21,988	26,000	30,000	Output.
Activities completed by providers <sup>2</sup> (#) .....	28,578	30,943	33,473	Output.
Increased sales (\$M) .....	214	305	389	Outcome.

<sup>1</sup>Anticipated increases for companies served and activities completed for fiscal year 1998 and fiscal year 1999 are based on actual increases between fiscal year 1996 and fiscal year 1997 and MEP's goal of increasing the system-wide penetration rate.

<sup>2</sup>Anticipated increases for companies served and activities completed for fiscal year 1998 and beyond are based on actual increases between fiscal year 1996 and fiscal year 1997 and MEP's goal of increasing the system-wide penetration rate.

*5.2.2 Introduce state-of-the-art technology and business practices to a wide array of small- and medium-sized manufacturers in the United States. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Inventory savings by MEP clients (\$M) .....	31	44	56	Outcome.
Labor and material savings by MEP clients (\$M) .....	27	38	49	Outcome.
Client capital investment (\$M) .....	156	222	284	Outcome.

*5.3 Assist U.S. businesses in continuously improving their productivity and efficiency by adopting quality management practices.*

*5.3.1 Develop and continuously improve the Malcolm Baldrige National Quality Award, broadly disseminate criteria for evaluating performance, and promote quality awareness and performance excellence. (TA)<sup>5</sup>*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Quality Program documents requested from the WWW (#) .....	494,217	600,000	625,000	Output.
State and local quality award programs supported (#) .....	56	60	65	Output.

*5.3.2 Promote quality awareness and business excellence practices of small service businesses and manufacturers. (TA)<sup>6</sup>*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Quality Program documents requested from the WWW (#) .....	494,217	600,000	625,000	Output.
State and local quality award programs supported (#) .....	56	60	65	Output.

<sup>5</sup>TA/NIST will also use stakeholder review and economic impact studies via the Alternative Format.

<sup>6</sup>TA/NIST will use stakeholder review and economic impact studies via the Alternative Format.

*5.4 Accelerate technological innovation and the development of new technologies that underpin future economic growth.<sup>7</sup>*

*5.4.1 Encourage the development and rapid diffusion of high risk, enabling technologies that generate broad-based economic benefits through innovative products, services, and industrial processes. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Cumulative amount of industry cost-sharing commitments over project lives (\$B) .....	1.172	1.467	1.827	Outcome.
Participants (active projects) (#) .....	800	900	900	Output.
Active projects including those funded in current fiscal year (#) .....	312	360	367	Output.
Projects funded over project lives .....	352	434	528	Output.
Technologies under commercialization (#) .....	60	110	160	Outcome.

*5.4.2 Develop improved technological and organizational mechanisms for supporting the rapid adoption of new technologies. (TA)<sup>8</sup>*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Competitions completed per year .....	7	9	9	Output.
New project starts during year .....	64	82	94	Output.
Industry cost sharing commitments for new project starts .....	142	295	360	Output.
Technologies under commercialization .....	60	120	160	Outcome.

*5.5. Coordinate and lead Presidential initiatives and interagency efforts to enhance industry competitiveness in partnership with industry, academia, and the States.*

*5.5.1 Coordinate and lead interagency efforts to develop the technology base for next generation automobiles, promote technological achievement, and foster international technology cooperation. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Achieve a successful Partnership for a New Generation of Vehicles (PNGV) Peer Review conducted by the National Research Council .....	1	1	1	Output.
Increase the number of high quality National Medal of Technology nomination submissions (percent increase) .....	.....	.....	20	Output.
Increase the number of Medal nomination submissions from women and ethnic minorities (percent increase) .....	.....	.....	100	Output.
Increase the total media coverage of the Medal Program (percent increase) .....	.....	.....	20	Output.

<sup>7</sup> TA/NIST will also use economic impact studies.

<sup>8</sup> In addition to these figures, TA/NIST will be developing information on annual increases.

5.5.2 Coordinate and lead interagency efforts to strengthen technology partnerships between States and the Federal government. (TA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
U.S. Innovation Partnership program implementation initiatives facilitating State/Federal innovation partnerships (#) .....		2	3	Output.
Fund the Experimental Program to Stimulate Competitive Technology (EPSCoT) projects funded (cumulative #) .....		4	10	Output.

6.0 PROTECTING INTELLECTUAL PROPERTY

6.1 Help protect, promote, and expand intellectual property rights system throughout the U.S. and abroad.

PTO's fiscal year 1999 Salaries and Expenses spending will be \$785.5 million, with 6,358 FTE.

6.1.1 Participate in international cooperative arrangements. (PTO)

	Baseline <sup>1</sup>	Fiscal year—		Key annual goal
		1998	1999	
Developing countries provided with technical assistance (#) ...	47	47	52	Output.
Technical assistance activities completed (#) .....	59	59	64	Output.

<sup>1</sup> For PTO, the Baseline is actuals from fiscal year 1996.

6.1.2 Cooperate with other government agencies to ensure that intellectual property concerns are adequately addressed. (PTO)

7.0 INFORMATION INFRASTRUCTURE

7.1 Support the development of a National Information Infrastructure (NII) that will be accessible to all Americans.

NTIA's fiscal year 1999 budget request is \$47.9 million, with 288 FTE.

7.1.1 Administer the Information Infrastructure Grants program to assist educational, health care and other social service entities in planning and developing the telecommunications and information infrastructure. (NTIA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
NII print materials distributed (#) .....	20,000	65,000	75,000	Output.
Electronic access to information (#) .....		11,000	11,000	Output.
Presentations and contacts (#) .....		900	900	Output.
Applications received (#) .....	924	750	750	Output.
Grants awarded (#) .....	55	40	40	Output.
Reviewers meet evaluation criteria (percent) .....		100	100	Output.
High risk sites visited (percent) .....		100	100	Output.
Awardees counseled (percent) .....		100	100	Output.
Quarterly reports in compliance (percent) .....		100	100	Output.
Information Infrastructure models for non-profit and public service (#) .....	169	275	382	Outcome.

*7.1.2 Improve delivery of communications products and services to the public through Executive Branch initiatives in legislative and regulatory forums. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increased identification of new technologies and their application to government operations <sup>1</sup> .....				Outcome.

<sup>1</sup>Precise measurement tools do not presently exist in this area; however, we are working with the telecommunications community to develop rational approaches to assessing these issues.

*7.1.3 Ensure that educational and cultural benefits of public broadcasting are widely available, and the use of telecommunications technologies to improve effectiveness of distance learning. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Maintain current access to public radios by rural populations (new coverage) (#) .....	1,000,000	750,000	750,000	Output.
Maintain current access to public television by rural populations (new coverage) (#) .....	50,000	30,000	30,000	Output.

*7.2 Advocate international telecommunications policies to help open international markets and promote U.S. interests.*

*7.2.1 Improve international competitiveness of the U.S. telecommunications industry. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
“Lessons learned” packages completed for foreign governments (#) .....			175	Output.
Extent of adoption of packages .....				Outcome.
Outreach plans and reports on foreign markets (#) .....		10	20	Output.
Improvement in liaison with U.S. companies (#) .....			100	Outcome.
Interagency policy identification exercises (#) .....		5	12	Output.
Cost-effective programs funded from private sector sources for U.S. telecommunications objectives (#) .....			10	Output.
Outreach meeting held with U.S. carriers (#) .....	2	4	6	Output.
Increased U.S. companies competing for new markets <sup>1</sup> .....				Output.
Adoption of U.S. Internet standards in the international community <sup>1</sup> .....				Outcome.

<sup>1</sup> NTIA is examining several survey methodologies aimed at accurately measuring these impacts.

*7.3 Set policies for efficiently and effectively managing the Federal use of the radio spectrum, and prepare for international radio spectrum setting conferences of the ITU.*

*7.3.1 Ensure that government needs for vital telecommunications services are met nationally and internationally. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Development of database of allocated bands and of automated method for accessing/using database .....	(1)	(1)	(2)	Output.

<sup>1</sup> Planning and initial implementation steps.

<sup>2</sup> Fully implemented.

7.3.2 *Coordinate U.S. preparations for international frequency allocation conferences and lead U.S. delegations to these conferences. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Development of long-range plans to meet U.S. spectrum needs .....		( <sup>1</sup> )	( <sup>2</sup> )	Outcome.

<sup>1</sup> Develop draft.

<sup>2</sup> Complete implementation.

7.4 *Provide leadership in developing telecommunications policy initiatives in emerging areas of national priority.*

7.4.1 *Implement the President's Global Electronic Commerce initiative regarding the governance of the Internet domain system, Internet content restrictions, and international privacy. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Development of private sector approach to Internet governance .....		( <sup>1</sup> )	( <sup>2</sup> )	Outcome.

<sup>1</sup> Draft for comment.

<sup>2</sup> Fully implemented.

## 8.0 PROTECTING LIFE AND PROPERTY

8.1 *Promote safe navigation by revolutionizing U.S. marine and air navigation, mapping and surveying; assist commercial shipping in moving increased cargoes safely and efficiently; and provide a precise satellite-derived reference system as the basis for the Nation's geographical positioning needs.*

NOAA's fiscal year 1999 budget request is \$2.12 billion, with 12,358 FTE.

8.1.1 *Build, maintain and deliver a digital nautical charting database to underpin new electronic navigational systems which integrate satellite positioning, tidal heights and currents, radars and sonars, and navigational aids; and update nautical surveys using full-bottom coverage hydrographic technologies. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Nautical charts linked to geographic data (Vector Charts) available in digital data base (percent) .....	25	80	100	Output.
Nautical paper chart suite updated (percent) .....	23	35	40	Output.
Critical area survey backlog reduced (percent) .....	12	16	19	Output.

8.1.2 *Provide mariners with predictions of water level, tides and currents, and weather conditions in major ports. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
National Water Level Observation stations modernized (percent) .....	78	80	75	Output.

8.1.3 Transform the obsolete spatial reference frame into a Global Positioning System (GPS)-based system of precisely positioned markers and GPS continuously operating reference stations to support the digital revolution in mapping, charting, and surveying. (NOAA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Continuously Operating Reference Stations installed (#) .....	53	65	75	Output.

8.2 Improve short-term warning and forecast products and services to enhance public safety and the Nation's economic productivity by enhancing the ability to observe, understand, and model the environment, and effectively disseminate products and services to users.

8.2.1 Maintain modernized National Weather Service operations to continue improving the timeliness and accuracy of short-range environmental predictions which have immediate impact on individuals and many sectors of the economy; improve customer service to the public, emergency managers, the media, and private forecasters through effective communication and utilization of critical weather data and information necessary for protection of life and property. (NOAA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Flash flood warning:				
Lead time (min.) .....	40	40	42	Output.
Accuracy (percent) .....	83	83	85	Output.
No lead time (percent) .....	27	27	27	Output.
Severe Thunderstorm Warnings:				
Lead time (min.) .....	18	18	19	Output.
Accuracy (percent) .....	84	84	84	Output.
Tornado Warnings:				
Lead time (min.) .....	10	10	11	Output.
Accuracy (percent) .....	59	65	70	Output.

8.2.2 Maintain continuous operational satellite coverage (of the Nation) critical for warnings and forecasts. (NOAA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Accuracy of tropical cyclone landfall warnings with 24 hour lead time (kilometers) .....	<sup>1</sup> 125	140	135	Output.
Temperature forecasts:				
Accuracy (percent) .....	86	86	87	Output.
Freezing onset (percent) .....	76	77	78	Output.
Heavy snow forecasts: Accuracy (percent) .....	45	50	55	Output.

<sup>1</sup> Fiscal year 1997 preliminary measure for tropical cyclone (or hurricane) landfall warning is not representative of a typical hurricane season as only one landfall storm occurred during the fiscal year.

8.2.3 Strengthen observing and prediction systems through scientific, technological and programmatic advances, and international cooperation. (NOAA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Flash flood warning:				
Lead time (min.) .....	40	40	42	Output.
Accuracy (percent) .....	83	83	85	Output.

	Fiscal year—			Key annual goal
	1997	1998	1999	
No lead time (percent) .....	27	27	27	Output.
Severe Thunderstorm Warnings:				
Lead time (min) .....	18	18	19	Output.
Accuracy (percent) .....	84	84	84	Output.
Tornado Warnings:				
Lead time (min.) .....	10	10	11	Output.
Accuracy (percent) .....	59	65	70	Output.
Accuracy of tropical cyclone landfall warnings with 24 hour lead time (kilometers) .....	<sup>1</sup> 140	135	125	Output.

<sup>1</sup>Fiscal year 1997 preliminary measure for tropical cyclone (or hurricane) landfall warning is not representative of a typical hurricane season as only one landfall storm occurred during the fiscal year.

#### CHAPTER 4—B: SCIENCE, TECHNOLOGY, AND INFORMATION

##### (PERFORMANCE MEASURES)

Chapter 4—B sets forth goals, objectives, and performance measures for program activities described in Chapter 2 and links them to our budget request.

Chapter 4—B of the Annual Performance Plan contains goals, objectives, and quantitative performance measures pertaining to science, technology, and information. The performance measures are numbered to correspond with the goals and objectives discussed in Chapter 2.

#### 1.0 CUTTING-EDGE SCIENCE AND TECHNOLOGY

##### 1.1 Partner with industry to accelerate the development and application of cutting-edge technologies.

US/OTP's fiscal year 1999 budget request is \$10.0 million, with 50 FTE. NIST's fiscal year 1999 budget request is \$715.0 million, with 3,295 FTE.

##### 1.1.1 Anticipate and address the Nation's most important needs for physical and information-based measurements and standards. (TA)<sup>9</sup>

	Fiscal year—			Key annual goal
	1997	1998	1999	
Standard Reference Materials (SRM) available (#) .....	1,278	1,293	1,308	Output.
SRM units sold (#) .....	39,358	38,928	38,142	Output.
Standard Reference database titles available (#) .....	58	60	62	Output.
SRD units distributed (#) .....	5,102	5,200	5,300	Output.
Calibrations and tests performed (#) .....	8,902	9,000	8,900	Output.
National Voluntary Laboratory Accreditation laboratories enrolled (#) .....	854	900	900	Output.

##### 1.1.2 Introduce state-of-the-art technology and business practices to a wide array of small- and medium-sized manufacturers in the United States. (TA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Inventory savings by MEP clients (\$M) .....	31	44	56	Outcome.
Labor and material savings by MEP clients (\$M) .....	27	38	49	Outcome.

<sup>9</sup>The Department of Commerce is among the agencies participating actively in the Research Round Table, which is developing consensus approach to planning/measurement issues, such as this, under the "Alternative Format" provision of GPRA. The Alternative Format is built upon peer review and economic impact studies. In addition to the information shown here, Objective 1.1.1, 1.1.2, and 1.1.3 will use the Alternative Format.

	Fiscal year—			Key annual goal
	1997	1998	1999	
Client capital investment (\$M) .....	156	222	284	Outcome.

*1.1.3 Encourage the development and rapid diffusion of high risk, enabling technologies that generate broad-based economic benefits through innovative products, services, and industrial processes. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Cumulative amount of industry cost-sharing commitments over project lives (\$B) .....	1.172	1.467	1.827	Output.
Participants (active projects) (#) .....	800	900	900	Output.
Competitions completed/year (#) .....	7	9	9	Output.
Active projects including those funded in current fiscal year (#) .....	312	360	367	Output.
Projects funded over project lives .....	352	434	528	Output.
Technologies under commercialization (#) .....	60	120	160	Outcome.

*1.2 Collect, preserve, and disseminate government technical, scientific, and business information.*

*1.2.1 Play a leadership role in assisting Federal agencies with dissemination of their scientific, technical, and business information. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Information products cataloged and indexed (#) .....	109,453	120,000	120,000	Output.
Items in archives (#) .....	2,661,365	2,781,365	2,901,365	Output.
Items distributed (#) .....	1,558,179	1,401,490	1,437,000	Output.

*1.2.2 Provide services and infrastructure to control scientific, technical, and business related information, and increase the effectiveness of systems for locating and delivering information in the form required by customers. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Documents stored electronically (#) .....	44,290	175,000	425,000	Output.
Documents Reproduced from Electronically Stored Media (#) .....	78,481	150,000	300,000	Output.
System accessed (#) .....	15,279,953	23,000,000	25,000,000	Output.

*1.3 Conduct domestic and international policy analyses on issues affecting the research, development, and commercialization of technology and related issues affecting U.S. competitiveness and in partnership with industry, academia, and the States—develop policy options to improve U.S. economic growth, job creation and quality of life.*

*1.3.1 Monitor and assess what competitor nations are doing to support R&D and enhance their industrial competitiveness. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Publish reports and disseminate analysis of other nation's technology policies, to inform U.S. policy making and assist U.S. industry (#) .....	2	2	2	Output.

*1.3.2 Monitor and assess the technological strengths, weaknesses and barriers faced by U.S. industrial sectors, and translate those assessments into policy options with partners in industry, academia, and the States. (TA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Conduct roundtable discussions to obtain industry perspectives on high priority technology policy issues (#) .....	5	2	3	Output.
Conduct PACE events to foster technology partnerships between the Federal government, industry, and academia (#) .....	1	4	4	Output.
Undertake major advocacy effort to turn USOTP analysis into actions (#) .....	1	1	1	Output.

## 2.0 COLLECTING AND DISSEMINATING ENVIRONMENTAL INFORMATION

*2.1 Implement seasonal to interannual climate forecasts.*

NOAA's fiscal year 1999 budget request is \$2.12 billion, with 12,358 FTE.

*2.1.1 Deliver useful seasonal to interannual climate forecasts for the U.S. and collaborate in a multinational effort to generate and use similar forecasts; assess the impacts of climate variability on human activity and economic potential, and improve public education so that climate forecasts are understood and acted upon. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
ENSO forecasts:				
(Accuracy correlation) <sup>1</sup> .....	.81	.81	.81	Output.
Lead time (years) <sup>2</sup> .....	.50	.50	.50	Output.
U.S. Temperature prediction:				
Skill score (percent) <sup>3</sup> .....	19	20	20	Output.
Lead Time (years) .....	.50	.50	.50	Output.

<sup>1</sup> Accuracy is the pattern correlation of the forecast relative to actual conditions.

<sup>2</sup> Lead time is measured in years (e.g. 0.25 is one season).

<sup>3</sup> Skill score means 100 times the number of correct forecasts divided by the number of forecasts made (N), with adjustments for those cases where the actual conditions are equal to the climatological or random-choice expectation (E).

*2.1.2 Enhance global observing and data systems required to provide data for the initialization and validation of model predictions of seasonal to inter-annual climate variations. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
ENSO observing system operational (percent) .....		50	75	Output.
New and improved data sets developed and produced (#) .....	7	12	12	Output.

*2.1.3 Invest in process and modeling research that leads to improved predictability of temperature and rainfall distributions. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Continental Scale International Project research programs implemented (percent) .....	40	40	60	Output.
Global Ocean-Atmosphere-Land System (GOALS) experiments implemented (percent) .....	15	15	20	Output.

*2.2 Predict and assess decadal to centennial change.*

*2.2.1 Characterize the agents and processes that force decadal to centennial climate change; develop models for the prediction of long-term climate change, carry out scientific assessments, and provide human impacts information. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Operational ozone stations to measure greenhouse gases (#) .....	2	2	3	Output.

*2.2.2 Examine the role of the ocean as a reservoir of both heat and carbon dioxide to address a major source of uncertainty in climate models. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Completion of study in the North Atlantic to determine the air-sea carbon dioxide flux (percent) .....	10	50	100	Output.

*2.2.3 Ensure a long-term climate record by enhancing domestic and international weather networks, observing procedures, and information management systems; guide the rehabilitation of the ozone layer by providing the scientific basis for policy choices associated with ozone-depleting compounds. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Additional data sets developed and improved for detecting multi-decadal and multi-century changes and variations in climate (#) .....	16	15	15	Output.

*2.2.4 Provide the scientific basis for better air quality by improving the understanding of high surface ozone episodes in rural areas and by establishing a monitoring network to detect cleaner air quality. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Completion of initial state of science assessment for rural ozone chemistry (percent) .....	50	75	100	Output.
Completion of upgrade and operation of early detection of air quality stations (percent) .....	30	50	60	Output.

**3.0 PROTECTING INTELLECTUAL PROPERTY**

*3.1 Promote awareness of, and provide effective access to, patent and trademark information.*

PTO's fiscal year 1999 Salaries and Expenses spending will be \$785.5 million, with 6,358 FTE.

*3.1.1 Consistently achieve customer satisfaction by understanding and supporting customer needs. (PTO)*

	Baseline <sup>1</sup>	Fiscal year—		Key annual goal
		1998	1999	
Customer Satisfaction with Key Products and Services (percent) .....	84	.....	90	Outcome.

<sup>1</sup> For PTO, the Baseline is actuals from fiscal year 1996.

*3.1.2 Promote the use and accessibility of intellectual property information. (PTO)*

	Baseline <sup>1</sup>	Fiscal year—		Key annual goal
		1998	1999	
Customer Satisfaction with Ease of Access (percent) .....	84	.....	90	Outcome.
Top 100 Metropolitan Areas Served by Patent and Trademark Depository Libraries (percent) .....	55	55	58	Output.

<sup>1</sup> For PTO, the Baseline is actuals from fiscal year 1996.

*3.1.3 Develop the highest quality information products and services which deliver information when, where, and in the format needed. (PTO)*

	Baseline <sup>1</sup>	Fiscal year—		Key annual goal
		1998	1999	
Products and Services Meeting Schedules or Cycle Time Standards (percent) .....	63	63	80	Output.
Top 100 Metropolitan Areas Served by Patent and Trademark Depository Libraries (percent) .....	55	55	58	Output.

<sup>1</sup> For PTO, the Baseline is actuals from fiscal year 1996.

**4.0 PROMOTING AN ADVANCED TELECOMMUNICATIONS STRUCTURE**

*4.1 Support the development of a National Information Infrastructure that will be accessible to all Americans.<sup>10</sup>*

NTIA's fiscal year 1999 budget request is \$47.9 million, with 288 FTE.

<sup>10</sup> Precise measurement tools do not presently exist in this area; however, we are working with the telecommunications community to develop rational approaches to assessing these issues.

*4.1.1 Administer the Information Infrastructure Grants program of grants to assist State and local governments, universities and school systems, hospitals and other health care providers, and other social service entities. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increased number of entities connected to the NII (schools, libraries (percent increase) .....	40	75	90	Output.

*4.1.2 Improve the delivery of communications services and products to the public, through Executive Branch attention to the issues, legislative initiatives, and Federal Communications Commission (FCC) dockets. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Maintain in access for rural areas (percent) .....	95	95	95	Output.

*4.1.3 Improve the international competitiveness of the U.S. telecommunications industry and the ability of U.S. businesses and consumers to have access to high quality, reasonably-priced international services. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increased adoption of U.S.-supported standards .....				Outcome.

*4.2 Engage in technical research to improve telecommunications system planning, design, and evaluation and to support government and industry efforts in these areas.*

*4.2.1 Ensure that all government needs for vital telecommunications services can be satisfied nationally and internationally. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increased identification of new technologies for governmental application .....	60	80	80	Output.

*4.2.2 Ensure that the educational and cultural benefits of public broadcasting are available to as many people as possible; educational entities are able to use a variety of telecommunications technologies to improve the effectiveness of distance learning; minorities and women have increased access and control of public telecommunications; and blind and hearing-impaired persons are able to participate more fully in society through the use of telecommunications. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Develop international Internet standards for content identification and promote their use as a non-governmental solution to cross-border policy issues .....			1	Output.

### 5.0 COLLECTING AND DISSEMINATING ECONOMIC AND DEMOGRAPHIC DATA

5.1 Provide Gross Domestic Product and related national, regional, and international economic statistics in the most accurate, timely, cost-effective, and easily accessible way possible.

ESA's fiscal year 1999 budget request is \$53.7 million, with 570 FTE. Census' fiscal year 1999 is \$1.19 billion, with 16,510 FTE.

5.1.1 Reduce respondent burden and increase accuracy and timeliness through electronic filing of BEA's surveys of direct investment and international services. (ESA)

5.1.2 Increase accuracy, reliability, and timeliness, across the national, regional, and international programs, through standardized data transfer and on-line interactive editing and processing systems for source data. (ESA)

		Fiscal year—			Key annual goal
		1997	1998	1999	
Increase accuracy, reliability and timeliness across national regional and international programs.	Retired mainframe computer after migrating over 90 applications to local area network.		Re-engineer at least 20 of the highest priority computer applications to improve timeliness, quality, and accessibility of BEA's data by better utilizing new system capabilities..	Expedite re-engineering of remaining computer applications in priority order.	Outcome.

5.1.3 Increase the timeliness and accessibility of data products to a wide range of customers through Internet and other electronic gateways. (ESA)

		Fiscal year—			Key annual goal
		1997	1998	1999	
Analyses on near term prospects and composition of economic activity in U.S .....		50	50	50	Outcome.
Provide focal point for data dissemination:					
Internet subscriptions .....		7,000	8,000	9,300	Outcome.
Internet site licenses .....		700	800	925	Outcome.

5.2 Provide products and services of greater value and satisfaction to Census national and local information base customers.

5.2.1 Develop customer- and market-driven Census products. (ESA)

		Fiscal year—			Key annual goal
		1997	1998	1999	
Surveys converted to North American Industrial Classification Code System (NAICS) (percent) .....				70	Output.
Business register converted to NAICS (percent) .....				100	Output.
Releases of Principal Federal Economic Indicators (#):					
Monthly .....		10	10	10	Output.
Quarterly .....		3	3	3	Output.

5.2.2 Provide easier access to, and greater customer satisfaction with, Census products and services. (ESA)

		Fiscal year—			Key annual goal
		1997	1998	1999	
NAICS-based 1997 census reports released (# and percent) ... ..				350/50	Output.

	Fiscal year—			Key annual goal
	1997	1998	1999	
Publish 1998 American Community Survey results .....			9	Output.
Participation in the American Community Survey (ACS) (# of sites) .....			40	Output.

*5.3 Provide information on economic events and the workings of the economy.*

*5.3.1 Provide information, analyses and guidance on pending economic policy decisions. (ESA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Analyses on the near-term prospects and composition of economic activity in U.S. (#) .....	50	50	50	Output.
Analyses and reports on capability and utilization of small, disadvantaged businesses .....				Output.
Policymakers provided with comprehensive, accurate and timely assessments on the economy .....				Output.
Policymakers provided with bases for determining levels of minority business participation in Federal procurement programs .....				Output.
Major studies, working paper and reports on U.S. industrial performance .....	12	12	12	Output.

*5.3.2 Provide a focal point for data dissemination bringing together business, economic, and trade statistics in formats that are easy to use and located at a "one-stop shop." (ESA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
STAT-USA Internet subscriptions (#) .....	7,000	8,000	9,300	Output.
STAT-USA Internet site licenses .....	700	800	925	Output.
National Trade Data Bank free distribution to Federal Depository Libraries .....	1,091	1,091	1,091	Output.

**6.0 EXPAND OPPORTUNITIES THROUGH EXPORTS**

*6.1 Employ ITA's comprehensive industry sector, technical, and country information bases to counsel U.S. firms (especially small and medium-sized firms) on appropriate export strategies, and provide comprehensive and up-to-date information to these firms to support business strategies, and related analyses to the USTR for trade negotiations.*

ITA's fiscal year 1999 budget request is \$286.5 million, with 2,329 FTE.

- 6.1.1 *Expand and enrich ITA's general trade, industry sector, technical, and country information, and increase their utility to ITA's industry clients' export decision making. (ITA)*
- 6.1.2 *Broaden and improve ITA's information distribution network (e.g., use of the Internet, increased support of the National Trade Data Bank, etc.) to ensure that information reaches a larger universe of small- and medium-sized companies in a more timely fashion. (ITA)*
- 6.1.3 *Expand and improve marketing activities undertaken to make ITA's clients more aware of ITA's extensive information resources. (ITA)*
- 6.1.4 *Complete identification of the trade agreements negotiated by the U.S. and construct a searchable database of these agreements. (ITA)*
- 6.1.5 *Continue to update the Commercial Service's client contact and management system, and migrate the client information to a widely-used and robust application platform to maintain our ability to provide trade and economic data worldwide. (ITA)*

	Fiscal year—			Key annual goal
	1997 <sup>1</sup>	1998	1999	
Matching services (#) .....	1,384	1,410	1,410	Output.
Custom agency reports (#) .....	14,938	17,372	17,648	Output.
Satisfied customers (percent) <sup>2</sup> .....	.....	.....	.....	Output.
Reports distributed (#) .....	502,425	524,242	542,619	Output.
New-to-export firms (#) .....	10,021	10,541	10,649	Outcome.
New-to-market firms (#) .....	33,957	35,339	36,806	Outcome.
Value of gross exports supported (\$) <sup>3</sup> .....	.....	.....	.....	Outcome.
Gross jobs supported (#) <sup>3</sup> .....	.....	.....	.....	Outcome.
Firms that actually export (percent) .....	30	32	32	Outcome.

<sup>1</sup>The measures presented below display aggregate data for all of the five ITA "objectives" listed above.

<sup>2</sup>ITA is examining several survey methodologies aimed at accurately measuring customer satisfaction.

<sup>3</sup>ITA's efforts to quantify "additionality" (i.e. value added from its trade programs) and the related performance measures listed above ("Dollar value of gross exports supported" and "Number of gross jobs supported") although focused, remain a work in progress.

*6.2 Restructure export controls for the twenty-first century, and facilitate transition of defense industries.*

BXA's fiscal year 1999 budget request is \$52.2 million, with 433 FTE.

*6.2.1 Implement the Nation's encryption export policy. (BXA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Encryption commitment plan and progress report (#) .....	37	41	40	Output.
Encryption key recovery agent reviews (#) .....	9	50	100	Output.

*6.2.2 Oversee domestic implementation of the Chemical Weapons Convention (CWC) by the business community. (BXA)<sup>11</sup>*

	Fiscal year—			Key annual goal
	1997	1998	1999	
CWC inspections (#) .....	.....	.....	40	Output.
CWC facility agreements (#) .....	.....	.....	140	Output.
Data declarations processed (#) .....	.....	.....	2,000	Output.

<sup>11</sup>The CWC is a new activity for BXA.

6.2.3 Promote U.S. economic security, technological competitiveness, and defense diversification. (BXA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Strategic industry analyses (#) .....	716	485	485	Output.
Value of facilitated exports (\$B) .....	2.3	5.0	5.0	Outcome.

7.0 PROVIDING ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS

7.1 Help both rural and urban communities incorporate technology as a tool for their economic development.<sup>12</sup>

EDA's fiscal year 1999 budget request is \$398.0 million, with 285 FTE.

7.1.1 Help distressed communities plan for technology-led economic development. (EDA)

7.1.2 Help distressed communities build infrastructure necessary for technology-based economic development, including business incubators, industrial technology research centers and laboratories, technical skills training centers, and entrepreneurial development centers. (EDA)

7.1.3 Provide technical assistance to communities to develop the networks and linkages necessary for technology-based economic development, including the creation of electronic networks and trade and commerce organizations. (EDA)

	Fiscal year—			Key annual goal
	1997	1998	1999	
Technology-based Economic Development. ....		Technology-based economic development projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Technology-based economic development projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Outcome.

CHAPTER 4—C: STEWARDSHIP OF RESOURCES AND ASSETS

(PERFORMANCE MEASURES)

Chapter 4—C sets forth goals, objectives, and performance measures for program activities described in Chapter 3 and links them to our budget request.

Chapter 4—C of the Annual Performance Plan contains goals, objectives, and quantitative performance measures pertaining to economic infrastructure. The performance measures in Chapter 4—C are numbered to correspond to the goals and objectives discussed in Chapter 3.

1.0 PROTECT OCEAN AND COASTAL RESOURCES

1.1 Build sustainable fisheries that increase the Nation's wealth and quality of life, support increased fishing industry job opportunities, improve the safety and wholesomeness of seafood resources, and expand recreation opportunities.

NOAA's fiscal year 1999 budget request is \$2.12 billion, with 12,358 FTE.

<sup>12</sup>The measurements below apply to all objectives under Goal 7.1.

*1.1.1 Assess the status of fishery resources, to improve the scientific basis for policy decisions, including the elimination of overfishing, the rebuilding of overfished stocks, the conservation of fish habitat, and the minimization of bycatch-related mortality; advance fishery predictions through research and applications. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Fish stocks assessed (of 231 identified) (percent) .....	79	79	79	Output.
Completion of information technology procurement (percent) ..	85	90	95	Output.

*1.1.2 Manage for economic growth and sustainable fisheries by working with Fishery Management Councils, foreign nations and others to plan for reducing excessive fishing and capital investment; provide research and services for fishery-dependent industries to maximize the potential benefits from the Nation's marine resource. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Fishery Management Plans with controlled access implemented (#) .....	25	26	27	Output.
Magnuson-Stevens Act requirements met (percent) .....			20	Output.

*1.1.3 Ensure adequate compliance with fishery regulations. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Fleets using vessel monitoring systems for spatial/temporal regulations (#) .....	3	3	5	Output.

*1.2 Recover protected species through conserving marine species, recovering those in danger of extinction, and maintaining healthy marine ecosystems upon which they depend.*

*1.2.1 Assess the status of, and impacts to, protected species. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Annual investigations of mortality of protected species (#) .....	7	10	10	Output.
Annual review of conservation program status (#) .....	11	7	11	Output.

*1.2.2 Develop and implement conservation and recovery plans for depleted marine mammals and endangered and threatened species. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Cumulative recovery plans developed (#) .....	10	25	25	Output.
Annual recovery plan priority activities implemented (#) .....	8	8	15	Outcome.
Annual species with status improved (#) .....	12	16	15	Outcome.
Cooperative conservation programs implemented (#) .....	4	10	10	Output.

*1.3 Sustain healthy coasts to promote more productive and diverse habitats for fish and wildlife, cleaner coastal waters for recreation and the production of seafood, and achieve sustainable economies for coastal communities based on well-planned development and healthy ecosystems.*

*1.3.1 Protect, conserve and restore coastal habitats and their biodiversity. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Acres of coastal habitat restored (#) .....	12,000	26,000	43,000	Outcome.
Resource damage cases settled (#) .....	26	29	32	Output.
Interagency restoration projects (#) .....	16	20	55	Output.
Fishery management plans with essential fish habitat provisions (#) .....		1	8	Output.
Coastal management tools improved (#):				
Monitoring .....	8	10	12	Output.
Remote sensing .....	7	7	7	
Ecosystem models .....	6	7	7	

*1.3.2 Promote clean coastal waters to sustain living marine resources and ensure safe recreation, healthy seafood and economic vitality. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Coastal states with approved nonpoint pollution programs (of 35) (percent) .....	77	83	91	Output.
Coastal states with implemented nonpoint pollution programs .....			20	Output.
Percent of the 40 largest U.S. coastal ecosystems with:				
Reduced risk from hazardous chemicals .....	15	20	25	Outcome.
Water quality assessments .....	20	25	28	
Toxics assessments .....	20	25	28	

*1.3.3 Foster well-planned and revitalized coastal communities that sustain coastal economies, are compatible with the natural environment, minimize the risks from nature's hazards, and provide access to coastal resources for the public's use and enjoyment. (NOAA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Coastal states with approved coastal management programs (of 35 states) (percent) .....	89	94	97	Output.
Number Coastal management tools improved for:				
Natural hazard risk assessment .....	2	2	7	Outcome.
Coastal hazard mitigation .....			5	

## 2.0 MANAGING INTELLECTUAL PROPERTY

*2.1 Grant exclusive rights, for limited times, to inventors for their discoveries, and enhance trademark protection.*

PTO's fiscal year 1999 Salaries and Expenses spending will be \$785.5 million, with 6,358 FTE.

*2.1.1 Maximize the business contribution of patents by reducing cycle time for inventions, reengineering business processes, achieving electronic processing of patent applications, assessing fees commensurate with resource utilization and customer efficiency, and exceeding customer expectations through the competencies and empowerment of employees. (PTO)*

	Baseline <sup>1</sup>	Fiscal year—		Key annual goal
		1998	1999	
Original invention filings (#) .....	158,427	191,700	201,300	Output.
Applications disposed (#) .....	180,196	194,600	218,700	Output.
Applications disposed per examiner FTE (#) .....	87.2	87.2	89.4	Output.
Average cycle time of original inventions processed (months) .....	14.6	15.7	13.8	Outcome.
Original inventions achieving 12 Month or less cycle time (percent) .....	47	50	75	Outcome.
Customer satisfaction (percent) .....	50	57	65	Outcome.
Employee satisfaction (percent) .....	41	65	70	Outcome.

<sup>1</sup> For PTO, the Baseline is actuals from fiscal year 1996.

*2.1.2 Maximize the business contribution of trademarks by reducing pendency time, implementing reengineered processes, and transforming trademark processing into a fully electronic operation. (PTO)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Trademark applications filed (#) .....	200,640	250,000	275,000	Output.
Applications disposed per FTE (#) .....	221	206	204	Output.
Pendency to first action (months) .....	5.9	5.9	3.9	Output.
Pendency time to disposal/registration (months) .....	16.5	16.0	15.5	Output.
Customer satisfaction (percent) .....	64	70	80	Outcome.
Employee satisfaction (percent) .....	42	65	75	Outcome.

### 3.0 SUPPORT THE DEVELOPMENT OF INFORMATION TECHNOLOGY

*3.1 Promote the development of an advanced telecommunications and information infrastructure to efficiently serve the needs of all Americans, create job opportunities for American workers, and enhance the competitiveness of U.S. industry in the global marketplace.*

NTIA's fiscal year 1999 budget request is \$47.9 million, with 288 FTE.

*3.1.1 Set policies for efficiently and effectively managing the federal use of the radio spectrum, and prepare for international radio spectrum-setting conferences of the International Telecommunications Union (ITU). (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Long-range plans to meet public safety and emergency needs .....	1	( <sup>1</sup> )	( <sup>1</sup> )	Output.

<sup>1</sup> Amendment.

*3.1.2 Support the development of a National Information Infrastructure (NII) that will be accessible to all Americans. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Development of models for utilization of the information infrastructure (# reports) .....	1	1	1	Output.

*3.1.3 Promote national policies to increase competition and efficient investment in telecommunications and information industries, enhance consumer welfare and economic and social opportunities for all, and remove impediments to the growth and vitality of these sectors. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increase in the national average for telephone penetration (percent) .....	93.9	94	94.1	Output.

*3.1.4 Administer the Information Infrastructure Grants program which provides grants to assist State and local governments, universities and school systems, hospitals and other health care providers, and other social service entities. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Increase numbers of entities connected to the NII (percent) ...	40	75	90	Output.

*3.1.5 Ensure that all government needs for vital telecommunications services can be satisfied nationally and internationally. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Engineering reviews .....	60	80	80	Output.

*3.1.6 Ensure that the educational and cultural benefits of public broadcasting are available to as many people as possible, educational entities are able to use a variety of telecommunications technologies to improve the effectiveness of distance learning, minorities and women have increased access and control of public telecommunications, and blind and hearing-impaired persons are able to participate more fully in society through the use of telecommunications. (NTIA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Develop international Internet standards for content identification and promote their use as a non-government solution to cross-border policy issues .....			1	Outcome.

**4.0 ECONOMIC ASSISTANCE TO DISTRESSED COMMUNITIES**

*4.1 Enable communities that have acquired military installations during the recent defense downsizing to convert their use to civilian functions for local economic benefit.*

EDA's fiscal year 1999 budget request is \$398.0 million, with 285 FTE.

- 4.1.1 *Help communities design and implement strategies for adjusting to base closures or natural disasters that are causing, or threaten to cause, serious structural damage to the underlying economic base. (EDA)*
- 4.1.2 *Help communities replace, transform or expand infrastructure facilities of military installations to retain or create substantial employment potential. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Defense Adjust- ment.		The Defense Adjustment program uses the tools available under EDA's other programs, especially the Economic Adjustment program. Outcomes are measured as part of total program performance.	The Defense Adjustment program uses the tools available under EDA's other programs, especially the Economic Adjustment program. Outcomes are measured as part of total program performance.	Outcome.

4.2 *Enable communities to achieve long-term economic recovery from the devastation of their productive resources by natural disasters.*

- 4.2.1 *Help communities adversely affected by natural disasters to improve their capacity for economic recovery or adjustment. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Disaster Assist- ance.		Disaster assistance projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Disaster assistance projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Outcome.

4.3 *Enable distressed communities to practice and implement sustainable economic development.*

- 4.3.1 *Help communities develop an integrated approach that incorporates early local planning, full participation of stakeholders, and a comprehensive strategy to conserve resources and sustain community and quality of life. (EDA)*
- 4.3.2 *Help communities redevelop Brownfields. (EDA)*
- 4.3.3 *Help distressed communities develop eco-industrial parks and respond to economic dislocation caused by national environmental policies. (EDA)*

	Fiscal year—			Key annual goal
	1997	1998	1999	
Sustainable De- velopment.		Sustainable development projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Sustainable development projects are funded under EDA's regular program authorities. Outcomes are measured as part of total program performance.	Outcome.

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

*Answer.* In preparation for fiscal year 1999, each bureau was tasked with developing a balanced set of performance measures which contained output as well as out-

come measures. These measures are contained in our Fiscal Year 1999 Annual Performance Plan and in our budget justifications.

*Question.* Do you have the technological capability of measuring and reporting program performance throughout the year on a regular basis, so that the agency can be properly managed to achieve the desired results? If so, who has access to the information—senior management only, or mid and lower-level program managers, too? Are you able to gain access easily to various performance-related data located throughout your various information systems?

*Answer.* As is true for all agencies, the sources, reporting periods, reporting systems, and access to the systems containing our data vary. Some information is available on an ongoing basis, while other data are produced only annually. Under GPRA, our initial emphasis has been on assuring that data are available at least on a schedule that ties to the budget analysis cycle.

Most information is at the senior program official level, but is available to the bureau and Departmental planning/budgeting process as needed, for GPRA purposes.

*Question.* The GPRA requires that your agency's Annual Performance Plan establish performance goals to define the level of performance to be achieved by each program activity set forth in your budget.

Many agencies have indicated that their present budget account structure makes it difficult to link dollars to results in a clear and meaningful way. Have you faced such difficulty? Would the linkages be clearer if your budget account structure were modified? If so, how would you propose to modify it and why do you believe such modification would be most useful both to your agency and to this committee than the present structure? How would such modification strengthen accountability for program performance in the use of budgeted dollars?

*Answer.* We are able to link our budget structure to our set of goals and objectives at the bureau or account level. However, since many of our bureaus/accounts contain more than one program for which there are goals and objectives, we are among the agencies lacking an information system or cost accounting system which can support an exact tie between our program resources and our program accomplishments at a detailed level.

We believe that the improvements needed fall into the areas of information or cost accounting systems, rather than changes in the budget account structure, are needed. Therefore, we have two system development initiatives underway. First, we are developing the Commerce Administrative Management System (CAMS), a Department-wide approach to integrating all management systems into a single relational database, revolving around a Core Financial System (CFS). We are also creating a Budget Formulation and Tracking System, which will automate the budget formulation process and link it fully with CAMS and program planning/measuring activities.

*Question.* Under one of the new accounting standards recommended by the Federal Accounting Standards Advisory Board (FASAB) and issued by the Office of Management and Budget, this year for the first time all Federal agencies are required to have a system of Managerial Cost Accounting.

The clearly preferred methodology for such a system, as stated in that standard, is the one known as "Activity-Based Costing (ABC)," whereby the full cost is calculated for each of the activities of an agency. What is the status of your agency's implementation of the Managerial Cost Accounting requirement, and are you using Activity-Based Costing?

*Answer.* All of the bureaus in the Department of Commerce have already met the requirements of the FASAB cost accounting standard, but in some cases they are using manual systems. All of our bureaus will eventually implement an automated cost accounting system and adopt ABC. In fact, an ABC-capable module is included in the new CFS that we are intending to implement Department-wide after a thorough pilot at the Bureau of the Census. We expect to implement the CFS cost accounting module systematically as part of bureau implementation of the Department's CFS.

*Question.* Will you be able in the future to show to this committee the full and accurate cost of each activity of each program, including in those calculations such items as administration, employee benefits, and depreciation?

*Answer.* The systems we are implementing are designed to capture the "full" cost of an output as defined in the FASAB standard. By definition full costs include such items as administration, employee benefits, and depreciation. All of the bureaus now have in place sufficient systems that can consistently and regularly provide the full and accurate cost of each program.

*Question.* By doing so, would we then be able to see more precisely the relationship between the dollars spent on a program, the true costs of the activities conducted by the program, and the results of these activities?

Answer. Yes, the relationships between dollars spent on a program, cost of activities and results are presently available from all of the bureaus and are currently being costed out. However, there is a distinction in how this process takes place in each of the bureaus. Some of the bureaus have automated this process and some can only perform it on a manual basis.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that: To what extent are your performance measures sufficiently mature to allow for these kinds of uses? Are there any factors, such as inexperience in making estimates for certain activities or lack of data, that might affect the accuracy of resource estimates?

Answer. We believe that the performance measures provided in our budget justifications and Annual Performance Plan comprise a useful basis for negotiating our funding needs with the Congress, and we look forward to an ongoing discussion over these measures. We believe that most of them are sufficiently mature to allow for funding decisions to be made.

At the same time, we are among the agencies with programs that are difficult to measure in simplistic ways. For example, we are active in the Research Round Table, the group of agencies with long-term scientific Research and Development (R&D) programs which has evolved an "Alternate Format" to the performance measurement processes used by easier-to-measure programs. The "Alternative Format" is based on peer review, tailored interim measures which are relevant to this specific type of science, and supportive data. For fiscal year 1999, we propose to use this format in some of our research programs at the National Institute of Science and Technology. In addition, we believe that there are other program areas which require longer periods in order for results to become clear (including economic development and environmental preservation) or which have multiple sources of input and impact (such as law enforcement and international trade).

We believe that our resource estimates have been highly accurate over time. The occurrences of changing estimates has been localized to topics of emerging knowledge (such as the Weather Service Modernization effort) or "first-time-ever" initiatives where there are no estimating benchmarks to rely on.

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions in your strategic plan issued on September 30, 1997?

Answer. We do not see the need for substantive changes to our Strategic Plan at the present time. The process of developing an effective Strategic Plan is a difficult one, and the Plan we provided to the Congress in September 1997 contains the goals and objectives we will use for managing our programs over the next few years. We are prepared to revise the Commerce Strategic Plan in three years, as required under the Act.

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#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* On Tuesday, March 3, 1998, Treasury Secretary Rubin and Federal Reserve Chairman Greenspan testified before the Appropriations Foreign Operations Subcommittee. A good part of their testimony focused on how the IMF's conditions for receiving financial assistance will result in further opening of Asian economies like Thailand, Indonesia, and South Korea.

What actions will the Department of Commerce and the International Trade Administration be taking to make the most of this market-opening opportunity for the American business community?

Answer. The Commerce Department and ITA took steps early on to ensure that the financial crisis in Asia would not deter market access for U.S. businesses. We conducted a fact-finding mission to Asia in order to assess the situation first hand. In January, Ambassador David Aaron, Under Secretary for ITA, announced the Commerce Department's four-point initiative to help the U.S. business community deal with the crisis and to continue to successfully do business there. Our four-point program includes:

- Mounting a comprehensive effort to assemble analysis and market information to help companies keep abreast of the rapidly changing Asian landscape. This analysis, prepared by Senior Commercial Officers of the U.S. and Foreign Commercial Service (US&FCS) based in Asia, is distributed to US&FCS export assistance centers and ITA's Trade Information Center to use in ongoing counseling efforts.
- Increasing the number of high-level visits to key Asian countries for fact-finding and to ensure that markets remain open to U.S. firms.
- Increasing the number of major conferences and seminars to be held in cities across the country that will focus on issues critical to companies by providing

updated economic information, lessons learned by other companies who continue to be successful in Asia, and advice on how exporters can overcome the current difficulties and continue their Asian business operations.

—Establishing a special Asian information program within the Department's Trade Information Center (tel. 1-800-USA-TRADE), that will make all Commerce Department information on Asia easily accessible to U.S. exporters.

In conjunction with this four point initiative, the Department's Senior Commercial Officers (SCO's) in the ASEAN markets of East Asia met last month to develop a region-wide strategy for reporting on the crisis and counseling U.S. firms. Additionally, all East Asia SCO's are meeting with Departmental management in Los Angeles this month. In concert with other export-promoting agencies like the Trade and Development Agency and Ex-Im Bank as well as local multipliers like American Chambers of Commerce, the commercial sections have developed a joint approach to informing and guiding U.S. companies active in the host-country market or seeking new business opportunities. The commercial sections counsel U.S. companies on getting paid during the crisis, but also on taking advantage of the dollars' strength to pursue mergers and acquisitions opportunities, and provide guidance on the changes brought about by the crisis itself and by host-country compliance with IMF programs. We are also monitoring the effects of the crisis on trade barriers and developing case studies of its impact on various industry sectors. In addition, our commercial sections are electronically submitting dozens of up-to-the-minute reports, promptly downloaded to the Internet, detailing the impact of the crisis on American business.

Our Import Administration unit's Subsidy Enforcement Office is stepping up its enforcement efforts, particularly in light of the Asian financial crisis, to closely monitor the economic policies of IMF funding recipients to ensure that they do not unfairly increase exports through export or production-related subsidy programs. The focus of this monitoring is to ensure compliance with the subsidy-related conditions of the IMF rescue packages and to uncover potential subsidy programs that may be actionable under U.S. countervailing duty law or the WTO Subsidies Agreement.

For the time being and near future, we have scheduled the following outreach events which will focus on Asia:

- The Asia Pacific Business Outlook Conference in Los Angeles (March 16-18), with the University of Southern California as partner;
- The ASEAN Ambassadors and Senior Commercial Officers' Tour (June 1-16), which will visit Phoenix, Kansas City, Greenville, SC, Washington, DC, and New York City, with the U.S.-ASEAN Business Council and Department of State as partners;
- The Korea Caravan (June 1-12), which will visit Chicago, Cleveland, Cincinnati, Columbus, Detroit, Omaha, St. Louis, Dallas, Houston, and Denver, with the Korea Economic Institute and Department of State as partners; and
- Several seminars have been scheduled in Fort Lauderdale, Florida, Portland, Oregon, and Durham, North Carolina.

#### OPENING OF ASIAN ECONOMIES

*Question.* What new opportunities do you see this opening of Asian economies presenting to small and mid-sized American companies?

*Answer.* In spite of the crisis, Asian governments will selectively continue financing major projects to which U.S. firms are well-positioned to contribute because of their recognized expertise. This is especially true in the construction, environmental, information-technology and power-production sectors, in countries like Korea, Malaysia, the Philippines and Thailand. Even as the nations affected by the crisis seek to increase their exports, they need to import indispensable materials and components, as well as the latest technology—all of which often come from U.S. suppliers. U.S. firms willing to accept delayed payments over the short term and to bring financing or take an equity position in certain projects can actually do better now than before the crisis. Service providers in the high-tech sector are in demand, but may have to adjust their clients' payment schedule. U.S. software firms, in particular, are making headway in the Asian markets, especially with customized products to banks and other finance-based corporations. In general, U.S. firms can benefit from the trend toward outsourcing services by local companies forced to downsize. U.S. companies can also expand or maintain their presence by importing to the country of destination and selling to their distributors in the local currency. Chain convenience stores, too, remain accessible and eager customers for U.S.-made consumer goods.

Furthermore, the IMF packages are different for each country, yet in every case, the reforms are intended to strengthen the Asian economies over the longer term.

In the case of Indonesia, if reforms are implemented as pledged, this would result in the ultimate elimination of many monopolies and cartels, remove most Government support for national car and national airplane projects, and rationalize tariffs and remove non-tariff barriers. Such changes would create further business opportunities for U.S. firms while producing a more open, transparent market in which to do business.

In Thailand, many firms are re-evaluating their plans because of the economic turmoil. However, reports of international companies' expanding or looking for opportunities to expand operations are surfacing. The General Electric Capital's announcement of the acquisition of a 49 percent stake in Asia Finance Public Company is an example. Foreign investment opportunities will also result from the Thai government's planned privatization of state-owned enterprises.

In Korea, the IMF program has resulted in new opportunities for American firms in certain industries. The program for Korea will increase long-term opportunities in the financial services sector, since ceilings on foreign equity are being removed, and financial service commitments made in the OECD are being bound in the WTO. The IMF program should also have a broad impact on the general transparency and openness to imports of the Korean system.

In a review of the impact of the IMF program on Korea's environmental sector, it was noted that although existing government projects will be affected by the won's devaluation, domestic environmental companies will continue to need the latest technology, much of which can come from the United States. In addition, the new government is committed to refocusing attention on the environmental sector, providing new opportunities for American firms.

The Department of Commerce will assist American companies to take advantage of opportunities which might present themselves through aggressive advocacy, up-to-date information on Asian markets, working through the TPCC to discover additional financing mechanisms, and in any other effective manner.

#### COLORADO'S ROLE IN U.S. COMPETITIVENESS

*Question.* My home state of Colorado is geographically fortunate. It is geographically centrally located in between America's Eastern and Western Seaboards. It is also roughly geographically equal-distant between Europe and Asia. Furthermore, Denver is also home to a new, state of the art airport, Denver International Airport (DIA). Colorado also has a highly skilled and internationally oriented workforce. These collective attributes give Colorado key strengths that the United States needs to compete in the increasingly competitive international economy.

Do you agree that these factors enable Colorado to play a key role in advancing our national economic competitiveness?

*Answer.* The factors cited are definite advantages that Colorado has for competing internationally. The location, highly skilled work force, and well organized airport should encourage exporting.

However, each of these factors is complex. Despite Colorado's proximity to Mexico, this southern neighbor ranked ninth among Colorado's export markets in 1996. This was an improvement over the previous year, but it appears our Colorado-based Export Assistance Centers could place more emphasis on Colorado exporters looking at Mexico as a potential market.

Japan last year purchased one-sixth of Colorado's \$6 billion in exports, including high-tech, medical equipment and technology, consumer goods, and beef. It is possible the financial turmoil in Japan and other Asian countries could make those markets more difficult to penetrate during 1998, despite our increased efforts to assist Colorado exporters in those markets. However, there is still strong Colorado exporter interest in Asia which should provide long-term positive results. On March 3, the Department of Commerce's office in Denver, the U.S. Export Assistance Center (USEAC), organized a seminar for the World Bank and the four regional multi-lateral development banks. The USEAC brought officials from bank headquarters in Manila, London, and Washington, DC to Denver to brief Colorado companies on business opportunities through \$45 billion worth of development bank-funded projects. The Asian Development Bank received the highest interest among the 110 attendees.

Canada is another country which offers a potentially lucrative market for many Colorado exporters. Until recently, activities by the USEAC in Denver and the Colorado International Trade office (which cooperate very closely to maximize scarce resources) met with limited success in their programs to promote exports to Canada. However, in the summer of 1997, the USEAC sponsored a series of meetings in Colorado Springs and Denver with the U.S. Commercial Attaché in Toronto and a commercial officer from the Canadian Consulate General in Minneapolis, which covers

Colorado, on the advantages of exporting to Canada. Eighty companies attended these seminars and, several months later, three Colorado companies participated in Canadian trade shows to locate distributors for their products—pet store equipment and apparel. Two of these small firms (one from Colorado Springs and the other from Denver) made sales and found Canadian distributors. As a follow-up, our Senior Commercial Officer for Canada, Mr. Dale Slaght, will participate in World Trade Day on May 19–20 in Denver, sponsored by the World Trade Center and the Export Assistance Center. Following this two-day event, Mr. Slaght will travel to the Western Slope for meetings with exporters from Glenwood Springs to Montrose. Similarly, the Director of our Trade Center in Mexico City will participate in World Trade Day and meet with Colorado exporters to discuss the Mexican market.

With respect to the Denver International Airport, the lack of international flights into DIA and dissolution of a strong state tourism authority in Colorado have impacted the level of international tourism to the state. However, I hope the current direct British Air flights from London to Denver will be followed by similar agreements for other cities in the future.

*Question.* What actions can the Department of Commerce and the ITA take to further develop this potential, both for Colorado and for the Nation as a whole?

*Answer.* The Department is committed to developing our country's strengths. Our USEAC, in Denver, which also includes the Small Business Administration's International Office and the Export-Import Bank, has ten employees and three offices that include assisting exporters in four states (and part of a fifth).

In addition to continuing to serve our traditional constituency, the Denver USEAC has begun to focus on the historically under-served populations in Colorado and the three neighboring states for which it has responsibility. In summer of 1997, the USEAC began regular visits to Western Slope companies. As a result, we held an exporting seminar there in December and will open an associate office, known as the Export Center, in Montrose to serve Western Colorado. We also anticipate the opening of one associate office in Wyoming this summer.

Our international trade specialists often visit exporters in their factories or offices. In California or New York, our specialists can drive from one appointment to another within minutes. In Colorado, a round-trip air fare to Grand Junction or Pueblo can cost \$300 to \$350. To enhance our capabilities in these regions outside Denver, the USEAC is leading a Rural Initiative that will place Internet access, the National Trade Data Bank (a goldmine of international market information for exporters) and other tools for Electronic Commerce, to assist isolated exporters. Our trade specialists will also travel to these associate offices regularly to provide face-to-face export advice.

During the last fiscal year the Denver USEAC assisted 150 companies from 4 states to make at least 260 foreign sales that they would not have made without USEAC help.

During the week of April 6, our director Nancy Charles-Parker will visit your office to brief you and your staff on our services, which can be of considerable assistance to your constituents. We will provide "success stories" documenting how our staff have facilitated specific export sales, through information, our commercial network in 70 foreign countries, advocacy, trade missions and shows, and market access assistance. Additionally, Ms. Charles-Parker will participate in the Reservation Economic Summit in Denver, April 7–9. The USEAC will participate in an exporting workshop and have a booth on services for Native American exporters.

#### COLORADO FOREIGN TRADE ZONES [FTZ'S]

*Question.* What about establishing a portion of Colorado as an International Trade Zone in order to promote international trade?

*Answer.* Foreign-trade zones are designated sites licensed by the Foreign-Trade Zones Board that allow domestic activity involving foreign items to take place prior to formal Customs entry; duty-free treatment is accorded items that are re-exported and Customs duty evaluations on items sold in the U.S. market are deferred until the items leave the zone, thus, offsetting Customs advantages available to overseas producers who compete with producers located in the United States. Foreign-trade zones have a very positive impact in that they: help facilitate and expedite international trade; encourage and facilitate exports; help domestic plants improve their competitiveness with foreign plants; assist state/local economic development efforts; and help create employment opportunities. The FTZ regulations, application guidelines, locations of zones and contact persons, details of FTZ Board actions, and other general information can be found on the Import Administration Web site under Foreign-Trade Zones: [www.ita.doc.gov/import\\_admin/records/](http://www.ita.doc.gov/import_admin/records/).

Colorado has two foreign-trade zones in the following locations:

—Denver (since 1985); sponsored by the City/County of Denver. This zone consists of two general-purpose sites: a warehouse facility in Denver, as well as a site at the Denver International Airport. (Contact person—Randy Moore 303-640-7100).

—Colorado Springs (since 1984), sponsored by the Colorado Springs Foreign-Trade Zone, Inc. The zone consists of a site located at the Colorado Center planned industrial park, adjacent to the Colorado Springs Municipal Airport. A sub-zone site was approved for Apple Computer, but it is inactive. (Contact person—Robert Scott 719-471-8183).

Zone sponsors may apply to expand their zones. To do so, expansion sites must be in an eligible location, and applicants must demonstrate a need, a net positive economic effect and consistency with public trade and economic development policy.

#### BUSINESS RELATIONSHIPS WITH RUSSIA

*Question.* I would like to bring to your attention the activities of the Russian-American Chamber of Commerce, based in Denver, Colorado. As a member of their American Advisory Council, I have first-hand familiarity with their many successes. The Russian-American Chamber of Commerce is also distinguished by the fact that it is located far outside of the Washington D.C. beltway.

The Russian-American Chamber of Commerce has achieved prominence as a key national advocate favoring the expansion of U.S.-Russian commercial relations and has played a significant role in the \$5 billion American companies have invested in Russia today.

In the summer of 1997, during the Denver Summit of the Eight, the Russian-American Chamber of Commerce hosted President Yeltsin for a business roundtable with key American companies. It was the only meeting, outside of the official Summit of Eight activities, that President Yeltsin granted. This meeting resulted in a billion dollar joint venture that is stimulating economic development and creating jobs and income for both Russia and America.

*Question.* How high a priority does the Commerce Department place on America's business partnership with Russia?

*Answer.* The Department of Commerce places very high priority on significantly expanding trade and investment with Russia and devotes considerable resources toward improving market access, creating more favorable business conditions, identifying business opportunities, and helping U.S. companies conclude commercial contracts. This is part of our approach in helping Russia become a market-based democracy.

*Question.* What is the Department of Commerce doing towards this end?

*Answer.* The Secretary of Commerce serves as the U.S. chairman of the U.S.-Russia Business Development Committee (BDC) which, under the auspices of the Gore-Chernomyrdin Commission, works to remove legal, regulatory, and practical impediments to trade and investment; facilitate conclusion of commercial projects; develop information and contacts in key industries and regions; and create synergy between government and private sector resources and initiatives. Key issues being addressed by the BDC include market access, taxation of business, energy production sharing arrangements, standards, product certification and customs procedures, rule of law, and crimes against business. Working groups promote sectoral and regional business development. The Counselor to the Department is the U.S. Ombudsman for Energy and Commercial Cooperation with Russia. His ongoing consultations with Russian government and parliamentary officials and advocacy on behalf of U.S. companies are removing impediments and building a track record of successful conclusion of commercial ventures, such as the Memorandum of Agreement signed at the Tenth Meeting of the Gore-Chernomyrdin Commission between Conoco and Lukoil to develop the northern areas oilfields.

The Department also operates several programs specifically directed to assisting U.S. companies doing business in Russia. The Business Information Service for the New Independent States (BISNIS) provides extensive, client-oriented information, counseling and trade leads to U.S. companies on the rapidly changing Russian market. BISNIS responds to over 200,000 inquiries a year from U.S. companies of all sizes and to date has assisted U.S. companies in generating over \$1.7 billion in trade and investment transactions. Nine ABC's located across Russia offer business services for U.S. companies new to the market and helps them locate Russian partners. Since inception, the ABC network has successfully served over 2,700 U.S. companies throughout the New Independent States, resulting in over \$206 million of reported U.S. export sales. The Special American Business Internship Training (SABIT) program, which provides training for Russian entrepreneurs, also helps American companies develop business relationships in Russia. Over 900 U.S. compa-

nies have trained more than 1,200 NIS executives, reaping over \$100 million in export revenues from SABIT-sponsored relationships. The Department's U.S. & Foreign Commercial Service covers Russia from end to end with posts in St. Petersburg, Moscow, and Vladivostok, and is among the largest of our US&FCS posts in the world.

These efforts have helped increase U.S.-Russian trade turnover by 50 percent, from \$3.2 billion in 1993, to \$7.5 billion in 1997.

#### COOPERATION WITH BUSINESS ORGANIZATIONS

*Question.* How best can the Department of Commerce work cooperatively with private organizations such as the Russian-American Chamber of Commerce to create opportunities for American companies in Russia and other countries around the world?

*Answer.* The Department of Commerce has excellent working relationships with U.S. business umbrella organizations such as the Russian-American Chamber of Commerce, the U.S.-Russia Business Council, the American Chamber of Commerce in Russia, and many industry sector trade associations. The Department works closely with these organizations to improve the business environment for American companies in Russia and increase bilateral trade and investment.

The Department views business input as central to the work of both the Business Development Committee and the Gore-Chernomyrdin Commission. U.S. business concerns, such as tax reform and reform in the commercial energy sector, drive the agenda of the Business Development Committee (BDC) and the work of the U.S. Ombudsman. At the last meeting of the Commission, March 10–12, representatives of the U.S.-Russia Business Council, the American Chamber of Commerce in Russia, and the Petroleum Advisory Forum made presentations to the BDC meeting chaired by Secretary Daley and Minister Fradkov. The private sector also participates actively in the work of the BDC's fifteen working groups and sectoral subgroups, as well as in the BDC's Joint Commercial Tax Dialogue, the U.S.-Russia Working Group on Taxation, the Joint Standards Dialogue, and the newly-established Joint Commercial Customs Dialogue.

The Department continually looks for opportunities to cooperate with private sector organizations in carrying out trade promotion activities such as conferences, roundtables, and trade missions. Departmental officials, for example, often participate as speakers at conferences organized by the Russian-American Chamber of Commerce. The Seattle-based Foundation for Russian-American Economic Cooperation plays a vital role in the successes of our U.S. West Coast-Russian Far East Working Group. The Department's Business Information Service for the New Independent States (BISNIS) co-sponsored with the National Association of Home Builders' Building Technology Information Center three highly successful teleconferences between Moscow and Washington on the Russian construction market. We believe such public-private sector partnerships strengthen the effectiveness of American trade promotion in Russia and elsewhere around the world.

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#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

##### ECONOMIC DEVELOPMENT ADMINISTRATION [EDA] TRADE ADJUSTMENT

*Question.* In EDA you are requesting a new \$49 million initiative to assist "Trade Impacted Communities." I should point out that as of last year the U.S. Labor Department had certified that well over 100,000 workers have lost their jobs directly as a result of the North American Free Trade Agreement (NAFTA). Outside estimates are closer to 600,000. So Mr. Secretary, how many jobs is this EDA program going to address through this program? Aren't you going to require a whole lot more money just to address NAFTA? Is this part of a Presidential effort to remarket Fast Track for the General Agreement on Tariffs and Trade (GATT)?

*Answer.* Under the Trade Adjustment Assistance Program for Workers, the Department of Labor provides direct assistance to individuals who have lost their jobs as a result of trade opening agreements such as GATT, the World Trade Organization (WTO) and NAFTA. The Community and Economic Adjustment Initiative (CEAI), proposed by the Department of Commerce in EDA's fiscal year 1999 budget request, will not duplicate the Department of Labor's program, but instead will complement it by assisting the communities in which the workers live.

Communities adversely impacted by trade experience structural economic change at the local level. The impact is similar to the structural changes that result from defense downsizing, natural disasters or significant plant closures. The design of CEAI is modeled on EDA's successful defense, disaster and economic adjustment

programs. Initial funding assistance is offered to an affected community to develop a local adjustment strategy. This planning process may be undertaken by an existing governmental or economic development entity or by a new entity such as the base reuse authorities that were formed to redevelop closing military facilities. In the case of trade-impacted communities, the adjustment strategy will serve as the locally-prepared blueprint for developing or strengthening economic sectors to compete more effectively within the new trade environment. To implement the community economic adjustment strategy, EDA can fund technical assistance projects to evaluate options or provide technical assistance to businesses, projects for construction of critical public infrastructure necessary for the development of new and competitive economic sectors, and revolving loan fund projects to provide capital to local businesses. EDA proposes approximately \$9 million to fund adjustment strategies and approximately \$37 million to fund implementation projects.

We expect CEAI outcomes to track the outcomes of EDA's other economic adjustment assistance programs at project maturity. An evaluation of the effectiveness of EDA's Defense Adjustment Program by Rutgers University (November 1997) provides a picture of the potential effectiveness of the CEAI program. The Defense Adjustment study concluded that Defense construction projects produced 124 jobs per \$1 million of EDA funding, while completed Defense Revolving Loan Fund grants produced 304 jobs per \$1 million of EDA funding. An evaluation of the effectiveness of EDA's Public Works (Construction) Program by Rutgers University (May 1997) concluded that, for every \$1 million of EDA investment, 327 jobs were created and \$10 million in private sector dollars were leveraged in the community.

#### CENSUS 2000

*Question.* The Census Bureau's budget is requested to increase by \$480 million to \$1.028 billion. That's a lot of money. Could you give us an update on the dress rehearsal?

*Answer.* The Dress Rehearsal in General: The Census 2000 Dress Rehearsal in Columbia, South Carolina; Menominee, Wisconsin; and Sacramento, California continues on schedule. Printing of the questionnaires needed for data collection is completed. Starting in mid-March, our temporary field staffs began delivering these questionnaires to households in areas of the test sites containing predominately non-city style addresses. In early April, the U.S. Postal Service will start delivering questionnaires to households in areas of the test sites containing predominately city style addresses. In preparation for receiving questionnaires from these households, we have installed the data capture system in our Jeffersonville, Indiana processing facility. On March 1, we initiated our promotion campaign in all three dress rehearsal sites. Including paid advertising for the first time, the promotion campaign will continue throughout the initial data collection period. Finally, we completed the initial phase of our quality check program (Integrated Coverage Measurement) by creating an independent list of addresses in selected areas of the test site.

The Dress Rehearsal in South Carolina: As of mid-March, approximately 400 temporary workers have been hired (including the address listing work last year) at the Columbia, South Carolina site which includes the surrounding counties of Chester, Lee, Chesterfield, Marlboro, Darlington, Newberry, Fairfield, Richland, Kershaw, Union and Lancaster. The Census Bureau anticipates peak staffing of about 1,300 temporary workers at the end of May. The duration of these jobs will vary from a few weeks to nine months. In November 1997, we leased office facilities and opened a Dress Rehearsal Local Census Office in Columbia which will remain open until July/August 1998.

The Columbia site was selected because it contains living situations and socio-economic characteristics that are not found in a predominantly urban environment. The Columbia site provides our only opportunity to test procedures for developing the census address list in an area containing a mixture of house number/street name and rural route and box number addresses. Since this site has a relatively high proportion of African Americans, it provides an opportunity to test procedures for reducing the differentials for this racial group. Furthermore, the site selected represents the size of typical local census offices planned for Census 2000, which is necessary to provide an understanding of the effectiveness of census operations.

*Question.* Could you give us an update on the oversight board?

*Answer.* The fiscal year 1998 appropriations bill provided \$4 million to support Census Monitoring Board operations. The Board is authorized to use the General Services Administration as the provider of all its administrative support, which is what most small boards and commissions elect to do. The Census Bureau will deposit the funds in the Board's Treasury account for its use. The Bureau will not monitor expenditures further.

*Question.* Could you give us an update on the appointment of a new Director?

*Answer.* The Administration is in the process of identifying an individual for appointment as the new Director of the Census Bureau. We currently have an Acting Director, Mr. James Holmes, who is a career Bureau employee with 30 years of experience managing data collection activities.

*Question.* How much does it look like we are going to have to pay per hour to get Census takers?

*Answer.* It is unclear at this time what hourly pay rates will be necessary to successfully recruit and retain enumerators. The Bureau has engaged an independent consultant group, WESTAT, to help us examine this issue. The Interim Report of WESTAT analysis is enclosed.

The Bureau is evaluating the WESTAT interim findings on pay rates in the Dress Rehearsal sites. Given that the Nation currently has the lowest unemployment in two decades, the Dress Rehearsal testing of pay rates in Columbia, South Carolina will be particularly informative in that unemployment is very low in that area. The Bureau will be in a better position to determine necessary pay rates when our analysis of the Dress Rehearsal results is complete.

*Question.* Is \$4.1 billion still a good estimate of what it will cost to conduct a census that includes statistical sampling? If that is so, what is your best estimate for what it would cost to conduct a full-enumeration, traditional census?

*Answer.* We haven't changed our plan for Census 2000, but we are conducting "dual-track" activities pursuant to the 1998 Commerce, Justice, State Appropriations compromise. To plan for both a sampling and a non-sampling census, we are spending an additional \$31 million in fiscal year 1998; and we have asked for an additional \$36 million in fiscal year 1999. The \$36 million request for fiscal year 1999 does not include all the funding that we would have requested if we did not expect to do sampling in 2000. Furthermore, the Bureau is conducting the Dress Rehearsal in fiscal year 1998 to validate our plan, including assumptions affecting cost. If the Dress Rehearsal exposes necessary changes to the plan, it is very possible that our cost estimates may increase or decrease.

The cost for a non-sampling census would depend on the accuracy goal that Congress expects. The estimate provided to Congress last year was that replicating a 1990 style census would add about \$800 million to the cost. This, however, would only achieve a level of accuracy equivalent to the 1990 results, estimated at 1.9 percent undercount. Legislation last year set a target of getting as close to 100 percent accuracy as possible without sampling. Such a goal, without sampling, would be far more expensive than an additional \$800 million. In fact, the National Academy of Sciences has concluded that, without sampling, no amount of money spent on the old methods alone could achieve satisfactory accuracy. The Bureau, therefore, maintains that sampling is the best methodology. In response to a request from Representative Rogers, the Bureau is currently trying to determine the possible cost of a census that increases accuracy but does not use sampling.

HANBO STEEL

*Question.* Approximately one year ago, U.S. manufacturers presented the Department with requests to pursue a WTO dispute settlement action with South Korea regarding the \$6 billion in government directed loans to the now bankrupt Hanbo Steel. Please detail what steps the Department has taken in responding to this request. Does the Administration have plans to pursue this request? If not, why not?

*Answer.* Please be assured that I take this matter very seriously. I wholeheartedly support the strong enforcement of our trade laws and our rights under the WTO Subsidies Agreement.

Import Administration ("IA"), an agency within the Department of Commerce, is the administrator of the countervailing duty law and coordinator of the U.S. Government's subsidies enforcement efforts. IA, working closely with United States Trade Representative (USTR), has been reviewing allegations brought to the Department and USTR by members of the U.S. pipe and tube industry concerning the Korean Government subsidization of Hanbo Iron & Steel. Staff in both agencies have reviewed and analyzed the allegations and evidence contained in the industry's complaint.

In order to develop as much information as possible about the subsidy practices, in addition to the U.S. industry's complaint, IA staff have reviewed information contained in the Commerce Subsidies Library, researched Internet sites, and discussed the issue with other Commerce offices which routinely collect information on specific country and industry practices. After this initial research, the U.S. embassy in Seoul was contacted to discuss our findings and determine what further information could be provided by embassy personnel.

Last April, after conducting this research and consulting with the domestic industry, USTR and Commerce forwarded a series of questions to the Korean Government to seek explanations and clarification of the Hanbo bankruptcy, the government's role (if any) in extending and facilitating the extension of credit to Hanbo on commercially inconsistent terms, the Government's role (if any) in assisting the construction, development and operation of Hanbo's new production facility on Asan Bay, and the extent and nature of government assistance to banks, creditors and suppliers whose financial status had been placed in jeopardy as a result of the Hanbo bankruptcy. At the end of April, the United States raised these same concerns at the regular, spring meeting of the Subsidies Committee. A few months later, the Korean Government provided a "position paper" which attempted to refute generally the allegations cited in the U.S. steel industry's complaint, but did not directly address the more detailed questions submitted by the United States in April. Subsequently, we drafted supplementary questions, and forwarded those and the unanswered questions from April back to Seoul in mid-September. As a further sign of our seriousness, we included a statement of the Administration's concerns regarding the potentially extensive subsidization of Korea's steel industry in the "Watch NIST" of USTR's Super 301 announcement, issued on October 1. The Korean Government provided somewhat more detailed answers to all of our questions on November 4, 1997.

The Administration is studying the Korean Government's responses, and we are monitoring the financial and other reforms to which Korea has committed in the context of its IMF rescue plan. These points were also covered during my recent trip to Korea. At the same time, we have been working closely with the domestic industry to gather additional information on potential subsidies and to document the extent to which any such subsidies may have caused adverse effects to U.S. interests. We expect to finalize our assessment of this information in the near future to determine what future steps may be appropriate.

#### SUBSIDIZATION OF HANBO STEEL

*Question.* During your trip to Korea did you request that President Kim cease all subsidization of Hanbo and divest itself of its controlling interest in POSCO rather than merely turning over Hanbo assets to POSCO? If so, what was his response?

*Answer.* First let me say that helping Korea achieve a rapid, strong and lasting economic recovery is in the best interest of American business. Korea is our fifth largest export market, and actually in recent years has been one of the few countries with whom we have had a trade surplus. Korea's economic problems will put our trade into deficit this year, but we need to press for more openness in Korea so that when their economic health returns, our exports will shoot back up.

Accordingly, my visit in Korea centered on the following four themes: (1) to show strong U.S. support for Korea during the economic crisis; (2) to stress the need for continued economic reform and market openness; (3) to show the continued commercial engagement of the U.S. in Korea's recovery; and (4) to learn of the problems and challenges faced by American exporters during the crises. I emphasized that exporting their way out of their problems was not acceptable, and also stressed that they needed to remove practices that had been restricting our exports.

These are the points I stress in all of my meetings, particularly with the then President-elect Kim Dae Jung and his economic advisors.

Regarding Hanbo, I know that U.S. industry is concerned that the Korean Government may be providing subsidies inconsistent with Korea's international obligations. Import Administration has been watching the situation closely. All information provided by the Korean Government and U.S. industry will be reviewed to determine what further steps should be taken.

#### HANBO STEEL—PUBLIC FINANCIAL STATEMENT

*Question.* I understand that Hanbo Steel, a publicly-traded company has not issued a public financial statement since June 1996. Since part of the International Monetary Fund (IMF) relief package requires transparent financial reporting, when do you think we can expect to see Hanbo's financial statements?

*Answer.* We have raised the issue of Hanbo's lack of financial disclosure with the Korean Government. Such financial disclosure is required under not only internationally accepted accounting practices but also Korean law.

The conditions of the IMF rescue package calling for corporate disclosure and greater transparency of corporate balance sheets will put additional pressure on Hanbo to issue current reports. We are committed to seeking a full disclosure of Hanbo's current financial situation and will continue to press the Korean Government on this issue.

## HANBO STEEL BANKRUPTCY

*Question.* It is my understanding that Hanbo Steel filed for bankruptcy in January 1997 but has not shuttered any capacity. In fact, the February 16, 1998 Business Week stated that even Korean steel manufacturers are concerned with Hanbo's actions. Do you expect this bankrupt steel manufacturer will shutter any of its steel capacity? If so, when might we expect such an action?

*Answer.* We will seek to ensure that any restructuring of the company will be handled in an open and transparent manner, and in accordance with commercial considerations. Recent press reports indicate that Hanbo Steel intends to sell the most controversial part of its Tanjin facility, the Corel plant, with bidding open to both foreign and domestic purchasers.

We will continue to carefully follow all aspects of the Hanbo Steel bankruptcy proceedings and to press the Korean government for a full accounting of the activities of the company.

*Question.* Severe devaluations in currencies are traditionally followed by internal inflation in the country whose currency has been devalued. Do you expect to see an increase in inflation in Korea? If that inflation did not occur in a particular industry or sector, would it be appropriate to conclude the government was artificially restraining price increases? Would such government actions be appropriate under the IMF agreement?

*Answer.* A number of factors may affect whether the inflationary pressure on a particular industry mirrors that of the economy as a whole. These can include the capital intensity of the industry, the source of its external financing, and its reliance on domestically produced versus imported inputs. Industries that are capital-intensive, that borrow heavily and that consume imported inputs will tend to experience higher inflation than those that do not.

The IMF rescue package contains several conditions relating to monetary policy that are designed to lessen the inflationary impact of the recent won devaluation. For example, the package calls for an immediate tightening of monetary policy to restore calm to the markets and limits money growth in 1998 to a rate consistent with containing inflation at five percent or less.

It would require extensive analysis to determine whether an industry-specific rate of inflation lower than the national average was the result of market force or government interference in the marketplace. If we found that the Korean government was taking actions to ease the effects of inflation on a specific industry or sector, we would evaluate whether such action violated Korea's WTO or IMF commitments.

## NONMARKET ECONOMY METHODOLOGY

*Question.* Can you assure me that the Administration and the Department are fully committed to preserving the nonmarket economy methodology of the U.S. anti-dumping law in the WTO accessions of Russia and China?

*Answer.* The Department of Commerce has been working closely with USTR on China's and Russia's accession to the WTO. We are aggressively seeking a provision in China's protocol of accession that will confirm that WTO members can continue to use alternative methodologies, such as our surrogate country methodology with respect to nonmarket economies. Negotiations with Russia are at a very preliminary stage, but we are committed to preserving our ability to apply our nonmarket economy methodology as long as the statutory criteria require it.

## IMPORT SURGES

*Question.* What policies will the Department be implementing to help U.S. workers and manufacturers deal with import surges from Asia, particularly those that are beyond the reach of the dumping law.

*Answer.* As you know, foreign producers engage in dumping when they set their U.S. prices below the price they charge at home for the same goods or below what it costs to produce the goods. Home market prices and costs can be affected by a number of factors, one of which is the exchange rate. The recent devaluation of Asian currencies may make it possible for Asian exporters to lower their U.S. prices, raising concerns about import surges, without raising their dumping margins. At the same time, as the cost of capital and imported inputs rises, home market prices and costs are likely to rise, making it possible that dumping margins will increase.

Beyond Commerce's continued vigilant enforcement of the antidumping and countervailing duty law, we are committed to closely monitoring the economic policies of Asian countries to ensure that the IMF conditions are met and to ensure that they are not seeking to unfairly increase exports by instituting export or production-related subsidy programs. Specifically, if the monitoring indicates that the govern-

ments are not living up to their international commitments, Commerce would evaluate whether such actions violate provisions of the IMF conditions, U.S. law or the WTO Subsidies Agreement and, as such, are actionable.

#### INTERNATIONAL TRADE ADMINISTRATION REORGANIZATION

*Question.* I keep hearing about a pending reorganization of the International Trade Administration (ITA). Where does this effort stand?

*Answer.* I have reached no final conclusions, but we have considered various models of organization for ITA for some time. We have concluded that, if we proceed, it would be best to minimally impact the present arrangements and to only do those things that would appreciably impact our operation. For example, we hope to sharpen the focus of the mission of each sub-organization to better improve accountability. At present, too many of our functions are dispersed across several organizations.

*Question.* Could you describe the options you are looking at?

*Answer.* We hope to group like functions in order to streamline our operations at headquarters. This would have the effect of saving resources which would allow us to achieve our main goal of increasing field staffing. We hope to redirect modest staffing increases to both the domestic and foreign field.

I anticipate that we will reach our final conclusions in the near future and consult fully with Congress prior to engaging in any action.

#### IMPACT ON U.S. EXPORTS OF ASIAN FINANCIAL CRISIS

*Question.* Speaking of your trade promotion programs, do you have an assessment of how badly the Asian economic "meltdown" will impact U.S. exports?

*Answer.* In 1997 U.S. export performance was already somewhat weakened by declining sales to Asia. Our overall merchandise trade deficit reached \$199 billion last year, with U.S. sales to Japan dropping by 2.9 percent, to Korea by 5.6 percent. With export orders to Asia still weakening, our total trade deficit will undoubtedly grow this year. Sectors likely to be most heavily impacted include semiconductor equipment, chemicals, and agricultural products.

During this period of economic downturn, we are seeking to reduce barriers to U.S. exports and lay the groundwork for more hospitable treatment of our products. During my recent trip to the region, I emphasized to the countries I visited the importance of continuing to pursue market-opening measures. In addition, the IMF stabilization packages contain critical trade-related commitments of importance to U.S. businesses in these markets, and we are actively working to assure the timely and complete implementation of these reform measures.

Our International Trade Administration bureau has announced a four point plan to help U.S. companies overcome business problems they are facing in Asia due to the financial crisis. The four points are:

- Launching a comprehensive effort to develop analysis and market information to help companies keep abreast of the rapidly changing Asian landscape.
- Arranging high-level visits to key Asian countries for fact-finding and to ensure that markets remain open to U.S. firms.
- Holding a series of seminars in cities around the country (locations and dates to be announced soon) that will focus on issues critical to companies by providing updated economic information, lessons learned by other companies which continue to be successful in Asia, and advice on how exporters can overcome the current difficulties and continue their Asian business operations.
- Establishing a special Asian information program within the Department's Trade Information Center (tel. 1-800-USA-TRADE), that will make all Commerce Department information on Asia easily accessible to U.S. exporters.

It is important to recognize that in the longer term the Asian financial crisis will actually create opportunities for future U.S. export growth. While they are currently experiencing the severe shocks of bankruptcy, inflation, unemployment, and currency devaluation, these countries, once they begin to recover, will again generate a heavy demand for U.S. products. For that reason we have been taking a number of steps, including holding seminars and disseminating market analysis and information, to provide advice to U.S. companies on dealing with the current crisis and to make them aware of business opportunities as they arise.

#### ITA CIVIL SERVANTS ADVANCING A POLITICAL AGENDA

*Question.* Finally, I have been a major supporter of ITA. We need to compete with the Japanese, French and Germans—and ITA are our soldiers in promoting U.S. goods and services overseas. But, I have developed some concerns lately. Last year there were reports that domestic U.S. & Foreign Commercial Service officers were being told to "promote Fast-Track" in their dealings with state and local officials

and the private sector. Now the Journal of Commerce reports that ITA officials are going into high schools to promote “free trade.”

Mr. Secretary, if Clinton Administration political officials want to promote these politically controversial, policy initiatives—I may agree with you, but clearly it is your right. However, do you think it is appropriate for career ITA civil servants to be advancing this political agenda? Isn't this stealing time away from their job which is to promote or protect U.S. business?

Answer. The International Trade Administration has one goal, and one goal only: to assist the American business community as our nation's manufacturers enter into overseas markets and expand their market presence. This occurs each time a businessperson calls the Trade Information Center for immediate, short-term business counseling; when a client enters an Export Assistance Center to explore international marketing strategies; when a company needs an explanation and clarification of an existing United States trade agreement; and when ITA officials ensure that foreign products are being sold at their fair value in U.S. markets. These examples, and countless others, are the day-to-day activities of ITA that have a positive impact on the American business community.

American products are reaching international markets at levels that were unthinkable ten years ago. These U.S. exports have significantly contributed to the current economic growth and will continue to provide strength to the American economy for years to come provided that American manufacturers have unencumbered access to international markets. Study after study has demonstrated that American products are competitive internationally only when the playing field is level. If certain countries have excessive tariffs on American products, those markets become non-viable. One need only look to Canada and Mexico where our exports have increased tremendously over the past five years to see the benefits of having free and open trading partners.

It is true that the Department of Commerce and ITA, under my leadership supported the Fast Track Initiative last year. Let me assure you, however, that ITA civil servants were not participating in partisan, political activities. Rather, it was the Department's objective to explain the benefit of free trade to our clients, the American exporting community. By educating our clients about the benefits of free trade we are able to “promote and protect U.S. business,” and help U.S. business recognize and deal with unfair trade practices.

#### TOURISM

*Question.* Travel and tourism ranks as the first, second, or third largest employer in 32 states and the District of Columbia. In my state of South Carolina, tourism is a \$6.9 billion industry and 113,000 South Carolinians' jobs depend on tourism.

Nationally, the tourism industry produced a record \$26 billion trade surplus in 1996 (the last year for which statistics are available), attracting more than \$90 billion in foreign revenue. Realizing the significance of this industry, the private sector and the Federal Government committed to develop a cooperative approach to tourism economic development at the 1995 White House Conference on Travel and Tourism (WHCTT). Conference delegates made ten priority recommendations to improve our national tourism strategy. All of these recommendations are due to be implemented by December of this year.

*Question.* What progress has been made on implementing the White House Conference's recommendations?

Answer. The Federal Government has played a role in implementing or helping to implement many of the White House Conference's top ten priorities. Members of the Tourism Policy Council (TPC), which I chair, have worked diligently to complete their contributions to these priorities set by the delegates to the White House Conference. The TPC is the Federal Government's interagency coordinating committee on policies and programs that affect tourism development in this country.

*Question.* What work is left to be done?

Answer. The top two priorities of the WHCTT called for the structure and creation of an organization that would work to promote the United States abroad. Congress passed, and President Clinton signed, the U.S. National Tourism Organization Act of 1996 (22 U.S.C. § 2141 et seq.), which established the U.S. National Tourism Organization (USNTO). The USNTO is privately managed and its activities are driven by the private sector. The organization's primary goal is to work for an increase in the U.S. share of the global tourism market. The Act, however, did not fund the USNTO and discussions on the funding issue are on-going within the industry and between the USNTO and members of Congress. As part of the cooperative approach set forth in the Act, the head of the USNTO sits on the TPC.

The third top priority was for the Congress to fund current and future transportation needs adequately through the use of the transportation trust funds. Congress is currently considering reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). The Administration supports increased funding for transportation programs within the limits established by the balanced budget agreement.

The WHCTT's fourth top priority was that Congress should make the Visa Waiver Pilot Program (VWPP) permanent. There are two bills currently in Congress that would extend the VWPP for up to three years. The Administration supports a multi-year extension, which would continue to ease entry for low risk travelers.

The fifth priority called for Federal agencies to leverage technology to facilitate the process of travelers entering the United States. The Immigration and Naturalization Service (INS) has expanded its use of "alternative inspection systems" that expedite entry into the United States without sacrificing border security. The INS uses computerized databases, scanning and biometric recognition, video telecommunication technologies (including INSPASS), remote video inspection, and dedicated commute lanes. The U.S. Customs Service and the INS have expanded their use of electronically transmitted passenger information to expedite the clearance of international passengers. As of August 1997, over 56 percent of required data checks are completed prior to passenger arrival through their Advanced Passenger Information System.

The sixth priority called for the Department of Commerce to account accurately for the expansion of travel and tourism-related businesses in the new North American Standard Industry Classification System (NAICS) as a revision to the U.S. Standard Industrial Classification (SIC). OMB coordinated the creation of the NAICS; the Department of Commerce served on the revision committee. Through the participation of Tourism Industries of the Department of Commerce and representation of industry views to the committee, the NAICS does more accurately reflect travel and tourism related business activity.

However, the more accurate tool for accounting for the economic activity of travel and tourism businesses is the Travel and Tourism Satellite Account (TTSA), which will show a complete picture of the industry's value to the national economy and was a recommendation also of the WHCTT. The Department of Commerce has begun development of the TTSA, but further funding is essential in order to complete it. President Clinton, in his fiscal year 1999 budget submission, has requested an additional \$1 million for improving statistical research in international travel. Half of that amount, \$500,000, would be devoted to completing the TTSA. The other \$500,000 would be used to expand the respondent base for the In-Flight Survey of International Air Travelers, so that our data is more accurate.

The seventh priority was to establish a nation-wide toll-free multilingual visitor emergency assistance hotline. Although the Federal Government is not involved in the development, installation, or maintenance of the system, specific TPC members have supported the concept of the toll-free system by recognizing its role in encouraging international visitation. The TPC has provided a letter to the private sector task force working on the development of the toll-free number which supports the concept of the hotline and provides guidelines for distributing information about the hotline along with the distribution of INS' and Customs' forms which international passengers receive before entry into the United States. The hotline is not yet operational, but we understand the private sector has been working on its development.

The eighth priority called for the development, by a consortium, of a strategic plan for curriculum development. To our knowledge, the private sector has not yet convened the consortium on which the Departments of Labor and Education would serve under this priority.

The ninth priority called for regional natural and cultural tourism summits. The Department of the Interior and the National Endowment for the Arts have participated in many such summits around the country, such as in Nevada, North Carolina, Missouri, Connecticut, Indiana, California, and Hawaii. A Memorandum of Understanding among nine Federal agencies established a cooperative framework that coordinates and supports this priority.

The Administration has also been involved in implementing many of the other WHCTT recommendations, such as expanding the number of "open skies" aviation agreements and developing an electronic clearinghouse of data and information on travel and tourism available within the Federal Government. A report by the TPC on the Administration's activities is currently being cleared and will be submitted to Congress.

## TOURISM DATA COLLECTION

*Question.* The President's fiscal year 1999 budget includes a \$1 million increase to \$3 million in the International Trade Administration's Trade Development budget to assist in implementing recommendations of the 1995 White House Conference on Travel and Tourism and to provide for the collection of comprehensive travel and tourism statistics. This is the good news. However, I understand that in fiscal year 1998 there is a shortfall in the ITA budget, and tourism statistics are on the line.

The tourism industry relies on ITA data to market services from airline travel to destination marketing to retail advertising. How are you working to ensure data collection is not being compromised in fiscal year 1998, and how will this extra \$1 million improve statistics collection, analysis, and dissemination in fiscal year 1999?

*Answer.* The President's request for an additional \$1 million for travel research would be evenly divided between the development of a permanent set of accounts for the Nation's Travel and Tourism Satellite Account (TTSA) and the expansion of the respondent base for the In-Flight Survey of International Air Travelers, the primary research program directly administered by Tourism Industries (TI) at the Department of Commerce.

In addition to the INS I-94 database, the In-Flight Survey of International Air Travelers is the integral resource for BEA in configuring the national travel account for the balance of trade and the generation of the Gross Domestic Product. It also represents the only source of information for the travel and tourism industry, which includes states, cities and private sector suppliers. The information generated ranges from psychographic and demographic profiles, to economic impact analysis to trends and forecasts of international travel to and from the U.S.

The respondent base for the In-Flight Survey only represents 0.2 percent of the overseas and Mexican air travelers to the U.S. Though this is statistically acceptable for national estimated visitation numbers and trends, it restricts in-depth subgroup analysis for the majority of states and cities, which comprise the majority of users of our data. They, with the private sector, have taken over USTTA's responsibility of marketing the United States with the expectation, as set forth in the U.S. National Tourism Act, that the Federal Government would provide the statistical tools to allow them to efficiently plan promotional programs and measure the effectiveness of their efforts. International spending by states alone on tourism promotion is close to \$20 million. An expanded respondent base will assist the Department to fulfill its mandate of providing comprehensive data for all levels of users, ensuring more export assistance for a broader base of small to medium-sized businesses and second-tier destinations. Increasing the base of this survey program also provides more accurate trade estimates by the BEA and the Tourism Industry (TI), thus, giving more credibility to economic impact tourism data.

In fiscal year 1998, TI will continue its responsibility for the collection, analysis and dissemination of tourism statistics for the industry. The respondent base for the In-Flight Survey of International Air Travelers will drop from 95,000 respondents in 1997 to 69,000. This will create difficulties in fully meeting the needs of states and cities for in-depth analysis of overseas visitors to their destination.

One important program that will continue in 1998 is the building of a TTSA. The TTSA will fulfill the responsibility to provide improved economic accountability on the impact of travel and tourism at the National, state and local levels as well as fulfill the recommendation from the White House Conference on Travel and Tourism and the 1998 Strategic Plan for the Tourism Policy Council. This account will serve as the source for the industry's dialogues with policy makers and investors for this critical export by having a credible and standardized economic tool, a satellite account. A prototype of this account is being developed in fiscal year 1998 through a joint partnership with the BEA. In order to continue in fiscal year 1999 to accomplish a permanent set of accounts associated with our national system of accounts, it is estimated that computer development, expertise and additional information collection costs will be \$500,000.

## TOURISM MARKETING

*Question.* The January 1998 report of the U.S. National Tourism Organization pointed out that the U.S. Government's financial contribution to promoting tourism falls well below that of our competitors. Even in 1993, more than 25 other national governments spent more promoting tourism, including tiny Jamaica, Bermuda, and Switzerland. Since the disbanding of the United States Travel and Tourism Administration, our tourism promotion budget has become practically non-existent. While the private sector spends \$1 billion marketing tourism products abroad, I understand that the Visit USA program, the U.S. National Tourism Organization's pro-

gram designed to market the United States as a destination, is still getting off the ground.

How can the United States hold its place as the number two international tourism destination (behind France) without a national tourism marketing effort?

Answer. The U.S. National Tourism Organization Act sets forth the spirit of a public/private partnership for the promotion of the United States as an international travel destination. Over \$1 billion in 1996 has already been invested by states, cities, and the private industry sectors to promote U.S. tourism products. The Federal Government has invested slightly over \$2 million to fulfill its role in providing marketing and economic research statistics for the industry's decision making for international tourism investment. It is through the Federal investment in research that the \$1 billion plus marketing investment can be targeted to provide the greatest return on investment to ensure the expansion of this export for the creation and support of U.S. jobs and economic development.

*Question.* What is the Department of Commerce doing to market U.S. tourism abroad? What will the proposed \$1 million in fiscal year 1999 allow us to achieve?

Answer. The proposed additional \$1 million is directed at the improvement in the reliability and usefulness of the research and economic statistics vital to the market selection and policy decision making of the industry, states and cities. One-half of the proposed funding, \$500,000, would be used to enhance the respondent base of the In-Flight Survey of International Air Travelers which serves as the critical tool for marketing decisions and investments. The expansion would enable more in-depth analysis for states and cities to understand market trends for refining their targeted international marketing efforts and to measure their return on investment. The other half of the funding, \$500,000, would be used to finalize the development of the TTSA for accurately measuring the impact of the industry on the U.S. economy and job creation. This is important because at present there are challenges in providing credible data for clearly defining the enormous impact that travel and tourism, both domestic and international, has on the U.S. economy. These are natural growing pains as a manufacturing economy makes room for a growing services sector. For example, growing from a \$26 billion industry in 1986 to a \$90 billion industry in 1996, travel and tourism's export contributions to the U.S. economy have grown 346 percent in the last decade. Travel and tourism represents the largest services export and the third largest export overall. To ensure that this impact and more is considered for policy makers and the accountability of a shifting economy, the investment in the permanent TTSA will: provide a national account to examine tourism as an economic phenomenon; offer national policy makers insights into tourism and the role it performs in their economies; and profile the size of tourism capital investment, and the means to analyze its link with tourism supply and job creation in local economies.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION [NOAA] CORPS

*Question.* Secretary Daley, the Vice President's National Performance Review recommended abolishing the NOAA Corps in 1994. The Corps is the seventh uniformed service in the United States and these officers fly our hurricane and El Niño research aircraft and drive NOAA's ships. This proposal to dismantle the Corps seemed to be ill-conceived and by the Department's own analysis—it would not save anything.

For the past several years, Congress has rejected this proposal. Nevertheless, the Department is not allowing any new Corps officers to be brought into the service. While we are refusing to dismantle the Corps, the Administration is "de facto" dismantling the Corps. The service is aging and morale is plummeting.

Chairman Stevens and I have written to you urging the Department to allow the accession of new Corps officers. We haven't received a response. Are you willing to allow the accession of new Corps officers?

Answer. NOAA has not recruited new officers for several years. Initially, the Corps' ranks were planned to be reduced by nearly 30 percent between fiscal year 1994 and now as part of an overall agency streamlining effort. This personnel reduction reflects the downsizing of NOAA's fleet—from 22 ships in 1989 to 15 vessels today. NOAA management decided not to recruit new officers initially because of the streamlining plan and continued the hiring freeze because it was consistent with the proposed disestablishment of the Corps.

While Congress considers the future of NOAA's uniformed service, I have asked NOAA management to evaluate further its personnel requirements and priorities for functions currently performed by the NOAA Corps. The purpose of this analysis is to identify the minimum number of staff required to operate the current fleet of

NOAA's ships and aircraft and perform related functions essential to NOAA's mission such as hydrographic field surveys.

The evaluation will allow NOAA to better determine its total personnel requirements for these functions and deploy the current complement of Corps officers to the highest priority positions. If this evaluation indicates a need for additional personnel in order to meet NOAA requirements, we will take steps to recruit the number of people required. We will be happy to brief you and other members once we have finished this analysis.

#### NOAA FLEET

*Question.* Mr. Secretary, I want to congratulate you for taking the action to continue the NOAA fleet. As I understand it, in the "outyears" or in long term budget projections, the Commerce budget includes \$159 million for fisheries vessels. It is about time that we begin investing in infrastructure for the agency. As you know, this subcommittee fought to allow you to plan to modernize the fleet. The House wanted to bar you from even designing new vessels.

Most NOAA vessels are nearing 30 years of age. It seems to me that NOAA is not going to be able to continue surveys of marine fisheries, marine mammals and endangered species if we don't make this investment in infrastructure. Do you agree?

*Answer.* The Department agrees that replacement fisheries research capability will be required in the very near future if NOAA is to meet its marine fisheries, marine mammal, endangered species and habitat responsibilities. There are several recent developments concerning this subject. The National Research Council's 1997 review of NOAA's stock assessment process confirmed this by stating "diminishing the quality of fishery-independent data by failing to modernize NOAA fishery research vessels could imperil existing and future data sets." A 1996 NOAA contract study conducted by naval architects and a 1997 study by the Military Sealift Command at NOAA's behest have concluded that there are no existing vessels available based on NOAA criteria in the private sector or the university community that could meet NOAA's fisheries research requirements. However, a 1998 feasibility study for NOAA led by the Maritime Administration has confirmed that NOAA's vessel requirements can be feasibly met. Recently, NOAA asked Rear Admiral Craig Dorman, USN (Ret.) to review NOAA's fisheries research vessel requirements to ensure that only the essential needs for new vessels are being specified. This review and a current request to ship builders for cost information will assist NOAA in updating outyear budget estimates.

NOAA is using the fiscal year 1998 money appropriated by Congress to minimize the risk of getting a vessel that does not meet our needs. The work includes developing specifications for the hull form and propeller that will ensure quietness and the necessary speed and pulling power, specifying the general arrangement of laboratories, sampling, propulsion, electrical equipment, and developing the solicitation materials.

*Question.* Your testimony indicates that you might enter into long-term leases instead of building new NOAA vessels. Is there any analysis that this approach makes economic sense?

*Answer.* NOAA has revised its economic model for Fisheries Research Vessels acquisitions, taking into account current and likely interest and taxation rates. Using output from this model and other data, NOAA will determine the most cost effective method of gathering fisheries data, whether it be via NOAA-owned and operated ships, leases, charters or a combination of these methods. The Department will use this information as it formulates future budget requests, ensuring that the most efficient method of gathering fisheries data will be employed.

Vessels which can support both trawling and environmental data collection will likely have no other use without a refitting, so leasing terms in instances where vessels have specific missions would have to be long enough to amortize the cost of the vessel. As such, legislation would have to be enacted to allow for leases of ten years or more.

#### AWIPS AGAIN

*Question.* Let me ask one last NOAA question, the National Weather Service's AWIPS program forecasting and communications system has been plagued with development, cost, and schedule problems since we started in 1992. It seems to me that in the last year we have made a tremendous amount of progress, but there are new cost containment issues in software development and deployment costs. What are the options you are considering? If you certify and deploy a system at the \$550 million cost cap, will it be sufficiently capable? If you deploy the system now, can

we expect the National Weather Service to upgrade the system with planned product improvement?

Answer. The program plan we are proposing results in the most cost-effective outcome for achieving required capabilities, while complying with legislation. The National Weather Service (NWS) will deliver AWIPS to all planned locations with sufficient capability to replace primary existing systems within the \$550 million cap (Build 4). Build 4 includes initial Interactive Forecast Preparation to support public and aviation forecasts and to automate NOAA Weather Radio broadcasts, hydrologic prediction system for river basins, some service backup and site system monitoring, partial NEXRAD workstation functionality, and initial integration of local data acquisition and dissemination systems. Significant field staffing reductions (106 positions) are achievable and sustainable with these capabilities. Under this plan, deployment would be accelerated so that all planned sites would be installed by June 1999 with complete Build 4 capability.

We will have an independent assessment conducted of proposed requirements beyond software Build 4.2, to ensure that any further development is cost effective and/or operationally required to perform the mission of the NWS. This we will do under planned product improvement/systems evolution. This independent assessment will be completed by August 31, 1998.

#### SUBCOMMITTEE RECESS

Senator GREGG. With that, the subcommittee stands in recess until tomorrow at 10 a.m. when we will have testimony from the National Oceanic and Atmospheric Administration and the Small Business Administration.

[Whereupon, at 10:44 a.m., Wednesday, March 4, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 5.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**THURSDAY, MARCH 5, 1998**

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

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Domenici, and Hollings.

**DEPARTMENT OF COMMERCE**

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**STATEMENT OF D. JAMES BAKER, UNDER SECRETARY FOR OCEANS  
AND ATMOSPHERE**

**ACCOMPANIED BY:**

**TERRY D. GARCIA, ASSISTANT SECRETARY FOR OCEANS AND AT-  
MOSPHERE**

**ANDREW H. MOXAM, ACTING CHIEF FINANCIAL OFFICER**

**OPENING REMARKS**

Senator GREGG. Will the Subcommittee on Commerce, State, and Justice convene? We are going to hear from NOAA on their thoughts about their budget. Do you have any opening statement?

Senator HOLLINGS. No, thank you, Mr. Chairman.

Senator GREGG. Do you have any opening statement Senator Domenici?

Senator DOMENICI. No, thank you, Mr. Chairman.

Senator GREGG. So we will turn to you. Give us your ideas.

Dr. BAKER. Thank you, Mr. Chairman. I will make this brief. Thank you for the opportunity to testify on the President's 1999 budget request.

I am accompanied by Terry Garcia, who is our Deputy Administrator, Bill Mehuron, our Acting Deputy Under Secretary, and Andy Moxam, who is our Acting Chief Financial Officer.

Let me state up front that it is simply because of investments that have been supported by this subcommittee that NOAA has become a leader in weather and climate research and forecasts, environmental monitoring and research, ocean management, fisheries management, and sustainable use of the coast.

We think we have a good budget and it represents an appropriate balance among environmental assessment, prediction, and stewardship needs of the Nation. And I think the best example of what we have done recently comes from the value of the forecasts of the 1997, 1998 El Niño, which really worked very well.

We continue to see El Niño effects. We expect to see them through March and April, and then in May and June we expect that we will go back to normal conditions.

The El Niño reminds us of the importance of the ocean to the weather and climate system. In recognition of this importance, the United Nations has declared 1998 to be the year of the ocean. NOAA has planned a year long series of events to remind us of the value of oceans in our daily lives, and is leading the Federal interagency effort to review the status of ocean-related problems.

Legislation has been introduced in Congress by Senator Hollings that highlights the importance of the ocean and sets up a commission to review future oceans policy. We strongly support that congressional action, and I would like to thank Senator Hollings for his interest and his commitment to these important issues.

Senator HOLLINGS. Thank you, sir.

#### YEAR OF THE OCEAN

Dr. BAKER. The year of the ocean presents NOAA with a chance to educate more Americans than ever before on the tremendous importance and fragility of our Nation's oceans, coastal and Great Lakes resources, and to highlight the role that NOAA plays in the Federal Government.

Other ocean issues have been in the news this year, highlighting the contributions that NOAA makes. For example, the biological consequences of polluted runoff is increasingly seen in many coastal areas. We have seen the effects through last year's outbreak of *pfisteria*, in harmful algal blooms, red tides, brown tides, hypoxia, and dead zones in the Gulf of Mexico—all of which have significant economic consequences.

Because of the support of this committee to this important topic, NOAA is now playing a key role in the interagency effort to assist the State and coastal communities in assessing, monitoring, and responding to harmful algal bloom outbreaks.

Another important success is NOAA's pioneering use of the flexibility in the Endangered Species Act to work cooperatively with States—with Oregon and Maine—to develop new ways to develop conservation plans for salmon that avoid Federal listing of the species.

We will continue to work with the States to find innovative approaches for carrying out our trustee responsibilities.

#### OVERVIEW

Our total 1999 request is \$2.117 billion in new budget authority. It is a net increase of \$123.5 million over the 1998 enacted level. It allows us to perform an essential role in a number of interagency and Presidential initiatives, including the natural disaster reduction initiative, the President's clean water initiative, the south Florida ecosystem restoration initiative, and the National Oceanographic Partnership Program.

Significant changes in our 1999 budget include \$33.6 million to implement statutory requirements to restore America's fisheries, protect marine species that are faced with extinction, and preserve habitat important to living marine resources.

We have not requested new funds for oceanographic vessels in fiscal year 1999, but we do have an agreement with the Office of Management and Budget for four new fishery vessels, the first of which would start in the year 2000. And we have some planning money in our budget for that beginning activity.

That is a major step for us, to convince the Office of Management and Budget that we should move ahead on fishery—I should say vessel replacement for NOAA, not just fishery vessel.

We have \$22 million for the clean water initiative, which will help provide research and management to address polluted runoff, ranging from pfiesteria to harmful algal blooms, and general issues of pollution, the nonpoint source pollution issue which is a major source of pollution in coastal waters today. And we have \$5 million for the administration's south Florida ecosystem initiative.

We will also continue to chart the Nation's coastal waters, including the continued reduction of the critical backlog for hydrographic surveys, in providing precise positioning information throughout the GPS system to mariners.

We have \$55 million as our part of the interagency natural disaster reduction initiative, pulling together the NOAA activities to provide a better job of getting weather warnings and forecasts out to the public.

The remainder of our budget supports advanced hydrologic predictions, improved regional scale weather prediction, replacement of the obsolete radiosonde upper air monitoring network, some new research relating to ozone and air particulate standards that EPA can use, as well as work on coastal hazards, risk atlases for coastal areas, and research into harmful algal blooms.

For NOAA's environmental satellites, our 1999 funding will insure that our GOES and our polar orbiting satellite programs will be continued. We have an increase of \$153 million from the enacted level for acquisition of our GOES N-Q spacecraft. The competition in that program has led us to a savings of close to \$500 million over our original estimates.

We have an additional \$65 million required to meet NOAA's commitment to share development costs with the Department of Defense for our national polar orbiting operational satellite system, an increase of about \$30 million over last year. But this is where we have saved a lot of money by pulling together both the defense and the civil programs into a single program.

In conclusion, Mr. Chairman, I want to note that more than in most years we have seen the dramatic impact of weather and climate changes on the economy and the safety of the world, and we have begun to see, I think, in an important way the role of the ocean.

#### PREPARED STATEMENT

Our contributions for water, climate, and fisheries management issues have been in the news more than ever. Our technology serv-

ices, resource management capabilities, and dedicated people have performed very well.

We believe that our 1999 request will help insure the continued delivery of these essential services. Thank you.

[The statement follows:]

PREPARED STATEMENT OF DR. D. JAMES BAKER

INTRODUCTION

Thank you, Mr. Chairman, and members of the Subcommittee, for this opportunity to testify on the President's fiscal year 1999 Budget Request for the National Oceanic and Atmospheric Administration (NOAA). As America moves into the 21st century, our domestic security and global competitiveness will depend on the types of capabilities, services and products delivered by NOAA. In a period of strongly competing government priorities, the President's fiscal year 1999 Budget Request for NOAA demonstrates the Agency's important contributions by providing the resources to maintain essential services, ensure continuing progress in critical investment areas, and address statutory obligations. This proposed budget represents an appropriate balance among the environmental assessment, prediction and stewardship needs of the Nation. I am accompanied today by Terry Garcia, Assistant Secretary for Oceans and Atmosphere; William O. Mehuron, Acting Deputy Under Secretary for Oceans and Atmosphere and Andy Moxam, Acting Chief Financial Officer/Chief Administrative Officer.

In recognition of how important the ocean is to us all, the United Nations has declared 1998 as the Year of the Ocean. As the only government agency with "ocean" in its name, NOAA is pleased that the challenges of caring for our ocean and coastal waters and the benefits the Nation reaps from them are being highlighted throughout the year. Our ocean and coastal waters are vital to America's economic well being. One-third of the U.S. Gross Domestic Product is derived from coastal counties. The number of people who depend on our shores for sustenance is increasing with over half of our population living within 50 miles of the coast. Roughly 95 percent by weight of all U.S. foreign trade is transported by water and passes through our ports and 85 percent of all tourism dollars are received in the coastal states. Living marine resources are vital to many coastal areas. The commercial fishing industry, for example, harvested \$3.5 billion worth of fish in 1996, and recreational fishermen took an estimated 64 million fishing trips.

Although the economic significance of our ocean and coastal resources is indisputable, a growing body of evidence alarmingly indicates that our oceans and Great Lakes are threatened. Many of our commercial and recreational fisheries are overfished. In addition, polluted runoff is being connected to deadly and dangerous algal blooms such as *Pfiesteria*, and red tides producing paralytic shellfish poisoning and other poisons, all of which threaten our coastal communities.

The Year of the Ocean presents NOAA with a chance to educate more Americans than ever before on the tremendous importance and fragility of our Nation's ocean, coastal and Great Lake resources.

THE NOAA ROLE

The Government Performance and Results Act (GPRA) of 1993 requires that agencies develop strategic plans that contain goals, objectives, and performance measures for all major programs. The Department of Commerce (DOC) has embarked on an effort to capitalize on the synergy between DOC programs, and to implement a strategic plan which enunciates a central mission statement and links our programs together. The Commerce Strategic Plan, issued in September 1997, has three strategic themes. They are:

*Theme 1.*—Build for the future and promote U.S. competitiveness in the global marketplace, by strengthening and safeguarding the Nation's economic infrastructure;

*Theme 2.*—Keep America competitive with cutting-edge science and technology and an unrivaled information base; and,

*Theme 3.*—Provide effective management and stewardship of the Nation's resources and assets to ensure sustainable economic opportunities.

As part of the Department of Commerce, NOAA's mission is to describe and predict changes in the Earth's environment, and to conserve and manage the nation's coastal and marine resources to ensure sustainable economic opportunities. NOAA conducts research to develop new technologies, improve operations, and supply the scientific basis for managing natural resources and solving environmental problems.

NOAA's comprehensive system for acquiring observations—from satellites and radars to ships and submersibles—provides the quality data and information needed for the safe conduct of daily life and the basic functioning of a modern society. Common end products and services include weather warnings and forecasts, climate observations and predictions, environmental technologies, marine fisheries statistics, nautical charts, assessments of environmental changes, and hazardous materials response information. These capabilities, products and services support the domestic security and global competitiveness of the United States, and affect the lives of nearly every citizen every day.

With its public and private partners, NOAA is a leader in climate diagnostic research and forecasts, environmental monitoring and research, fisheries management, and sustainable use of the coast. Most recently, NOAA demonstrated its scientific preeminence by the successful advance forecast of the 1997/1998 El Niño and the provision of global climate change information to policymakers at the U.N. climate conference in Kyoto, Japan. In fulfilling NOAA's key trustee responsibilities for marine resources, NOAA has taken a number of important steps to ensure the recovery of overfished species, such as the New England groundfish. NOAA is also pioneering innovative federal-state partnerships through the Endangered Species Act to recover marine species at risk. NOAA has played a key role in developing a national strategy for Harmful Algal Blooms and in Federal efforts to assist the states and coastal communities in assessing, monitoring, preventing, and responding to harmful algal bloom outbreaks such as *Pfiesteria*, red, and brown tides.

NOAA's strategic planning process defines and validates its business activities, guides the development of operating plans, and forms the basis for management decisions. The Strategic Plan provides the framework for articulating and organizing the agency's goals and work objectives. NOAA's goals for the future will enhance opportunities for our citizens, the health of the U.S. economy, the protection of our environment, and the sustainable use of our natural resources.

The challenge of investing strategically in the Nation's future is accompanied by the requirement to be more effective, to identify and realize opportunities for savings and to focus the efforts of Government on what matters to people. Performance is what counts, and the fiscal year 1999 budget includes measures which track results to the level of investment. Success in this changing world increasingly will depend on partnerships with business and industry, universities, state and local governments, and international partners. NOAA will continue to develop partnerships to leverage resources and talent, and provide the means for meeting program requirements more effectively.

#### HIGHLIGHTS OF THE FISCAL YEAR 1999 BUDGET

To ensure the continued delivery of essential services, technology and science to the Nation, NOAA's total fiscal year 1999 request is \$2.117 billion in new budget authority. This request provides the resources needed for NOAA to achieve its mission. This request also allows NOAA to perform an essential role in a number of interagency and Presidential initiatives, including, the Natural Disaster Reduction Initiative, the President's Clean Water Initiative, the South Florida Ecosystem Restoration Initiative, and the National Oceanographic Partnership Program. Significant changes in the fiscal year 1999 budget include:

- \$28.3 million (as part of the interagency Natural Disaster Reduction Initiative (NDRI)) to maintain the National Weather Service operational infrastructure and ensure the provision of weather warnings and forecasts to the public, consistent with the recommendations contained in a study conducted by John F. Kelly, BGD/Gen (Ret), An Assessment of the Fiscal Requirements to Operate the Modernized National Weather Service during Fiscal Years 1998 and 1999. Additional increases for NDRI include \$4.2 million for the Advanced Hydrologic Prediction System (AHPS), a real-time modeling and data analysis system which will significantly improve flood forecasting and water management in the U.S.; \$3.4 million to continue the replacement of the currently obsolete radiosonde upper air monitoring network; \$1 million for the Health of the Atmosphere program which will answer key science questions associated with proposed lower ozone and particulate matter standards now under consideration by the Environmental Protection Agency; \$1.5 million for the Damage Assessment and Restoration Program (DARP) to fulfill NOAA's legislative mandates and public trusteeship responsibilities for coastal and marine resources; \$1 million for research dealing with coastal hazards such as harmful algal blooms and the growing hypoxic "dead" zone in the Gulf of Mexico; \$5 million to lease or purchase a massively parallel processing computer for NOAA's Forecast System Laboratory to improve national and regional-scale weather prediction models;

and \$1.4 million to expand work with coastal states in developing risk atlases. In total, NOAA's request includes \$55 million for important new activities to reduce the cost of natural hazards.

- \$33.6 million to continue the Administration's commitment to restore the wealth of American's fisheries, protect marine species faced with extinction, and conserve habitat important to living marine resources through the implementation of NOAA's management and research obligations under the Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, Marine Mammal Protection Act, and other authorities. Meeting these commitments will require additional resources to manage effectively the Nation's billion dollar commercial fisheries and the marine recreational fisheries enjoyed by millions around the country.
- A total of \$22 million for the Clean Water Initiative. These funds provide the necessary resources to meet both the scientific and management needs to address polluted run-off, the major source of pollution in coastal waters today. The biological consequences of polluted runoff problems can be seen in many coastal areas and include the increase in harmful algal blooms, Pfiesteria, red and brown tides, as well as hypoxia in the Gulf of Mexico. The economic consequences of polluted run-off are significant. Last year for example in the Chesapeake Bay, \$40 million was lost to the local economy because of the Pfiesteria outbreak. It is estimated that over \$1 billion has been lost during the past decade because of harmful algal blooms. Of the \$22 million requested, \$12 million is included in the Coastal Zone Management program to support state efforts to address polluted run-off; \$9 million is for scientific research and monitoring of harmful algal blooms, including Pfiesteria; and \$1 million is to address toxic pollution through the Coastal Resource Coordinators program.
- \$153.4 million is requested for NESDIS to continue to ensure continuous Geostationary Operational Environmental Satellite (GOES) and Polar-orbiting satellite coverage, including environmental observing services. This increase is primarily for acquisition of GOES N-Q spacecraft which contract was awarded to Hughes in February 1998. An additional \$64.7 (an increase of \$30.7 million over the 1998 enacted levels) is required to meet NOAA's commitment to share development costs with the Department of Defense for the National Polar-orbiting Operational Environmental Satellite System (NPOESS).
- \$5.1 million to support \$2.6 million in ongoing activities (NOS/Coastal Ocean Science \$1.3 million; NMFS \$1.3 million) and \$2.5 million for new contributions (NOS/ORCA \$1.9 million; NMFS \$0.6 million) to the Administration's South Florida Ecosystem Restoration Initiative. The South Florida Initiative is an integrated effort among federal, tribal, state and non-governmental partners to halt the degradation and restore the function of the South Florida ecosystem. NOAA supports the only portion of the South Florida Initiative exclusively devoted to restoring and protecting the coastal and marine portions of the South Florida ecosystem.
- \$4 million needed to improve our understanding of climate and air quality and provide the scientific basis for national policy decisions in key environmental areas. This request also includes \$2 million for the Climate and Global Change program to augment current efforts to develop regionally specific seasonal-to-interannual climate modeling and prediction over North America, and to improve the definition of sources and sinks of atmospheric carbon dioxide. The request also includes an increase of \$1 million to continue the Administration's support for the Global Learning and Observations to Benefit the Environment (GLOBE) program.

Highlights of the request are presented, as follows, in the context of the NOAA Strategic Plan with an emphasis on the major operational units and programs contributing to the strategic goals. NOAA's Strategic Plan describes the goals and objectives that have been established to achieve its vision. The Strategy consists of seven interrelated goals that are grouped into two missions, Environmental Assessment and Prediction and Environmental Stewardship. Resources for program administration, acquisition of data, aircraft services, and supporting infrastructure are included in the total request for each strategic goal.

#### ENVIRONMENTAL ASSESSMENT AND PREDICTION

*Advancing Short-Term Warning and Forecast Services.*—To provide significantly improved short-term warning and forecast products and services that enhance public safety and the economic productivity of the Nation.

The Nation continued to experience the benefits associated with the weather service modernization in fiscal year 1997. Improvements in the accuracy and timeliness

of severe weather and natural hazards event warnings and forecasts are directly linked to modernized technologies, such as Next Generation Weather Radars (NEXRAD), new and improved weather satellites. Deployment of the Advanced Weather Interactive Processing System (AWIPS) around the country is the cornerstone of modernization. These improvements have been attributed to saving lives and reducing the impacts of natural disasters. For example:

- Record flooding occurred in the Upper Midwest, Ohio Valley and the Pacific Northwest during fiscal year 1997. Flood potential statements were issued by the National Weather Service (NWS) eight weeks in advance of the Upper Midwest Flooding and three to seven days in advance of the Pacific Northwest flooding. NWS's success was pointed out by the headline in the December 31, 1996, Seattle Times "NWS Forecasters Hit Bulls-Eye Twice." Using rainfall estimates provided by the state-of-the-art Doppler weather surveillance radar, meteorologists were able to pinpoint the location and movement of intense rain cells and provide timely and accurate flood warnings.

- In addition, tornado outbreaks in Arkansas and Texas resulted in over 50 deaths and extensive property damage. However, the use of advanced remote sensing technologies and Doppler radar allowed NWS forecasters to issue tornado warnings with lead times from 18–32 minutes, minimizing the loss of life.

NOAA requests \$1,325 million to address this strategic goal, a net increase of \$175 million over the amount enacted for fiscal year 1998. NOAA accomplishes this goal primarily through the efforts of the National Weather Service (NWS), the National Environmental Satellite, Data and Information Service (NESDIS) and the Office of Oceanic and Atmospheric Research (OAR).

For the NWS, the request provides \$489.3 million for operations and research, a net increase of \$34.8 million from the 1998 enacted levels. This includes \$28.3 million to implement the budgets and associated program activities recommended in the study conducted by John J. Kelly, BGD/Gen (Ret). In addition, NOAA requests \$152.8 million, a net decrease of \$32.9 million, for major systems acquisition supporting the modernization. Within the total amount for NWS operations, an increase of \$4.2 million is requested to initiate the national implementation of Advanced Hydrologic Prediction System (AHPS), a real-time modeling and data analysis system which will significantly improve flood forecasting and water management in the U.S. Within the total amount for systems acquisition, the NWS requests \$67.7 million for continued acquisition and deployment of the Advanced Weather Interactive Processing System (AWIPS), a decrease of \$49.2 million over the 1998 enacted levels.

This request provides \$502.6 million for NESDIS, to ensure continuous Geostationary Operational Environmental Satellite (GOES) and Polar-orbiting satellite coverage including environmental observing services, an increase of \$153.4 million from the fiscal year 1998 enacted levels. This increase is primarily for acquisition of GOES N-Q spacecraft, the contract for which was awarded to Hughes in February 1998.

An additional \$64.7 million is required to meet NOAA's commitment to share development costs with the Department of Defense for the National Polar-orbiting Operational Environmental Satellite System (NPOESS), an increase of \$30.7 million over fiscal year 1998.

This request provides OAR a total of \$52.7 million, a net decrease of \$3.5 million from the 1998 enacted levels, to advance the science of weather forecasting over land, sea, and space and to improve weather-related observing technologies. Many of these activities are key components of the interagency NDRI, which will improve the Nation's resiliency to extreme natural events.

*Implementing Seasonal to Interannual Climate Forecasts.*—To increase society's ability to mitigate economic losses and social disruption by working together with academic and multinational partners, in order to issue monthly and seasonal probability outlooks for temperature and rainfall for up to a year in advance.

- During fiscal year 1997, NOAA successfully forecasted, with six months lead time, the 1997/1998 El Niño. NOAA worked in partnership with agencies having El Niño emergency preparedness/response responsibilities, including the Federal Emergency Management Agency, the Agency for International Development, and state and local authorities.

- Continuing progress was also made by NOAA towards operational status of the ENSO observing system, including the TOGA/TAO buoy array, to monitor waters of the Pacific for the signs of an emerging El Niño.

- Positive skill was achieved in forecasting seasonal U.S. temperature for 15 out of the last 17 monthly forecasts.

NOAA requests \$105.4 million to address this strategic goal, a net decrease of \$0.5 million from the amount enacted in fiscal year 1998. This goal will be accom-

plished primarily through the efforts of the NOAA Climate and Global Change (C&GC) Program, the OAR Environmental Research Laboratories (ERL's), NESDIS, and the NWS National Centers for Environmental Prediction.

This request provides \$59.9 million for OAR and the Office of Global Programs for a number of seasonal-to-interannual activities. Part of these funds will be used to maintain the El Niño-Southern Oscillation (ENSO) observing system on an operational basis, to provide essential measurement for skillful forecasts of the ENSO phenomenon. This \$59.9 million includes \$4.9 million for NOAA to capitalize on its investments to understand and predict climate variations on seasonal to interannual timescales in: (1) essential research for understanding climate variability, and using this understanding for improved forecasts (2) expanded ocean/climate observations, (3) improved and expanded international climate predictions and application, and (4) improved understanding of regional impacts in the United States. NOAA requests an additional \$2 million in fiscal year 1999 to expand climate assessment activities, particularly in the area of regional applications for North America.

The request includes \$4.7 million for NWS climate prediction activities including monitoring global climate variability, forecasting El Niño variability, and forecasting U.S. seasonal temperature and precipitation variability.

This request also contains \$37.2 million for continued operation of NOAA's three National environmental data centers, including the development of the NOAA Virtual Data System and a program to rescue valuable aging environmental data.

*Predict and Assess Decadal to Centennial Changes.*—In the global environment, specifically for: climate change and greenhouse warming, ozone layer depletion, and air quality improvement.

NOAA continues to make progress in understanding and documenting decadal to centennial climate changes. NOAA is providing major scientific input and leadership to the Intergovernmental Panel on Climate Change (IPCC), the World Meteorological Organization (WMO), United Nation's Environment Programme (UNEP), and North American Research Strategy for Tropospheric Ozone (NARSTO).

—During 1997, NOAA scientists provided preparatory input to and served as the science advisor for the U.S. delegation at the Third Meeting of the IPCC in Kyoto, Japan (December 1997).

—In fiscal year 1997, NOAA improved the representation of the oceans in coupled climate prediction models and improved understanding of the role of the oceans in the carbon cycle.

—NOAA also produced the first reliable record of decadal changes in North American water vapor, which is a key component of the radiation balance in the climate system.

NOAA requests \$86.9 million to address this strategic goal, a net decrease of \$1.2 million from the amount enacted for fiscal year 1998. This goal will be accomplished largely through the efforts of the NOAA Climate and Global Change Program and the Office of Oceanic and Atmospheric Research (OAR).

NOAA's OAR requests a total of \$71.9 million for this goal, which includes increases of \$1 million for GLOBE and \$1 million for the Health of the Atmosphere program.

In fiscal year 1999, the increase in NOAA's Health of the Atmosphere research program will be concentrated on providing the scientific basis for improved air quality. Base funding in this area includes characterizing rural ozone episodes and making needed upgrades to critical air quality monitoring networks.

The fiscal year 1999 increase will also allow a new focus on the science needed for decisions associated with the recent rulings on new lower U.S. ozone and fine particulate matter standards, including measurements, modeling, defining chemical composition, and regional transport of ozone and fine particulate matter. Also included is a net decrease of \$3.2 million for program reductions, terminations and distributed infrastructure changes.

*Promote Safe Navigation.*—By working to revolutionize U.S. marine navigation, mapping and surveying, and to provide a precise satellite-derived reference system as the basis for the Nation's 21st Century positioning needs.

—During 1997, NOAA's National Ocean Service (NOS) produced 338 new editions of nautical charts, set the stage for private sector partnerships to update nautical surveys, installed 194 Federal Base Network stations and 28 continuously operating reference stations that will form the basic positional framework for the Nation's future spatial data infrastructure, and entered into a cooperative agreement to research, develop and implement a commercially viable national Physical Oceanographic Real-Time System (PORTS) project.

—In addition, NOAA tested Global Positioning System (GPS) technology designed to measure real-time under-vessel clearance for ships to help prevent

groundings. NOAA also evaluated new technology to improve the efficiency of shoreline mapping for nautical charts and other coastal geographical needs.

NOAA is preparing a report that responds to three requests contained in the conference report accompanying fiscal year 1998 appropriations. NOAA was requested to address the future of its hydrographic fleet, mechanisms and alternatives to maintain a core set of capabilities, and a plan to acquire not less than 50 percent of its hydrographic services from the private sector by fiscal year 1999. The plan, currently under review, will focus on those three issues. NOAA distributed a draft copy of the plan to the navigation community and held a meeting with interested constituents on January 29th. The purpose of the meeting was to obtain the navigation community's input and views on the draft plan. We have incorporated their comments into the plan, which is undergoing final review.

A more comprehensive analysis of the nautical charting program was presented to this subcommittee last spring. It analyzed the surveying, charting, and water level programs; and provided options for reducing the survey backlog. The continual maintenance policy for the nautical chart suite mentioned in that testimony has been implemented. Also, the Coast Guard is conducting tests of NOAA's digital raster charts and we are hopeful the Coast Guard will deem this product as a suitable supplement to using paper charts. Finally, NOAA's implementation of vector format data for major ports and harbors is on schedule for delivery in December of this year.

NOAA requests \$86.2 million to address this strategic goal, a net decrease of \$6.6 million from the amount enacted for fiscal year 1998. This goal will be accomplished largely through NOS mapping, charting, geodesy, and tide and current observation subactivities. NOS requests \$50.9 million to acquire hydrographic data, update nautical surveys, and deliver digital nautical charting databases, a decrease of \$5.3 million from the fiscal year 1998 enacted levels. This funding will allow the continued reduction of the critical survey backlog.

NOS requires \$11 million to acquire oceanographic data and to make available marine predictions and advanced oceanographic observations systems important to pilots and port authorities, a decrease of \$0.4 million from 1998. NOS requests \$19.2 million to provide a national spatial reference system that utilizes the GPS for navigation and positioning, a decrease of \$1.5 million from 1998. This funding will bring 20 more Continuously Operating Reference Stations (CORS) online, making the CORS System 75 percent complete.

The fiscal year 1999 proposed appropriation establishes authority to collect fees to begin to offset costs associated with providing navigation services. A proposal for the fee is being developed in conjunction with the U.S. Coast Guard and is estimated to offset the overall NOAA budget authority and appropriation by \$2.5 million in fiscal year 1999.

#### ENVIRONMENTAL STEWARDSHIP

*Build Sustainable Fisheries.*—To increase the Nation's wealth and quality of life through sustainable fisheries that support fishing industry jobs, safe and wholesome foods, and recreational opportunities.

—During fiscal year 1997, NOAA continued to provide national leadership to maintain and improve the health of U.S. fisheries. NOAA has made good progress toward assessing the status of fishery stocks through numerous surveys and technical reviews.

—In addition, NOAA advanced fishery predictions through research on multi-species modeling changes and in the ocean climate and predator-prey dynamics that also address global ecosystems.

—NOAA has also implemented harvest capacity reduction programs, and reduced capacity by 19 percent in the New England groundfish fishery through a buy-back program.

—NOAA developed, after extensive public comment, proposed and interim final essential fish habitat guidelines to the Fishery Management Councils in accordance with the requirements of the Magnuson-Stevens Act.

NOAA requests \$327.9 million to address this strategic goal, a net decrease of \$32.3 million from the amount enacted for fiscal year 1998. NOAA's National Marine Fisheries Service (NMFS), the Office of Oceanic and Atmospheric Research (OAR) and the National Ocean Service (NOS) have primary responsibility for accomplishing this goal.

Within this amount NMFS' request is \$258.4 million which includes: \$9 million in base program restorations and increases to expand the collection, evaluation, and dissemination of fisheries data including the development of strategies for bycatch reduction; an increase of \$8.1 million is requested for fisheries management pro-

grams under the provision of the Magnuson-Stevens Fishery Conservation and Management Act, including funding for Regional Fishery Management Councils and NMFS to develop and amend fishery management plans to end overfishing and rebuild stocks, implement the new national standards, include essential fish habitat identifications, and meet other requirements; an increase of \$1.5 million specifically for implementation of the Magnuson-Stevens Fishery Conservation and Management Act's National Standard 8 requirements for additional economic data; \$0.9 million in additional funds to improve at-sea and shoreside compliance; and funds to provide grants and other assistance for fisheries development programs.

To accomplish this goal, OAR requests \$25.8 million in the Sea Grant Program, National Undersea Research Program (NURP), and marine environmental research to: improve technologies for tracking and estimating aquatic biomass; advance aquaculture and economic growth initiatives; apply new computing techniques; and provide for other research activities including in-situ undersea research. In addition, NOS requests \$9.2 million to strengthen abilities to assess and predict natural and human-induced changes and their impact on fisheries health, including funds for NOAA to continue participating in the Global Ecosystem Dynamics project (GLOBEC) in the northwest Atlantic. The request also includes an increase of \$0.6 million for NOAA's Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) research program to improve prediction and control of this coastal threat.

The fiscal year 1999 request includes proposed appropriation language to authorize the collection of user fees to begin to offset costs associated with providing fisheries research, management, and enforcement. A proposal for the fees is being developed, and receipts will be collected from fees assessed on landings of commercial fishermen in the U.S. The \$19.8 million in estimated fees will be used to offset the overall NOAA budget authority and appropriation in fiscal year 1999.

Although no new funds are requested for new vessels in fiscal year 1999, funds to acquire replacement fisheries research vessel capacity are planned for future budget requests in fiscal year 2000–2003. NOAA's National Marine Fisheries Service requires new fisheries research vessels to replace the existing research fleet that has an average age of 34 years. These ships do not meet accepted international standards for acoustic quietness, an important factor in determining fish populations and setting fishery management quotas.

NOAA is presently using several approaches to collect marine data with ships. For oceanographic and atmospheric data, NOAA is using three agency ships and outsourcing arrangements with UNOLS. For nautical charting data, NOAA is using three agency ships and contracts with private industry. For fisheries stock assessment and research and marine mammal research, NOAA is using nine agency ships and outsourcing arrangements with private industry. NOAA expects to continue this approach for the next several years while expanding the amount of charting data collected by private industry.

*Recover Protected Species.*—To conserve marine species and to recover those in danger of extinction.

—NOAA both listed species under the Endangered Species Act (ESA) and made substantial progress at reversing the decline of others in fiscal year 1997. The southern Oregon and California populations of coho salmon were listed as threatened with extinction, and stocks of steelhead trout as endangered or threatened on the Upper Columbia River (Oregon, Washington and Idaho) and the northern California coast. Also listed as endangered was the Steller sea lion population in the western Gulf of Alaska.

—During 1997, NOAA implemented several marine mammal take reduction plans and updated fifty marine mammal stock assessments pursuant to its responsibilities under the Marine Mammal Protection Act. NOAA also strengthened turtle excluder device requirements, increased cooperation with Mexico to maximize hatchling production of turtles, and conducted hundreds of ESA Section 7 and Section 10 consultations. These and other accomplishments have improved the status of these species while minimizing the impact of conservation measures on economic and social activities.

NOAA is working with the states to find innovative means to manage and conserve depleted species that preclude the need for Federal listing under the Endangered Species Act (ESA). NOAA has made use of the ESA's flexibility to work cooperatively with the States of Oregon and Maine to develop conservation plans for salmon that avoided listings.

NOAA requests \$80.7 million to address this strategic goal, a net increase of \$7.9 million over fiscal year 1998 enacted levels. Primarily through the efforts of NMFS, a total of \$37.3 million is needed for status reviews and stock assessments; and \$38.8 million, is required for developing recovery, conservation and take reduction plans for the management of protected and depleted species.

These requested increases will ensure that NMFS can address major responsibilities for responding to west coast salmon listings under the ESA, expand recovery actions for endangered Kemp's ridley turtles, strengthen Atlantic right whale recovery efforts, and establish cooperative conservation program agreements under the ESA with additional states, including Alaska, California and Washington.

The increase also will support the recently enacted International Dolphin Conservation Program (providing for domestic implementation of the international agreement and ensuring the U.S. meets its study and tracking obligations under the agreement), continues a four-year study on the effects of encirclement of dolphins as a method for harvesting tuna, and develops a tracking and monitoring system for verification of "dolphin-safe" tuna being imported into the U.S. The desired outcome of this effort is to recover species in danger of extinction in a manner compatible with the sustainable use of marine resources.

*Sustain Healthy Coasts.*—In order to maintain the health, productivity, and biodiversity of the Nation's coastal ecosystems.

—In fiscal year 1997, NOAA provided technical support to the Environmental Protection Agency at 350 Coastal Superfund waste sites and critical data and resources to the interagency South Florida Ecosystem Restoration effort by initiating an integrated coastal monitoring program. NOAA also provided technical and scientific assistance to the U.S. Coast Guard at over 98 oil and chemical spills in coastal waters.

—In fiscal year 1997, NOAA jointly sponsored research with the National Science Foundation in the Great Lakes and along the Pacific and Atlantic coasts to improve predictions of lake and ocean conditions, and the effect of events such as El Niño on coastal resources. NOAA has also sponsored innovative research on the causes and effect of the cumulative stresses on our Nation's estuaries.

—In fiscal year 1997, as in prior years, NOAA reviewed upwards of 10,000 Federal permits, including over 1,500 comprehensive evaluations to avoid, minimize, and mitigate, if necessary, Federal actions that may adversely affect fish habitat.

NOAA requests \$227.7 million for this goal, a net decrease of \$14.6 million from the fiscal year 1998 enacted levels to address the practical needs and concerns of resource managers, to strengthen the watershed and regional management frameworks provided by federal-state partnerships, such as the Coastal Zone Management program, and to build partnerships with coastal communities.

This goal will be accomplished primarily through the efforts of NOS, NMFS, OAR and NESDIS. The fiscal year 1999 request includes \$153 million for NOS, an increase of \$18.3 million over the fiscal year 1998 enacted levels. The OAR request includes \$40.2 million, a decrease of \$15.7 million from the fiscal year 1998 enacted levels. The NMFS request includes \$18.4 million, a decrease of \$0.3 million below fiscal year 1998. The NMFS request includes an increase of \$2.3 million for habitat restoration activities and base funding for the Restoration Center to restore degraded habitats and to transfer technology to the public and private sectors. The NESDIS request includes \$6.2 million, no change from the fiscal year 1999 base.

Fiscal year 1999 funding for this goal supports NOAA's contributions to several important interagency efforts and Administration priorities including: the Natural Disaster Reduction Initiative (NDRI), the National Oceanographic Partnership Program (NOPP), the South Florida Ecosystem Restoration Initiative and the Clean Water Initiative.

NOAA requests \$99.8 million to protect, restore and understand coastal habitats. Included in this request is an increase of \$3 million to allow the Damage Assessment and Restoration Program to recover funds for restoration following damage to natural resources for which NOAA is the federal trustee. A \$2.5 million increase (\$1.9 million NOS; \$0.6 million NMFS) will provide monitoring and research critical to the interagency South Florida Ecosystem Restoration Initiative; and \$1.4 million (\$1 million NOS; \$0.4 million, OAR) will support analysis of the causes and impacts of hypoxia or low oxygen "dead zones" in the northern Gulf of Mexico. The request also includes \$0.8 million (a reduction of \$0.7 million from amounts provided in fiscal year 1998) to implement the National Invasive Species Act.

NOAA has also proposed the creation of a new Office of Response and Restoration (ORR) within NOS, which will include the existing Hazardous Materials Response and Assessment Division (HAZMAT) and the Damage Assessment Center. The creation of this new office consolidates recognized expertise within NOS to fulfill a range of NOAA responsibilities, including planning for and working to prevent spills, providing scientific support during spill events, assessing risk to NOAA trust resources, recommending protective cleanup strategies, and restoring injured resources. ORR will provide a focal point, thereby strengthening and facilitating coordination between all of the agency's coastal resource management programs,

NOAA's response and restoration programs, and other Federal and State agencies with analogous responsibilities. NOAA is confident that the consolidation of existing expertise into ORR will insure the development of effective solutions for protecting and restoring coastal resources threatened by releases of oil and hazardous materials. In addition, the creation of ORR will allow for the development of new capabilities designed to reduce risk to coastal resources from hazardous material releases and other environmental threats.

To promote clean coastal waters, NOAA requests \$75.8 million. This includes a total of \$22 million increase to support a number of activities for addressing degraded coastal waters as part of the Administration's Clean Water Initiative.

The new funds will allow NOAA to help coastal states monitor, maintain, and improve coastal water quality by attacking the major cause of coastal water pollution, runoff pollution from nonpoint sources, as well as address associated symptoms such as hypoxia and harmful algal blooms. Three new states, Georgia, Texas, and Ohio entered the Coastal Zone Management Program in fiscal year 1997 and 1998, the first additions to the program in 10 years. (NOAA expects to add Minnesota to the program in fiscal year 1999). The increase will allow these three new states to begin developing coastal non-point source pollution control programs, as well as allowing the 29 states with approved coastal non-point control programs to begin implementing their programs. In addition, the new funding will enable NOAA to continue leading the multiagency National Pfiesteria Research and Monitoring Strategy and ECOHAB as well as providing grants to states, universities, and communities to conduct rapid monitoring and assessment response activities to harmful algal bloom events. NOAA will also have enhanced capability to protect and restore NOAA trust resources impacted by hazardous waste sites by conducting natural resource assessments and remediations.

In addition, NOAA requests \$6.5 million to help reduce the costs of natural disasters in coastal areas. As part of the interagency NDRI, \$1.4 million in new funding in fiscal year 1999 will initiate the development of coastal risk characterization to provide critical information to local, state, federal, and private entities in order to assess the exposure and vulnerability of coastal communities to natural hazards. The increase will also enable NOAA to apply satellite-derived data provided through the NESDIS Ocean Remote Sensing Program to more effectively evaluate and mitigate natural hazards in coastal areas and reduce the impact of natural hazards on coastal habitat.

The fiscal year 1999 request will allow NOAA to continue these activities and address serious new concerns, such as the introduction and spread of non-indigenous species, the growing hypoxic, or "dead-zone" in the Gulf of Mexico, the causes and impacts of harmful algal blooms, and the rising costs of natural disasters in coastal communities.

In addition, NOAA's request reflects our proposal to establish a new science office within the National Ocean Service to build the strong scientific foundation essential for sustainable use of coastal resources. This science office will integrate a comprehensive suite of research, monitoring, assessment, and technical assistance capabilities into national centers of excellence to address critical national coastal environmental problems, build better linkages among NOAA's coastal programs that are responsible for ocean, coastal, and Great Lakes resources, and strengthen the scientific basis underlying effective coastal management. The office will provide high-quality science for predicting coastal ocean, Great Lakes, and watershed processes, and will deliver data, information, products, and technical assistance to NOAA and to its other Federal, state, academic, non-governmental, and public partners. It will also capitalize on a strong regional presence and partnerships between NOAA and external scientific and technical expertise to improve the scientific basis for environmental decisions in coastal areas of the U.S. Through this new science office, the National Ocean Service will not only improve its ability to better serve its management responsibilities in the coastal zone and other coastal protected areas, but will also provide NOAA with an important new tool for improving its efforts to build sustainable fisheries, recover protected species, and maintain coastal habitat areas essential for our nation's fisheries and coastal economies. The establishment of the new scientific office is a direct response to recommendations provided by NOAA's Coastal Stewardship Task Force to improve the effectiveness of NOAA's coastal programs.

#### REDUCING COSTS AND IMPROVING EFFECTIVENESS

In an environment of tightening dollars and increasingly complex challenges, NOAA is reducing costs and improving program effectiveness. NOAA is saving money through streamlining personnel and processes, outsourcing where appro-

appropriate, and leveraging external resources and talent. NOAA holds managers accountable for results and requires use of performance measures to validate progress. The highest priority is given to ensuring that critical services are provided as efficiently and effectively as possible.

#### CONCLUSION

As I have discussed above, NOAA's fiscal year 1999 budget represents the most cost effective means to promote the Nation's environmental and economic advantage, while maintaining an appropriate balance among the environmental assessment and prediction and environmental stewardship needs of the Nation. We welcome the coming discussions on our goals, priorities, and operations with the Congress, our constituents, and the public. We believe that our budget will be well received by all these groups because our budget represents essential levels of investment to generate major economic returns. Every day, in some way, every person in the U.S. is affected by the mission of NOAA. Our budget enables us to continue this service.

Thank you. If you have any questions, I am prepared to answer them at this time.

Senator GREGG. Thank you, Doctor. I would simply echo a comment that you made, which is that NOAA deserves to be congratulated for the excellent job it did in predicting El Niño. There is no question that you said it was coming. I do not think anybody really recognized the impact of it, but you certainly predicted it.

Equally important is much of the work you have been doing in other wind-dramatic events and weather-dramatic events, such as tornadoes. I think your agency has certainly acquitted itself very well over the last year in using its resources to inform the public on very critical issues.

Let me yield to the chairman of the full committee since he has joined us.

#### COMMUNITY DEVELOPMENT QUOTAS [CDQ'S] SUNSET LEGISLATION

Senator STEVENS. Thank you very much. I do have to move on, but I visited with Dr. Baker yesterday. Since then, Dr. Baker, I have had an inquiry from the Pacific Fisheries Management Council about the CDQ's for crab, and particularly the delay—I think you have gotten a letter from them, too, about that. I do not know if you have seen it yet. But my memory is that CDQ's sunset at 2002, and it looks like you are not even going to implement these until 2000. I do not see how we will have the time to determine whether there is a fair way to allocate opportunities to the indigenous people of these remote villages unless they can be approved. So I would hope that we could move on with that.

#### FISHERY STAMPS

The other thing I wanted to tell you, Mr. Chairman, Senator Hollings, and Senator Domenici, is I suggested to Dr. Baker yesterday that we consider creating something like a duck stamp, but instead a fishery stamp. Something to try to get a revenue stream into some of these areas, from those people who are really taking advantage and using the system. Not on a user fee concept as such, but as a one-time thing. Maybe annually. Somehow to devise one, depending on the fishery you are in. Our people who hunt have not had any objection to duck stamps. We have, in the State of Alaska, a king salmon stamp. I do think that they have been totally acceptable to the fisherman to acquire it as a condition of using a fishing license to fish for king salmon.

I sympathize, Dr. Baker, with not having any new revenue streams, and I must confess that the conversation came up in conjunction with the proposed fee on ex vessel value of commercial catch, which President Bush tried also, at a higher level, and I assume everyone will understand that those of us from the fishing communities are still opposed to that concept. But I do believe that there is enormous growth of recreational fishing and recreational boating. There should be some way to establish a stream of revenue, and I think the people involved that I know would support it.

I would hope that we could have a discussion along the line, and maybe even with Dr. Baker's assistance, and see if we cannot initiate an alternative to these user fees that are in this budget. I have no specific questions for Dr. Baker today, and I thank you for the courtesy.

Senator GREGG. I think that is an interesting idea. I know that New Hampshire also has a fish stamp. We have a duck stamp, too. So it does have some credibility.

Senator HOLLINGS. You could have a cod stamp.

Senator GREGG. We could have a cod stamp. Striped bass stamp. Flounder.

Senator STEVENS. We would have to have a whole room full of stamps if you are going to have one for each species.

Dr. BAKER. After our discussion yesterday, Senator Stevens, we put a group to work on that within NOAA. I think it is a great idea.

Senator GREGG. I think it has some potential.

Senator STEVENS. Yes.

Senator GREGG. Senator Hollings.

#### TURTLE EXTRUDER

Senator HOLLINGS. His issue is crabs. Mine is turtles and the turtle extruder, the device tested last June that was approved and permitted, but you never made the ruling on it. The permits expire next month. And it's stuck in the bureaucracy. Can we get a ruling on the turtle extruder?

Mr. GARCIA. Senator, we expect to have the final rule out in the next couple of weeks. The final rule will be effective—it will be in time for the shrimping season.

Senator HOLLINGS. You could give us a ruling tomorrow. What's the matter?

Mr. GARCIA. It is on its way to OMB.

#### OCEANS STUDY

Senator HOLLINGS. With respect to the oceans study, you have a \$1 million amount that we put in temporarily last year, hoping to get it started last year. But it costs \$6 million for the hearings and everything else associated with the study. We're going to need \$5 million more. Now, the House is going to mark it up at the end of this month, I think, and we'll follow soon after. And we do appreciate your input to this, because we want to get experts like yourself involved. But we have to have the money to get this project on its feet.

## NOAA CORPS

Now regarding the NOAA Corps. The policy, from what I understand, is that the executive branch executes laws as mandated, not execute the laws as some executives may want them. The NOAA Corps still exists. You have letters about it. But you, by attrition, are just getting rid of it, which is in contradiction to the policy as set out by the Congress. We still want the NOAA Corps, and by your words and actions you're ruining the morale and everything else over there.

Dr. BAKER. Senator Hollings, I understand fully what you are saying, and I want to say that we have gone through a process of downsizing the NOAA Corps simply because we have fewer vessels. That has been one process that we have undergone.

Then the administration asked us in addition to the downsizing to look at this question of disestablishment. And as you know it was administration policy to propose disestablishment of the corps and to turn those functions over to civilians.

Senator HOLLINGS. Which the Congress disagreed with.

Dr. BAKER. Which the Congress has told us that they disagree with. And I have heard that message loud and clear. We have gone back to the administration and said we want to look at this, and we have gone inside, and we are looking very carefully right now.

We expect to have an answer back to you shortly on what is the minimum size of the NOAA Corps that we need to carry out the essential functions that the corps can do. And we have promised to have an answer back by March 18 on that.

Senator HOLLINGS. At the same time, fortunately, and commendably, you have more money in here for fisheries and vessels. So you are building up the NOAA fleet and doing away with the actual corps itself.

You need to reconcile that, and get policy in step with the Congress, please.

Dr. BAKER. We are working very hard on that, and I think we are slowly bringing OMB around to this point of view.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Maybe we can bring them around more dramatically.

Senator HOLLINGS. You can.

Senator GREGG. Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman.

## GAP IN RADAR COVERAGE

Dr. Baker, on my last trip to New Mexico, I talked to meteorologists there, and they expressed concern about a very large gap in radar coverage in New Mexico, especially in the northwest corner, the four corners area.

This area includes the city of Farmington, which is a very fast growing metropolitan area. I have a map here. I am going to share it with you, leave it with you, which shows where this most pronounced gap in radar coverage is.

I would like to ask you today, if you would please look at this situation for me and describe in detail the gaps in this coverage, especially in that four corners area shown on the maps.

I would like to know whether you have any plans for doing anything about it, and if you do, how much it might cost, and if you don't, why you don't.

Dr. BAKER. Certainly, Senator.

[The information follows:]

#### RADAR COVERAGE IN THE FOUR CORNERS AREA

There are no current plans to increase radar coverage in the Four Corners area. The National Weather Service believes that the much improved radar coverage, combined with the other components of modernization is sufficient to provide equal or better weather services.

#### ASSESSMENT OF OVERALL RADAR COVERAGE IN MEXICO

Senator DOMENICI. I would suggest one other problem that you might look at. I think you might recall, although it was a very, very small tornado, but New Mexico had a tornado in the little town of Cimarron, close to this area that I am describing.

It was never expected up there, and interestingly enough, the radar at Cannon Air Force Base did not see any sign of this. The Nexrad system, which I believe is in existence, didn't pick it up, and the Albuquerque radar can't see it because of the surrounding mountains.

I wonder if there are any proposed changes to increase coverage in this area since that tornado in 1996. I would say, so there is no misunderstanding, I believe you are doing an excellent job in New Mexico, but I would like you to assess the overall Weather Service coverage of our State. Sometimes it gets by, and they leave gaps, and I think that exists. Would you do that, please?

Dr. BAKER. We will do that.

[The information follows:]

#### ASSESSMENT OF THE RADAR COVERAGE IN NEW MEXICO

Under the National Weather System (NWS) modernization, radar coverage for New Mexico has been substantially improved over what existed prior to modernization. Prior to modernization, there was very limited radar coverage in New Mexico from three NWS radars in western Texas, and through use of Federal Aviation Administration Air Traffic Control radars which provided very little precipitation information.

Now with the modernized Next Generation Weather Radar (WSR-88D) network in place, Doppler radar coverage in New Mexico is provided by ten radars. Four of these are located in New Mexico and the other six in surrounding states. The vast majority of New Mexico is covered by Doppler radar, however, there are a few areas that do not have complete radar coverage. The areas without complete radar coverage are mostly mountainous terrain which blocks radar signals (see attachment Figure 2-1b). The attachment (Figure 2-1a) also shows the almost complete lack of radar coverage that existed prior to modernization within the Four Corners area of New Mexico.

Doppler radar is only one part of the composite suite of new observational systems that modernization has brought into operation. New geostationary satellites and automated surface observing systems, combined with Doppler radar, enable NWS to provide equal or better weather service under the modernization.

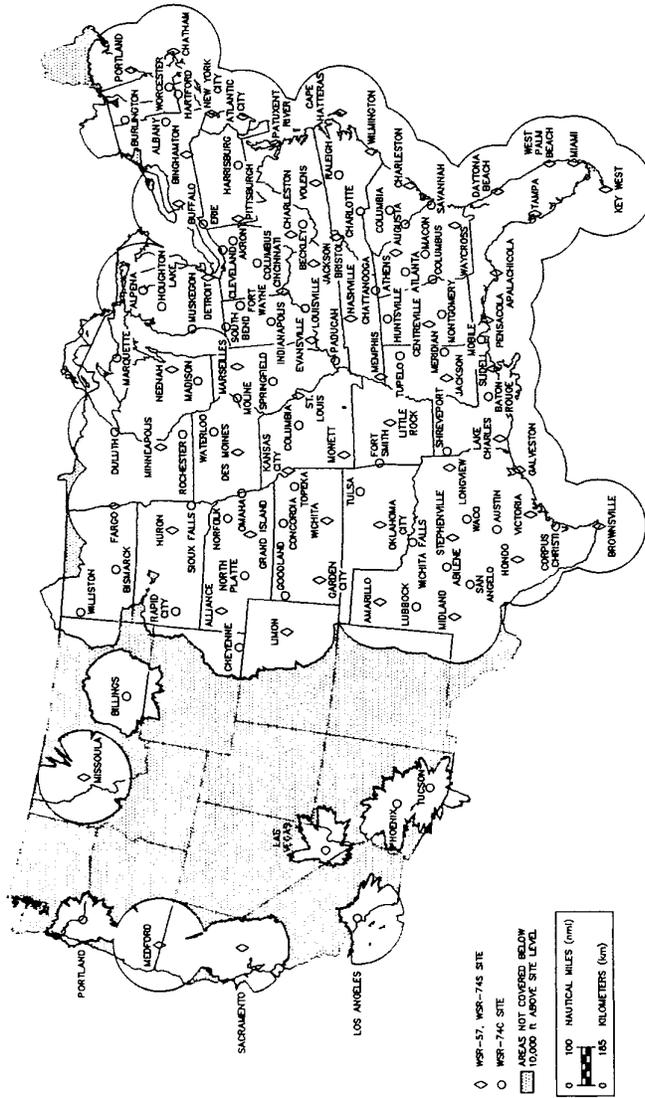


Figure 2-1a Composite pre-NEXRAD coverage at 10,000 ft above site level for the contiguous United States and the locations of the radars by type. Courtesy of SRI International.

Source: The National Research Council Report, June 1995—Assessment of NEXRAD Coverage and Associated Weather Services.

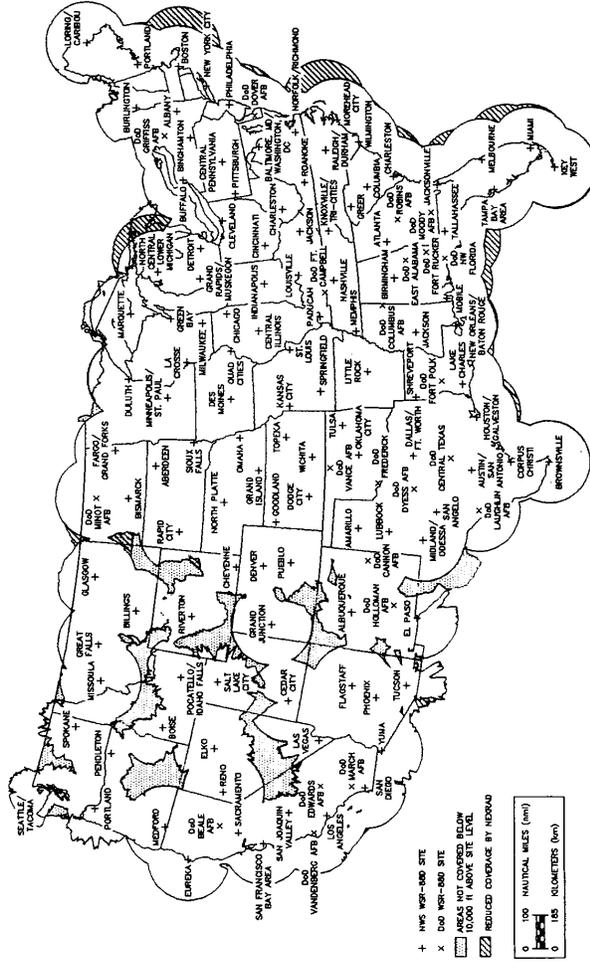


Figure 2-1b Composite NEXRAD coverage at 10,000 ft above site level for the contiguous United States and the locations of NWS and DoD sites. This figure also shows those areas (striped blue) where there will be reduced coverage at 10,000 ft by the NEXRAD network compared with that which existed with the pre-NEXRAD network, as specified in P.L. 102-567, Sec. 702(4). Courtesy of SRI International.

Source: The National Research Council Report, June 1995—Assessment of NEXRAD Coverage and Associated Weather Services.

Senator DOMENICI. Mr. Chairman, I am going to leave with you for submission to the next witness questions on the SBA, particularly on their Women's Entrepreneurial Program, and if you would submit them for me I would be very pleased.

Senator GREGG. I certainly will.

Senator DOMENICI. Thank you very much.

Senator GREGG. Thank you.

#### NATURAL DISASTER REDUCTION INITIATIVE

Doctor, on this interagency disaster task force that we heard about yesterday from the Secretary, you are the biggest contributor in the Department. Of course, you are the biggest part of the Department, so that is reasonable. But of the \$55 million, where is that coming from? Is it going to mean that you are going to have to make programmatic changes? Will it take away from other programmatic activity? Or is it just a shifting around in the flow chart?

Dr. BAKER. There are two pieces to that, Senator Gregg. One, we felt it was very important that we address the recommendations of the study that General Kelly made about what was needed to have adequate base funding for the National Weather Service. So of the \$55 million for NOAA, \$28.3 million funds the recommendations of the Kelly study to make sure that our infrastructure is in place.

Then we are proposing new funding for a number of things that range from new applications of our advanced hydrologic prediction system—this is a system that takes into account not only existing water in the system, but also what our radars are saying about water that is falling, or water that might be falling, so we can do a much better job of flood forecasts.

We are doing that in two areas now, and our natural disaster reduction initiative allows us to go to two new areas. So a total of four. One is the Red River area up in North Dakota, and the other is the Columbia River system in the Pacific Northwest.

Our hope is that eventually we will be able to have this advanced hydrologic prediction system everywhere in the country that we expect to see flash floods. But we are making a start there.

We are also putting part of that funding into biological natural disasters, looking at pfiesteria and hypoxia research, and part of the funding is going to enhance our oilspill response activity.

#### AWIPS PROGRAM

Senator GREGG. The AWIPS program. Yesterday we heard from the Secretary that you folks are on the verge of a final decision as to funding levels. How much over the \$550 million are we going to be? What are we going to be dropping from the program because we could not afford it?

Dr. BAKER. Senator, this has been an issue of concern to all of us as we go forward with our modernization. It is the last piece of modernization.

We have gone through two restructurings of the program since I have been the Under Secretary, and I know there were restructurings before. When I first came in 1993, we made a major change in the way the program was put together.

We did another change in 1996, pulling out the software development from the contractor, and we have been doing regular briefings on the stage of the program. But it became clear several months ago that although the system is working very well, the 30 deployments that we have have shown that it actually does pull together all the information and gives us the information needs. And the users love it, and the other weather station offices are calling for it. The fact is we did not have an independent cost review of whether we were going to make our target.

And so Bill Mehuron, our Acting Deputy Under Secretary, commissioned an independent cost study, and they came in and said to us, yes, the system is working great, but it is going to cost you more than \$550 million to do everything that you plan to do.

And so we went back to the Weather Service and we said you guys have got to reconcile this, and we need to know what we can do for \$550 million. And if there are some crucial things that we can't, we want to know what they are, and what it is going to cost. They are now busily working night and day to give us an answer on this, and we expect to brief the Secretary on Monday of next week about those questions you have just asked. What is it going to cost, and what is going to be in or not in the system. And we will have an independent cost review of that so we can have some credibility there.

Senator GREGG. So when will you be briefing us?

Dr. BAKER. I would expect within a few days.

#### NOAA-WIDE REQUIREMENT FOR SPACE

Senator GREGG. Now, last year there was an item, at least on the Senate side, for a new building at Goddard, which did not make it through the process. This year that is not in the request.

What is your plan relative to space?

Dr. BAKER. We have about \$735,000 in our budget to look at NOAA-wide requirements for space, including the question of what we do with our current activities that are currently in Suitland and in Camp Springs.

The last time we looked at that, moving into the federally owned facility at Goddard, it looked like it was the cheapest way to go. With the message from Congress, we have gone back, and we are relooking at what that would be.

We have done an environmental assessment. There are a lot of advantages to our going onto a Federal facility with NASA, but we understand the message from Congress. We are going back and looking broadly at our space needs, and we will come back to you with what those recommendations are.

Senator GREGG. The sooner the better, to make this budget cycle.

#### ENVIRONMENTAL ASSESSMENT

Now, I think it was last year that the Atlantic States fisheries group came up with a program for the lobster take, and you are proceeding with a program, at the National Marine Fisheries, and it doesn't appear that National Marine Fisheries is giving a whole lot of credibility to what the Atlantic States people did. My question is, do we expect when the National Marine Fisheries finally

comes out with something on lobsters that they are going to listen to the people who actually do the fishing?

Mr. GARCIA. We had asked the Fisheries Service to go back and do just that, and make sure that the environmental assessment that they were going to issue included specifically the Atlantic States proposal.

What we would like to see for a public review is a range of options. We are not going to indicate in our document a preferred option. Rather we are going to say that there is a continuum, and here the options are on that continuum, and then solicit public comment on those various options, and make a decision at that point.

We have talked to the industry. We have been in discussions with the Governor of Maine. We are talking to the Atlantic States Marine Fisheries Council, and we are working very hard to make sure that this is not prejudged, but rather that this is truly a proposal for comment so that we could then—as we did with the right whale issue—listen to the industry, and, hopefully, craft a rule that is going to balance the interests of the industry as well as the need of the resource. We were very concerned, though, about the status of that resource.

Senator GREGG. I think that is a reasonable approach. Up to now that has not been my sense of the direction it was going. But as you outlined it, that seems to be a reasonable approach.

Do you have any questions?

Senator HOLLINGS. No; I hope the briefers are still in office after the briefing on Monday. [Laughter.]

Dr. BAKER. So do we.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. Well, thank you. Do you have anything further?

Dr. BAKER. We appreciate all your support. We are making progress on the oceans, thanks to your leadership here.

Senator GREGG. Thank you.

We will be in recess for a few minutes.

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

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### NOAA WEATHER SERVICE MODERNIZATION—NEW MEXICO

*Question.* Dr. Baker, NOAA continues a significant modernization effort of the National Weather Service (NWS). New Mexico is slated for two of the 119 state-of-the-art Weather Forecast Offices (WFO)—one in Albuquerque and one in Santa Teresa (called the El Paso WFO). This modernization effort will provide each of these 119 Weather Forecast Offices with at least one associated Doppler radar.

On my last trip to New Mexico, one of our meteorologists expressed his concern that there are gaps in radar coverage in New Mexico, especially in the northwestern, or Four Corners Area. This area includes the City of Farmington, which has been experiencing robust growth in population, air traffic, etc. A map, which I am glad to share with you shows where this most pronounced gap in radar coverage occurs.

Would you please look into this situation for me and describe in detail the gaps in radar coverage that New Mexico is experiencing, especially in the Four Corners area of the State?

*Answer.* Under the National Weather Service (NWS) modernization, radar coverage for New Mexico has been substantially improved over what existed prior to

modernization. Prior to modernization, there was very limited radar coverage in New Mexico from three NWS radars in western Texas, and through use of FAA Air Traffic Control radars which provided very little precipitation information.

Now with the modernized Next Generation Weather Radar (WSR-88D) network in place, Doppler radar coverage in New Mexico is provided by ten radars. Four of these are located in New Mexico and the other six in surrounding states. The vast majority of New Mexico is covered by Doppler radar; however, there are a few areas that do not have complete radar coverage. (See attachment Figure 2-1b). The areas without complete radar coverage are mostly mountainous terrain which blocks radar signals. (See attachment Figure 2-1a). This shows the almost complete lack of radar coverage that existed prior to modernization within the Four Corners area of the state. Doppler radar is only one part of the composite suite of new observational systems that modernization has brought into operation. New geostationary satellites and automated surface observing systems, combined with Doppler radar enable NWS to provide equal or better weather services under the modernization.

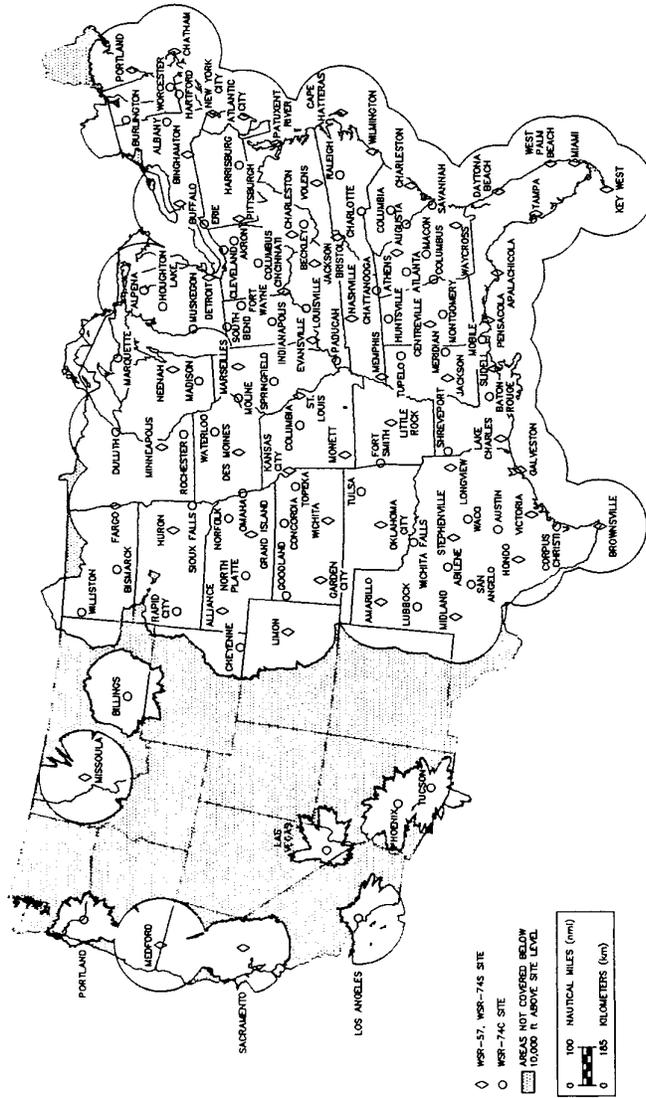


Figure 2-1a Composite pre-NEXRAD coverage at 10,000 ft above site level for the contiguous United States and the locations of the radars by type. Courtesy of SRI International.

Source: The National Research Council Report, June 1995—Assessment of NEXRAD Coverage and Associated Weather Services.

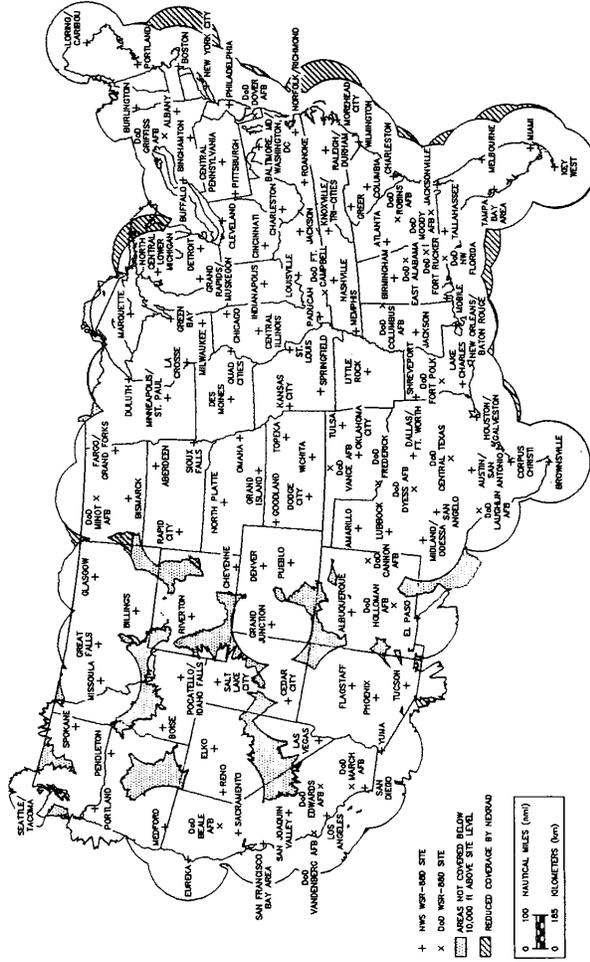


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Source: The National Research Council Report, June 1995—Assessment of NEXRAD Coverage and Associated Weather Services.

*Question.* Are there currently any plans to increase radar coverage in this area that would address the gap in the Four Corners area?

*Answer.* There are no current plans to increase radar coverage in the Four Corners area. NWS believes that the much improved radar coverage, combined with the other components of modernization is sufficient to provide equal or better weather services.

*Question.* Does the Weather Service have the flexibility to address such gaps in coverage within the modernization plan? What options does the Weather Service have to make adjustments in the modernization plan to cover such areas?

*Answer.* The NWS modernization plan was predicated on the "no degradation of service" requirement of the Weather Service Modernization Act, Public Law 102-567, October 1992. Consequently, NWS has had only the flexibility to address areas with degraded radar coverage under modernization that would have led to a degradation in weather services. For example, in 1995 the Secretary of Commerce determined that degraded radar coverage in northern Indiana, northern Alabama, and western Arkansas would cause a degradation of service and added three new WSR-88D's.

*Question.* Dr. Baker, as you may recall, in July 1996, an unusual event occurred in northeastern New Mexico in the City of Cimarron, which experienced a small tornado. Fortunately, no one was killed, but six were injured and several buildings were damaged. The DOD radar at Cannon Air Force Base did not see any sign of this tornado on its radar, which I believe is a NEXRAD system, and the Albuquerque radar cannot see this area because of surrounding mountains.

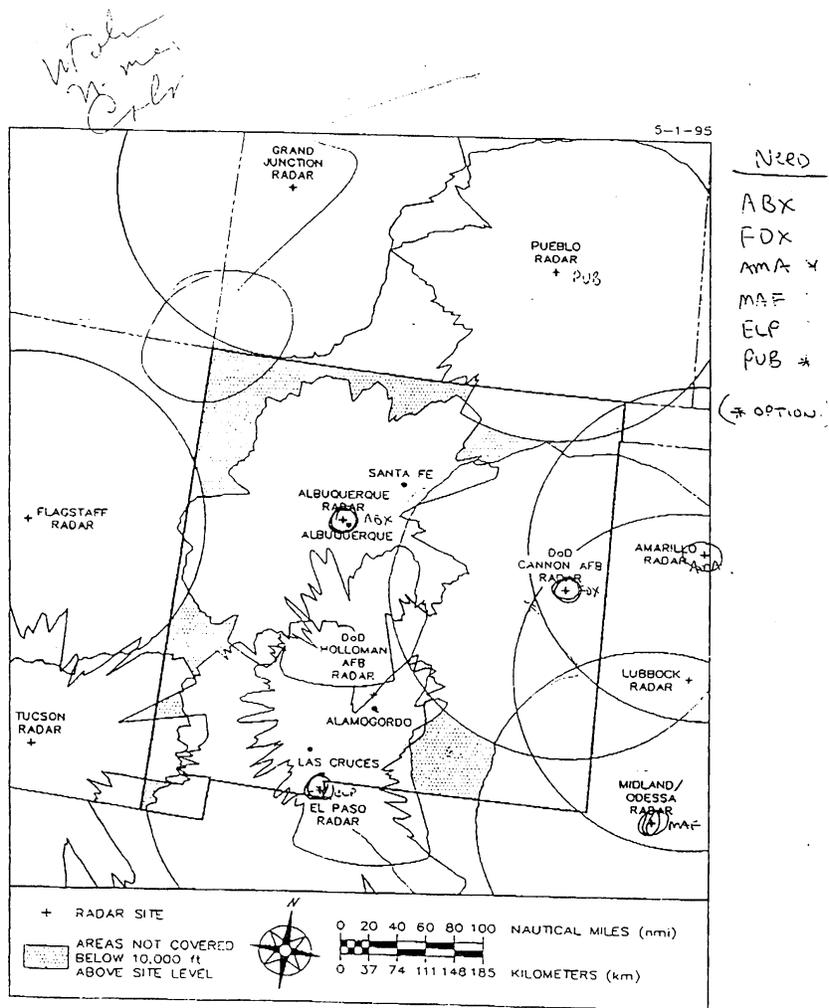
Has the Weather Service instituted any changes in its program to increase coverage in this area since the July 1996 tornado?

*Answer.* On July 25, 1996, a storm formed northwest of Cimarron which is located in northeastern New Mexico. The Weather Service Forecast Office in Albuquerque saw the storm on the Cannon Air Force Base WSR-88D and issued a small stream and canyon advisory statement for the potential flooding associated with the storm. Twenty minutes later, officials in the Cimarron area reported watching a small tornado move across the area which resulted in six injuries. The tornado, rated an F2, was short lived. Since this tornado, the Albuquerque office has increased its spotter training activities in northeastern New Mexico. We believe this will assist in future coordination of severe or significant weather in the area.

*Question.* Overall, how would you assess the Weather Service coverage of New Mexico?

*Answer.* The overall coverage of New Mexico is excellent. New Mexico receives radar coverage from ten radars. Four of these are located in New Mexico and the other six in surrounding states.

In addition, New Mexico receives weather services from three newly constructed Weather Forecast Offices. (Albuquerque, NM, El Paso, TX, and Midland/Odessa, TX.) These new radars combined with other newly installed observing technologies, such as Automated Surface Observing System, are providing forecasters with unprecedented data, resulting in significant improvements in weather warning and forecasts services. Attached is a map showing the weather service radar coverage in New Mexico.



NEXRAD COVERAGE OF NEW MEXICO AT 10,000 ft

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

AWIPS

**Question.** Speaking of AWIPS, could you review for us again what you believe the real total costs will be, and why you think it will exceed \$550 million?

**Answer.** The program plan we are proposing results in the most cost-effective outcome for achieving required capabilities, while complying with legislation. The National Weather Service will deliver Advanced Weather Interactive Processing System (AWIPS) to all planned locations with sufficient capability to replace primary existing systems within the \$550 million cap (Build 4.2). Build 4.2 includes initial Interactive Forecast Preparation to support public and aviation forecasts and to automate NOAA Weather Radio broadcasts, hydrologic prediction system for river basins, some service backup and site system monitoring, partial Next General Weather Radar (NEXRAD) workstation functionality, and initial integration of local data acquisition and dissemination systems. Significant field staffing reductions

(106 positions) are achievable with these capabilities. Under this plan, deployment would be accelerated so that all planned sites would be installed by June 1999 with complete Build 4.2 capability.

We will have an independent assessment conducted of proposed requirements beyond software Build 4.2, to ensure that any further development is cost effective and to determine how they support further staff reductions. This development will be accomplished under planned product improvement/systems evolution. This independent assessment will be completed by August 31, 1998.

*Question.* How long will it take to deploy the system?

*Answer.* The planned completion date for full deployment of AWIPS is June 1999.

*Question.* In the case of NEXRAD radars, NOAA put South Carolina at the end of the deployment schedule even though historically we have one of the highest incidences of large, killer tornadoes. So where are we in your deployment schedule for AWIPS?

*Answer.* Of the 135 deployment phase systems to be deployed, 21 systems have been completed. The limited deployment of the next group of 19 systems will begin in June 1998. With a March 1998 authorization of Key Decision Point IV and an acceleration of installation from seven to ten systems per month, deployment will be completed in June 1999. According to the current schedule, three cities in South Carolina (Columbia, Charleston, and Greenville-Spartanburg) are scheduled for deployment in March 1999.

#### OCEANS ACT

*Question.* On November 13, 1997, the Senate approved S. 1213, the Oceans Act, my bill calling for a plan to explore, protect, and make better use of our oceans and coasts. Last year, I included \$1 million in NOAA budget to get the Commission up and running. However, we estimate that it will require an additional \$5 million to fully fund the Commission's staff and activities. Despite Secretary Daley's letter supporting the legislation, the NOAA budget request proposes a decrease of \$1 million to terminate support for the Commission which it terms "a one-year project".

Is NOAA suggesting that the Commission can complete its work in one year and for \$1 million? Please explain.

*Answer.* The Administration has not made any independent analysis or estimates on the costs of the Commission and has not concluded that the Commission could complete its work in one year. Last fall, Secretary Daley went on record in support of the duration and funding levels established in S. 1213. However, in preparing its fiscal year 1999 budget request the Administration concluded it would be premature to propose funding to carry out legislation that has yet to be sent to the President. The Administration concluded it would be inappropriate to request specific funding levels before an Act, along with its congressionally established level for the authorization of appropriations, is approved by the Congress.

*Question.* Can I count on your support for adequate funding for the Commission?

*Answer.* NOAA supports a Commission that is adequately funded and will support efforts to ensure that the Commission has the resources necessary to fulfill its mission.

Pending legislation grants the President discretion to utilize agency staff as necessary to fulfill responsibilities under the Act. There is a concern that agencies will be required to invest considerable time and resources to successfully implement and fulfill these duties. The creation of new mandates on agencies without commensurate funding could put them in a position where they may violate the Economy Act. The Administration believes the costs associated with the Commission should be readily ascertained and transparent. Therefore, if agencies supply staff or other support, it would be preferable to require the commission to reimburse the agencies in order to simplify accounting of all costs.

*Question.* What are the Administration's current plans for a national conference on the oceans and other activities related to the Year of the Ocean?

*Answer.* This week the Administration began providing briefings to members of Congress on the national conference and other Year of the Ocean Activities. The range of Year of the Ocean activities is broad and involves the efforts of more than 15 agencies and programs. Activities are being spearheaded by the Ocean Principals Group within the administration. NOAA has established a web page in which education and outreach are the primary functions. NOAA will contact your office and schedule a briefing for you or your staff to provide full details of the conference and other Year of the Ocean activities.

CLEAN WATER INITIATIVE

*Question.* Your budget includes an increase of \$22 million for the “Clean Water Initiative.” \$12 million of this amount goes to the Coastal Zone Management Program.

Could you explain this part of your initiative in more detail? What is NOAA’s role versus EPA’s role—are you talking about NOAA funding planning or actual brick and mortar projects to curtail non-point source pollution?

*Answer.* The Coastal Zone Act Reauthorization Amendments of 1990 direct both NOAA and Environmental Protection Agency (EPA), and their respective state partners, with administration of the Coastal Nonpoint Pollution Control Program. The purpose of these funds is to provide NOAA with the resources to support the participation of its state and territorial partners, the 32 Federally-approved state Coastal Zone Management (CZM) programs, in this cooperative effort to reduce pollution to coastal waters. These funds complement the resources EPA is providing to its partners, the state water quality agencies. Without these resources, state CZM programs will be unable to participate in this effort.

The \$12 million will be used as follows:

- \$6 million will be provided to state CZM programs for continued development of coastal runoff control programs. These funds will be used for two specific planning purposes. First, by fiscal year 1999 twenty-nine CZM states will have Coastal Nonpoint Control Programs approved with conditions. Funds will be used by these states to take the further development actions necessary to address these deficiencies. Second, these funds will be used by the three states with newly approved CZM programs (Georgia, Ohio, Texas) to begin development of their state coastal nonpoint programs.
- \$6 million will be provided to the 29 state CZM programs with approved coastal nonpoint programs to begin the implementation phase of these programs. These grants will allow coastal states to implement on-the-ground management measures, and leverage other Federal, state, and local resources, to control the flow of polluted runoff into coastal waters. Since these funds are requested under § 309 of the Coastal Zone Management Act (CZMA), they will be available only for planning purposes and not the “low cost construction” authorities of CZMA’s § 306A.

NATURAL DISASTER REDUCTION INITIATIVE [NDRI]

*Question.* On Tuesday, Secretary Daley announced a five-year, \$240 million project to help communities better prepare for and recover from damage due to weather-related events like hurricanes, El Niño storms and tornadoes.

What is NOAA’s budget for and role in the Natural Disaster Reduction Initiative in fiscal year 1999?

*Answer.* NOAA’s fiscal year 1999 budget request is \$55 million for important new activities that will reduce the costs of natural hazards as part of the Natural Disaster Reduction Initiative (NDRI). Developed through the National Science and Technology Council’s Committee on Environment and Natural Resources (CENR), this initiative is part of the Administration’s effort to apply the tools of Federal agencies (including NOAA, EDA and National Institute of Standards and Technology within the Department of Commerce) to save lives, reduce costs and lower the risks of natural disasters.

NOAA’s request includes funds to provide: (1) the best possible warnings and information to prevent damage and permit escape during hazard events; and (2) information and techniques to lower the vulnerability and increase the resiliency of people and property before and after hazard events. NOAA’s request for each of the major fiscal year 1999 NDRI objectives follows:

*Fiscal Year 1999 Natural Disaster Reduction Initiative*

[In millions of dollars]

Natural Hazard Identification and Risks and Costs Assessments .....	5.8
Sustain and Improve Predictions and Understanding of Natural Hazards .....	37.7
Application of New Technologies for Warnings and Forecasts .....	7.3
Transfer Natural Reduction Technology to Public and Private Sector .....	4.2
 Total NDRI .....	 55.0

NOAA’s role in the NDRI is critical to overall success. NOAA will provide more accurate and timely warnings and forecasts for weather-related and other natural disasters and provide information on the risks and costs of natural disasters in the Nation’s valuable coastal communities, some of the areas hardest hit by natural

hazards. The requested increase will also provide techniques to mitigate the impacts of natural hazards, measures to reduce the introduction and spread of nonindigenous species that threaten coastal fisheries, and research for dealing with other coastal hazards such as harmful algal blooms and hypoxia.

*Question.* What is NOAA doing to improve the understanding of coastal hazards like hurricanes and to reduce the public costs such as warnings, evacuations, clean up, risk evaluations, and minimizing exposure?

*Answer.* The Nation's ability to prepare for natural hazards, including severe weather events, depends on the quality and timeliness of observations, assessments and information delivery. NOAA has made considerable progress in recent years in the understanding and forecasting of coastal hazards, including hurricanes, tornadoes and flooding. New observing systems such as Doppler radar, advanced weather satellites and high-altitude aircraft, and enhanced computing and high-resolution modeling capabilities are central to improvements in performance. NOAA is measuring how accurately it can predict the range where hurricanes will reach land, given a 24-hour lead time. From fiscal year 1994 to the performance estimate for fiscal year 1999, NOAA expects to improve its accuracy from 185 kilometers to 135 kilometers. The significance of earlier and more accurate hurricane warnings is enormous. Most importantly, they help prevent deaths and injuries. But they also reduce the costs to the public for unnecessary warnings and evacuations, because earlier and more accurate predictions of hurricane tracks and intensities can reduce the size of the warning areas in which people are advised to prepare for the event. NOAA has calculated that for each hurricane, the public's preparation and evacuation costs exceed \$50 million, but improved predictions can cut that cost by \$5 million. In addition, clear and verifiable improvements in performance lead to improvements in credibility. As the public takes more accurate forecasts more seriously, this helps lessen loss of life and property.

NOAA is working to better characterize the risks, true costs and vulnerability due to coastal hazards. The fiscal year 1999 request specifically includes funds to support activities under the NDRI to expand work with coastal states to develop coastal risk atlases and provide new remote sensing data in a more effective manner so that coastal communities can better prepare for and recover from natural disasters, and assess the economic impacts of natural disasters on coastal habitats. NOAA currently is helping to organize and sponsor expert panels to develop a framework and methodology for community-based risk, vulnerability, and economic cost assessment, and is developing a community-based approach to training for state, county and local officials in how to plan for, mitigate and support community expansion when faced with various levels of risk and uncertainty associated with coastal natural hazards.

NOAA is also preparing, as directed by the Congress in fiscal year 1998 appropriations report language, a collaborative research effort with the U.S. Geological Survey dealing with the risks and economic costs associated with coastal natural hazards. As proposed in the draft study, three research areas are expected to be emphasized: (1) defining the characteristics and probabilities associated with the hazards that impact coastal areas; (2) understanding the specific impacts of hazard events on the various natural environments that characterize the coastline; and (3) identifying the societal impacts and related costs of coastal hazards on the human and developed environment.

#### SEA TURTLES AND SPENDING ON PROTECTED SPECIES

*Question.* The fiscal year 1999 NOAA budget proposes to spend almost \$82 million in fiscal year 1999 on the recovery of protected species. This is a sizable amount of money—and most of it seems to be going to the West Coast to expand Pacific salmon recovery efforts and address the decline of endangered monk seals and Stellar sea lions. I'd like to remind you that we also have endangered species problems, like sea turtles, in the Southeast. NOAA was quick to ban the use of soft turtle excluder devices (TED's) when they suspected them of contributing to increased turtle strandings. However, we have yet to see a Federal rule allowing the use of a new modified soft TED developed by South Carolina fishermen—even though field testing was completed almost nine months ago. Shrimpers who wanted to use the new TED got a special permit under the Endangered Species Act and were promised that the rule would be out by January 1998. It is now March and nothing has been issued. Now the shrimping season is rapidly approaching and the special ESA permits expire in April.

What is the problem here? What do we need to do to get the agency to spend just a little of its time and money to address a major problem for the largest fishery in the United States?

Answer. Since last fall, the National Marine Fisheries Service (NMFS) has been working on an interim final rule that would approve the use of the Parker soft Turtle Excluder Device (TED) by the shrimp industry in the Southeast. Because this rule is important to both our environmental and shrimp industry constituents, extensive documentation of the effectiveness of the new soft TED was prepared including provisions for an enforcement and monitoring program. The interim final rule to allow the use of the Parker soft TED is expected to be published in April.

In developing a soft TED that is effective at excluding sea turtles under commercial fishing conditions, a cooperative gear research program with industry representatives was implemented in 1997 to try to find a way to correct documented soft TED problems. These studies were completed in September 1997 and resulted in one soft TED design being identified as effective at excluding sea turtles (the Parker soft TED). The cooperative research program, testing, training and outreach program cost over \$700,000 during fiscal year 1997. During this time, NMFS established a liberal permitting policy to allow shrimpers interested in testing the Parker soft TED to use it commercially. These permits require the shrimpers to report on the soft TED's performance. Valuable information has been gathered on the soft TED's performance and has been used to support the interim final rule.

NOAA will spend over \$750,000 this fiscal year to ensure that TED manufacturers and shrimpers are instructed in the proper installation and use of the Parker soft TED, to support enforcement operations, to verify correct use, and lastly to place observers in the fishery to document soft TED performance. This investment will provide the information necessary to produce a final rule for the Parker soft TED in fiscal year 1999.

*Question.* Near shore testing indicates that the new soft TED also may be effective in addressing another major problem in the shrimp fishery and that is bycatch. Why can't our shrimpers get permits under the Magnuson-Stevens Act to test these new TED's in Federal waters as bycatch reduction devices?

Answer. The final rule implementing Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (62 FR 18536; April 16, 1997): Required the use of certified bycatch reduction devices (BRD's) in all penaeid shrimp trawls used in the exclusive economic zone (EEZ) in the South Atlantic; announced NMFS' certification of three BRD's for use in the South Atlantic EEZ (i.e., extended funnel, expanded mesh, and fisheye BRD's); and established a framework procedure for certifying new or modified BRD's and for establishing and modifying the BRD certification criteria and testing protocol. To be eligible for NMFS certification, a BRD must be shown to reduce the bycatch component of fishing mortality for Spanish mackerel and weakfish by 50 percent, or demonstrate a 40 percent reduction in the number of these fish. The BRD testing protocol for the certification of BRD's for use in the South Atlantic EEZ was published in the final rule and potential testers of BRD's were advised to obtain the "Bycatch Reduction Device Testing Protocol Manual," which contains the testing protocol (the manual is available from the South Atlantic Fishery Management Council).

NMFS expects to publish a proposed rule shortly prescribing additional procedures for the testing and certification of BRD's for use in penaeid shrimp trawls in the South Atlantic EEZ. These additional procedures are intended to foster the development of alternative BRD's that meet the bycatch reduction criteria for Spanish mackerel and weakfish, while minimizing inconvenience to fishermen and/or loss of shrimp. Also, this proposed rule would implement collection-of-information requirements associated with BRD testing and certification that were not discussed in the proposed and final rules for Amendment 2.

It is expected that implementation of these additional testing and certification procedures will allow shrimpers to test the Parker TED in the EEZ. Because the shrimp fishery in the Southeast operates primarily in state waters where the Spanish mackerel and weakfish bycatch in shrimp trawls is the greatest, NMFS has encouraged the testing of Parker TED's and other BRD's in those waters. Preliminary testing results indicate that the Parker TED has shown excellent bycatch reduction capability for Spanish mackerel and other finfish; however, thus far it has not met the bycatch reduction criterion for weakfish.

NMFS is preparing the testing and certification protocol for BRD's used in the Gulf of Mexico EEZ and expects to publish a proposed rule for this protocol soon. NMFS also intends to test the Parker TED in the Gulf of Mexico this year for its ability to reduce the bycatch of red snapper and to determine if it would meet the BRD certification requirements of Amendment 9 to the Fishery Management for the Shrimp Fishery of the Gulf of Mexico.

*Question.* Finally, the State of South Carolina and our shrimpers have proposed a ban on night-time shrimping to protect turtles because they sleep at night. Why has the National Marine Fisheries Service ignored this proposal?

Answer. NMFS is preparing an advance notice of proposed rulemaking that considers regulations that would close all or some portion of Federal and state waters off the South Atlantic states (North Carolina, South Carolina, Georgia, and Florida) to shrimp trawling at night. The intent of any such nighttime closure would be to reduce shrimp trawling effort and shrimping-related sea turtle mortality. Any such nighttime closure would also attempt to complement the existing nighttime closures in state territorial waters, to maximize the effectiveness and enforceability of the state and Federal closures.

Given the existing nighttime closures affecting some state waters, an option for implementing extended closures to provide additional protection to sea turtles would be simply to close the waters of the Exclusive Economic Zone seaward of the currently closed state waters. Alternatively, any nighttime closure through Endangered Species Act rulemaking could overlap into state territorial waters, allowing Federal law enforcement officers to provide more assistance in the enforcement of closure violations in state waters. Again, consistency along the coast would be desirable in any nighttime closure implemented through Endangered Species Act rulemaking.

NMFS will conduct four public hearings on the advance notice of proposed rulemaking, one each in North Carolina, South Carolina, Georgia, and Florida. NMFS expects the notice to be published in April.

#### SOUTH CAROLINA PERMIT

*Question.* On December 30, Secretary Daley issued a decision over-riding the state of South Carolina's objection to an application by Jessie W. Taylor to fill a wetland in Surfside Beach in order to build a mini-warehouse. The decision differentiates between "low" and "high" value wetlands and provides for mitigation that cannot be considered under South Carolina's Federally-approved coastal management program.

What is the current status of this case and what are your plans for dealing with it?

Answer. The current status of the case is that the State of South Carolina has filed a motion for reconsideration. A decision on that motion is awaiting a possible resolution of the issues by the parties. However, should the parties not reach a resolution, the petitioner would be afforded an opportunity to address the motion before a decision on the motion will be issued.

*Question.* What was the factual and legal basis that allowed the Secretary to characterize the subject wetlands as "low value"?

Answer. In the consistency appeal process, as is the case with any administrative appeal, the Secretary may look only at the information contained in the administrative record. While the term "low quality" is not a current term of art in describing wetlands, the Secretary's characterization was based on the information contained in the administrative record and is detailed in the decision. As the matter is currently before the Secretary for reconsideration, discussion of the record is premature. However, current negotiations with the parties may address this concern.

*Question.* How can the Secretary consider mitigation measures that are explicitly prohibited from consideration in the applicable Federally-approved coastal management program?

Answer. The consistency appeal process is a remedy provided by Congress for those who have been stymied by state objections to their consistency certifications. The Secretary may override a state's objection if an appellant's project meets certain statutory criteria. It is important to note what the consistency appeal process is not. It is not a review of the validity of the state's objection. That is, the Secretary, in overriding a state's objection, is not concluding that the objection was improper under state law. The consistency appeal process allows the Secretary to override when, notwithstanding the validity of the state's objection, the Appellant's project meets the objectives and purposes of the CZMA or is otherwise necessary in the interest of national security. Because the Secretary is not reviewing the state's decision but is instead looking at independent Federal requirements under the CZMA, the Secretary is not limited to or bound by factors that are relevant to state agencies in making their determinations under state law.

#### NOAA CORPS

*Question.* I raised the issue of the NOAA Corps with Secretary Daley yesterday. Congress clearly is not going to approve the proposal to abolish the NOAA Corps. Through attrition, you have already succeeded in cutting over 100 positions.

Can't the Clinton Administration claim victory and allow the Corps to start bringing in new blood? You are killing the Corps by stopping new accessions. Pretty soon we won't be able to find pilots to fly into hurricanes or El Niño.

Answer. NOAA management decided not to recruit new officers initially because of the streamlining plan and continued the hiring freeze because it was consistent with the proposed disestablishment of the Corps.

While Congress considers the future of NOAA's uniformed service, I have asked NOAA management to evaluate further its personnel requirements and priorities for functions currently performed by the NOAA Corps. The purpose of this analysis is to identify the minimum number of staff required to operate the current fleet of NOAA's ships and aircraft and perform related functions essential to NOAA's mission such as hydrographic field surveys.

The evaluation will allow NOAA to better determine its total personnel requirements for these functions and deploy the current complement of Corps officers to the highest priority positions. If this evaluation indicates a need for additional personnel in order to meet NOAA requirements, we will take steps to recruit the number of people required. We will be happy to brief you and other Members once we have finished this analysis.

#### CLIMATE AND GLOBAL CHANGE

*Question.* NOAA was right on the money in predicting the El Niño rains that have hit the West Coast this year. It has made your Climate and Global Change program come into its own and gain public attention. I even noticed you on Larry King discussing NOAA's program.

What are the next steps for NOAA's climate and global change program? Where do you see the research going next?

Answer. NOAA's focused process research efforts have provided the foundation upon which the current El Niño Southern Oscillation (ENSO) predictive capability is based. The challenge to improve predictions of ENSO and its teleconnections will require a continued investment in research to understand the mechanisms which give rise to and maintain ENSO, how and the degree to which ENSO influences climate variability in specific regions around the globe, and how to best exploit and present predictive information so that it will be of optimal use in resource planning. But in attempting to improve climate predictions, we have come to realize that several "modes" of variability in addition to ENSO are interacting to influence our climate. Just as the investment in ENSO research over the past decade led to our current, somewhat limited, predictive capability, an accelerated research agenda focusing on other key modes of climate variability, including the North Atlantic Oscillation, the Pacific Decadal Oscillation, and the regional Asian-Australian and American monsoon systems, holds promise for improving climate predictions. NOAA has the experience and proven track record for conducting focused research to unearth and exploit predictive signals in the climate system.

Recent events around the world, including the current El Niño and the recent international convention on climate change in Kyoto, have increased public awareness of global climate variability and the demand for regionally-specific climate information. In the fiscal year 1999 budget, the President requests \$2 million to expand NOAA's United States regional assessments program. This program is designed to translate research results on U.S. climate variability by phenomena such as the El Niño-Southern Oscillation, the North Atlantic Oscillation, and increasing atmospheric greenhouse gases into regionally-relevant information meaningful to decision makers and the general public. This research is an integral component of the U.S. Global Change Research Program's regional assessment activities.

With the requested increase, NOAA will expand its regional assessment program to include a broader geographic coverage of the U.S., and will augment activities to strengthen the existing regional projects and NOAA's contribution to the inter-agency assessment efforts. Specifically, we will initiate programs designed to turn climate forecast information into a form people can use in two additional regions: the Midwest/Great Plains and the Northeast U.S. Each research project will be designed with significant interaction with local and regional stakeholders to: (1) analyze regional climate variability and our ability to predict it, and create increasingly localized climatic and hydrologic information; (2) analyze vulnerability to and opportunities associated with climate variability, including perceptions on the part of decision-makers in climate service sectors about the role of climate; (3) investigate human response to climate variability of new information, and (4) research devoted to improving climate information by understanding how decision makers use it.

#### POLAR-ORBITING WEATHER SATELLITE

*Question.* Dr. Baker, your budget proposes \$65 million, an increase of \$31 million, for the next generation polar-orbit weather satellite, which is to be a joint NOAA/Air Force spacecraft. Over the next five years your budget includes approximately

\$600 million for this program. Where do we stand on this program? Have the Air Force and NOAA reached agreement on what sensors and capabilities the satellite would have? What will it do that the current NOAA polar-orbiting satellite does not do? What is the estimated unit cost for one of these satellites?

Answer. NOAA has come to agreement, not only with the Air Force, but also with NASA, the Department, and the Office of Management and Budget on the technical and programmatic content of the National Polar-Orbiting Operational Environmental Satellite System (NPOESS) and its projected budgets through fiscal year 2003. NOAA and the Air Force have agreed on the sensor types and the needed capabilities for the NPOESS satellites. Definition of these capabilities can be found in the "Report on Polar Convergence Operational Benefits and Cost Savings" prepared for the House Appropriations Committee for Commerce, Justice, State, the Judiciary, and Related Agencies by the NPOESS Integrated Program Office.

Beyond the current NOAA polar-orbiting satellite capabilities, the NPOESS satellites will meet the DOD's requirements derived from the Defense Meteorological Satellite Program which is also being "converged" into NPOESS. Thus, the NPOESS satellites represent the combination of both the civil and national security requirements of the two programs. Additional civil requirements which will be met include increased sensitivity in moisture and temperature profiles and ozone mapping and profiling. Additional DOD requirements, which will be met by NPOESS, include increased imagery requirements, data availability, and data access. In addition, the NPOESS satellites will be designed to last nearly twice as long on-orbit as the current satellites. The NPOESS satellite average unit cost will be approximately \$400 million to \$450 million in base year 1996 dollars. The breakout of NPOESS estimated costs is below:

*Breakout of NPOESS Estimated Costs*

[Base Year Fiscal Year 1996, Dollars in Millions]

Space Segment:	
NPOESS .....	1,219 <sup>1</sup>
Sensors for METOP/Mods/Spares .....	298
	2,490
Total .....	2,490
O&S Segment .....	1,032
System Level .....	423
Infrastructure/Technology Studies Phase 0 .....	379
IDP Segment .....	291
Launch Segment .....	235
Modifications .....	196
C3 Segment .....	164
	5,210
Grand Total .....	5,210

<sup>1</sup> Line used to generate Unit Costs.

*Question.* The overall polar-orbiting satellite plan has called for integration with the Europeans, and for once they are suppose to secure and fly a polar weather satellite instead of having the U.S. taxpayers pay for 100 percent of the service. I understand that our State Department has been holding up an agreement that NOAA and the Department of Defense support.

Is that correct? What is the State Department's objection?

Answer. Earlier this year the Europeans, through EUMETSAT, approved the construction of a polar weather satellite series called METOP. Under a proposed agreement, the METOP satellites will carry key NOAA sensors. This will save NOAA and DOD on the order of a billion dollars over the life of the METOP program. In accordance with the Case-Zablocki Act, the Department of State coordinated interagency review of the Agreement in June 1996. The USG agencies, asked by State to review the Agreement, provided their clearance by September 1996. However, approval of the Agreement has been held up for over a year due to an issue between the Departments of State and Defense. DOD and NOAA negotiated with Europe an agreement to selectively deny data to an enemy during crisis or war while providing the data to the United States and its allies. The State Department questions the specifics of this agreement. The Europeans have asked that we confirm that NOAA is authorized to sign the Agreement by April 30, 1998. We are hopeful that the State Department clearance will be received in time to honor the European request.



## SMALL BUSINESS ADMINISTRATION

STATEMENT OF HON. AIDA ALVAREZ, ADMINISTRATOR

ACCOMPANIED BY:

**GREGORY A. WALTER, DEPUTY CHIEF FINANCIAL OFFICER**

**JOHN GRAY, ASSOCIATE DEPUTY ADMINISTRATOR FOR CAPITAL ACCESS**

**BERNARD KULIK, ASSOCIATE ADMINISTRATOR FOR DISASTER ASSISTANCE**

### BUDGET REQUEST

Senator GREGG. We will reconvene the hearing to hear from Administrator Alvarez as to the budget submission relative to the SBA.

There are questions which have been submitted by members, including Senator Domenici. But any other questions which come along we will also submit in writing.

Ms. ALVAREZ. Mr. Chairman, and Senator Hollings, members of the subcommittee, first of all let me say that I think that this proposed budget is perhaps one of the strongest budgets that we have had for the small business community. We are requesting a total of \$724.4 million, but asking for only a modest growth of 1.16 percent in the overall resources for the agency.

This budget will provide unprecedented levels of credit with the request being for \$11 billion program level for the 7(a) loan program, \$3 billion program level for the section 504, \$1.1 billion program level for the Small Business Investment Co.

The SBA is also requesting \$901 million program level for disaster loans in 1999, which is the amount equal to the 10-year historical average of disaster assistance. The request also includes a \$15 million initiative to support mitigation activities, to help small businesses prepare in advance of a disaster, which would reduce the cost should disaster strike.

As we move forward we are very focused on creating a SBA that is prepared to help small business be successful in the 21st century, which means we are focused on the diversity of that community, the fact that it is technologically driven and global in scope.

In accommodating the diversity of the community, we have focused on assisting women. We are proposing a \$9 million request for the women's business centers, which would allow us to establish an additional 30 centers, reaching our goal of having one Women's Business Center in every single State, which we do not presently have.

We also feel that there is still a considerable need for Government-sponsored business development and training. Senator, you have been a supporter of the 7(j) program. We are requesting \$9.5 million for the business training program, which not only assists the 8(a) companies, but we would be expanding the 8(a) program

participation to include more women who will need assistance. We also have now newly designated HUBZone firms, and we will need to assist them. We also feel that these 7(j) funds should be used to support business development on Indian reservations, and in Alaskan Native villages, and that is really where that request comes from.

The microloan program is now permanent, and we propose to double microloan levels from 1998 to 1999. We recognize that there is an imbalance between the microloan dollars for loans and the technical assistance available, and we will work with you to find ways to bolster the technical assistance funding.

Finally, let me just say that we have given you reprogramming letters, which we believe will help us to upgrade our lender oversight capacity, our systems infrastructure, which will help us maintain a lower subsidy rate, which is where the lion's share of those reprogrammed dollars will go, to the 7(a) program.

And I have to say that we are very proud that SBA has one of the best financial management infrastructures in Government. We were the only credit agency to receive an unqualified opinion for our 1996 audit, and last week I learned that we again received an unqualified opinion on our 1997 financial statements.

We are looking to take the SBA to a higher level, from the standpoint of internal controls. So we have asked for \$3 million for an initiative that will make us COSO auditable, which is a standard that the private sector aspires to. And we think Government should, as well.

We have also asked for \$1 million to implement a system for criminal background checks for SBA borrowers. We think that this will reduce losses in our loan program.

Basically I think this is a budget that asks for modest increases, but with a great payoff, and will help us to prepare small businesses for the 21st century.

#### PREPARED STATEMENT

I also want to put in a word for our nominee to be Deputy Administrator, Fred Hochberg, who is a very successful businessman, and would bring a wealth of experience to the SBA. I am hopeful that Fred will get a confirmation hearing soon, and that members will be able to support his nomination.

Thank you very much for inviting me here today.

[The statement follows:]

#### PREPARED STATEMENT OF AIDA ALVAREZ

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to appear before you today to present the fiscal year 1999 budget for the Small Business Administration. I am very proud to present this budget. It represents one of the strongest budgets ever for America's small businesses with record levels proposed in all of our major capital and credit programs and our entrepreneurial development programs. At the same time, we are able to achieve these record levels with only modest growth in the overall resources for the agency. SBA is requesting a 1.16 percent increase from \$716 million in fiscal year 1998 to \$724 million in fiscal year 1999.

I am particularly pleased to present the SBA budget in the context of the President's proposal to balance the budget in fiscal year 1999. The President's budget presents the first balanced budget in 30 years. The last three White House Con-

ferences on small business made balancing the budget one of their key recommendations. The President's budget delivers for America's small businesses.

With my remarks today, Mr. Chairman, I would like to outline my overall objectives for the Small Business Administration, review our accomplishments over my first year in office, and then conclude by showing how the SBA's 1999 budget builds on these accomplishments to prepare SBA and the small business community for the future.

#### PREPARING SBA AND SMALL BUSINESS FOR THE 21ST CENTURY

At the SBA, we are preparing ourselves and our small business customers for the 21st Century. The rapid changes in our economy today show us what the economy of tomorrow will look like. The economy in the 21st Century will be more diverse, technologically-driven, and global in scope.

SBA is already well prepared for the 21st Century: we are serving an increasingly diverse business population and we have set in motion a series of initiatives to increase our service to rapidly growing markets of women-owned and minority owned businesses.

We are at the forefront of technology, serving small businesses in a smart sophisticated way. We are well on our way to becoming a paperless organization. And, we are expanding our own understanding of the global marketplace and increasing our ability to help small businesses find opportunities in the international arena.

We must prepare for a more diverse America. By the year 2050, there will be no racial or ethnic majorities in America. The face of small business is already changing rapidly. Minority- and women-owned firms are growing faster than all other firms. The census bureau found that minority-owned firms grew at a rate of 62 percent over the 1987 to 1992 period. Women-owned firms grew at a 43 percent rate. All firms only grew at a 26 percent rate.

I strongly believe that SBA must be at the forefront of serving these growing yet traditionally underserved business communities. Simply put, it makes good business sense.

SBA has already done a very good job of increasing its lending to the more diverse American business community. Since 1992, SBA has more than doubled its loans to African Americans from 741 loans in 1992 to 1,903 loans in 1997. Since 1992, SBA has more than doubled its loans to Hispanic-owned firms from 1,356 loans in 1992 to 3,371 loans in 1997. And, the SBA has increased its loans to women-owned businesses to 10,787 loans in 1997—up from 3,591 in 1992—nearly tripling our annual volume.

It is important to note, Mr. Chairman, that we have achieved these levels of growth and, at the same time, improved our credit quality. Even while increasing our lending to these underserved communities, we have brought down our program's cost to the government. In 1992, we estimated that the cost the government was \$4.85 for every 100 dollars we guaranteed under the 7(a) program. Today, that cost has been reduced to \$1.39. Our record shows that we can increase minority-owned businesses and women-owned businesses participation in our programs without hurting program performance.

We still have much further to go in serving these underserved communities. African Americans make up 12.6 percent of the population and yet own only 3.6 percent of all businesses. Hispanic Americans make up 10.3 percent of the population yet own only 5.6 percent of all businesses. SBA wants to close the gap and increase minority and women business ownership. We want to increase our loans to fast growing women-owned businesses and the Asian-American business sectors. And, we see huge needs for coordinated economic and business development strategies on Indian reservations and in Alaskan Native villages.

SBA has launched a series of initiatives to do a better job of serving the increasingly diverse small business community. These initiatives include: aggressive three-year goals for the organization, tied to performance appraisals; new partnerships with national and local civic groups to help link good borrowers with our SBA lending community; conversations with our lenders on best practices and the development of new ideas that we can disseminate; and doing a better job of linking our capital and credit programs with our vast entrepreneurial development services.

In addition to preparing for the increasing diversity of the American small business community, SBA is also on the forefront of technology. We are constantly developing new on-line services to small businesses.

Early last year, SBA announced a new Women's On-Line Business Center. The On-Line Center is free and interactive, providing information on business development strategies and SBA's services. Women's On-Line is a smashing success: in just over a month of existence, we had 60,000 visits to the site from 50 different coun-

tries around the world. SBA has also developed a new on-line product called Pro-Net linking 171,000 small businesses thus far with federal contracting officers; and, an on-line network called ACE-Net that links small firms with equity investors. Technology not only links us to small businesses, it is essential if U.S. small businesses are to remain competitive.

Finally, it is clear to me that in order to prepare for the 21st Century we must help small business get ready for increasing globalization. Already small businesses are 96 percent of all exporters and they do 30 percent of all export sales. We are working actively with our lenders to expand the use of our Export Working Capital Program, with a 90 percent guarantee—and we are working to introduce a new on-line risk management support system. We already have 19 U.S. Export Assistance Centers.

#### FISCAL YEAR 1997 ACCOMPLISHMENTS

Mr. Chairman, I have just passed the one-year anniversary of my tenure as SBA Administrator. With the help and support of this Committee, we have accomplished much on behalf of America's small businesses. In fact, we have had a remarkable year. We are increasing small business access to capital and credit. In 1997, SBA provided record levels of loan guarantees under our 7(a) general business loan and our Section 504 economic development loan programs—\$10.9 billion in new loan approvals to more than 50,000 small business owners. Our Small Business Investment Companies also provided record levels of assistance to America's small businesses, with more than \$2.4 billion in venture capital financings. More than 90 percent of the investments made by the SBIC's were in the form of equity. We are on track to establish new records this year.

Our government contracting programs and our entrepreneurial development programs also continue to create opportunities for small business success. Our Office of Government Contracting supported nearly \$40 billion in federal contracts for small businesses, including more than \$10 billion for small disadvantaged businesses and \$3.2 billion for women owned businesses. I am particularly pleased that the Administration was able to work with the Congress to increase the overall procurement goal for small businesses from 20 percent to 23 percent. Our entrepreneurial development programs—Small Business Development Centers, Women's Business Centers, Business Information Centers, and our 13,000-member strong Service Corps of Retired Executives or SCORE program—more than 1,000,000 entrepreneurs participated in our valuable counseling, education, and training.

SBA continues its excellent work helping families and businesses recover from disasters. In fiscal year 1997, SBA provided more than \$1.1 billion in new loan approvals to more than 50,000 borrowers. SBA employees sacrificed their Christmas vacations to help the people of Guam when a massive typhoon hit there. As we speak, SBA employees are providing first-class service to displaced homeowners and business people who have been flooded by El Niño in California, frozen in the ice storms of New England, or had their homes torn asunder in Central Florida. SBA disaster loans are providing a downpayment on these families' futures.

#### FISCAL YEAR 1999 BUDGET OVERVIEW

The SBA 1999 budget is very good news for America's small business. It is arguable the best SBA budget ever proposed. The budget recommends \$724.4 million for SBA programs—a modest 1.16 percent increase over the 1998 appropriations. Yet, this budget offers small businesses unprecedented levels of SBA-supported capital and credit and an expansion of our education, training and counseling programs.

We are able to achieve this program growth within a modest budget request because our loan subsidy rates are coming down partly as a result of the excellent work done by my Chief Financial Officer, his Deputy, and a terrific team of new analysts who have tackled the subsidy rate challenge and enhanced our analytical capability. Improved management of all our credit programs, coupled with a strong economy, has allowed SBA to reduce the cost to the government of all of its major loan programs from 1998 to 1999. The budget proposes a reduction in the 7(a) business loan program subsidy rate from 2.14 percent in 1998 to 1.39 percent in 1999, a reduction in the SBIC Debenture program subsidy rate from 1.94 percent in 1998 to 1.38 percent in 1999, and a reduction in the microloan direct program subsidy rate from 10.31 percent in 1998 to 9.54 percent in 1999.

With the lower subsidy rates, we are able to increase our lending at a lower cost to the government. We are able to do more for small business with fewer federal resources.

## INCREASING SMALL BUSINESS ACCESS TO CAPITAL AND CREDIT

The budget proposes an appropriation of \$153 million for a program level of \$11 billion for the 7(a) general business loan guarantee program—\$1.8 billion higher than this year's projected program level and an increase of about 20 percent.

The budget also includes good news for the economic development loan program known as Section 504. Under the SBA's proposed budget, our certified development company partners can anticipate \$3 billion in program authority to support local community development efforts. SBA is especially proud that we will be able to propose reductions in program fees for the second straight year, reducing borrowing costs for small businesses.

SBA's budget reflects a growing commitment to the now-permanent microloan program. The microloan program supports very small loans of less than \$25,000. SBA wants to double microloan direct loan levels to \$60 million in 1999. The budget reduces the loan subsidy rate for the microloan program from 10.31 percent in 1998 to 9.54 percent in 1999, due to continued improved portfolio performance. In addition, \$16.5 million would be available for technical assistance for microloan borrowers.

The \$1.1 billion program level requested in support for the Small Business Investment Company program also represents a record level. The SBIC program provides venture capital to start and grow small businesses. The estimated 1999 program level for the SBIC program is nearly three times the 1997 level. SBA requests \$3.7 million for the debenture program and \$6.2 million for the participating security program. This request along with carry over funds will achieve the program level.

SBA requests \$3.3 million which along with carry over funds is projected to create a \$1.7 billion level for our surety bond guaranty program. This continues the 1998 level of support for the program.

## ENHANCING ENTREPRENEURIAL DEVELOPMENT SERVICES

SBA will continue to enhance its portfolio of service for new and existing entrepreneurs. The fiscal year 1999 budget proposes that total funding for SBA's counseling, training, education, and outreach programs would increase \$12 million to \$121 million—an increase of 11 percent over 1998 funding levels.

The SBA has requested a significant expansion of the Women's Business Center program. The 1999 budget proposes to more than double funding for the program to \$9 million. This funding increase will allow the SBA to establish up to 30 new centers.

SBA's budget more than triples support for the specialized technical and managerial assistance programs aimed at small businesses to \$9.5 million. This amount is up from \$2.6 million in 1998. Through the 7(j) program, SBA provides a variety of assistance to eligible firms including: specialized training, professional consultant assistance, and high-level executive development. The 7(j) resources help SBA support the business development of firms participating in the 8(a) business development program and small businesses in areas with a high proportion of low-income individuals and high unemployment. The 1999 budget request would support business development on Native American reservations and in remote Alaskan Native villages, and special assistance to disabled veterans.

The SBA budget seeks to reaffirm our critical partnerships providing training on behalf of America's 22 million small businesses. SBA requests \$3.5 million to support our Service Corps of Retired Executives or SCORE program with more than 13,000 volunteers nationwide. SBA seeks \$75.8 million for our Small Business Development Center program's approximately 1,000 locations around the country. This amount is the highest level ever requested by the Administration for this popular program. SBA also will continue to expand the number of Business Information Centers (BIC's) with the \$500,000 requested in 1999. SBA currently supports 41 BIC's, with 20 more planned in 1998 and 6 more planned in 1999.

## EXPANDING SMALL BUSINESS ACCESS TO PROCUREMENT OPPORTUNITIES

Under the budget proposal, the SBA would take a leadership role in meeting the federal government's goals of providing 23 percent of all federal contracting dollars to small businesses, 7 percent of federal contracting dollars to small disadvantaged businesses, and 5 percent of federal contracting dollars to women-owned businesses.

SBA is especially committed to improving the federal government's performance vis-a-vis the women's business goal of 5 percent. Currently, federal procurement for women-owned businesses stands at less than 2 percent. The expansion of the Women's Business Centers is part of our strategy for meeting the women's procurement goal.

The budget includes support for expansion of Pro-Net—the on-line service that links procurement officers with small businesses. Small businesses can use Pro-Net to market their products and services, and to identify procurement opportunities. Pro-Net represents a significant new tool in the effort to meet procurement goals and to expand procurement opportunities for small businesses with state and local governments and the private sector. Already, 171,000 small businesses are listed on the Pro-Net system. SBA is requesting \$500,000 to expand Pro-Net to serve even more small businesses.

SBA will continue to strengthen and improve our core small disadvantaged business development program known as 8(a). New rules expected shortly will create a mentor-protégé program and make it easier for small firms to affiliate and compete for larger contracts. Our planning also includes a better linkage of 8(a) firms to the broad spectrum of business development services and capital access opportunities provided by SBA.

#### HELPING SMALL BUSINESSES AND FAMILIES RECOVER FROM DISASTERS

SBA is committed to assisting small businesses that have been hit by the crippling effects of disasters. The budget requests \$901 million for disaster loans in 1999—an amount equal to the 10-year historical average level of disaster assistance. This level can be achieved with no new appropriations, due to projected availability of carryover funds and a reduced subsidy rate of 5.93 percent. The Administration proposes to increase the disaster loan borrower's interest rate to the Treasury's cost of money, capped at 6 percent. This proposal accounts for the decrease in the disaster loan program subsidy rate from 23.46 percent in fiscal year 1998 to 5.93 percent for fiscal year 1999. Since the program's inception, SBA has provided more than \$25 billion in low-interest loans to families and businesses.

This year's budget also proposes an important \$15 million loan initiative to support disaster mitigation activities—helping small businesses prepare in advance for disaster events and hopefully reducing the levels of losses and costs to the taxpayer should disasters strike. This pre-disaster program would work in concert with FEMA's "Project Impact" pre-disaster program, but target small businesses likely to benefit from a mitigation strategy.

#### BRINGING ENTERPRISE TO DISTRESSED COMMUNITIES

Under the budget proposal, SBA will continue to expand our One Stop Capital Shop programs. The Agency expects to increase the number of One Stop Capital Shops in 1998 and 1999. SBA currently operates 14 One Stop Capital Shops. The budget requests \$3.1 million for support of this program that provides coordinated services for small business development in distressed communities.

The budget also includes a request for \$4 million for implementation of the new procurement program for Historically Underutilized Business Zones or HUBZones. New laws target 3 percent of federal procurement dollars by the year 2003 to firms located in distressed areas—both urban and rural.

#### LEADING SMALL BUSINESS PARTICIPATION IN WELFARE-TO-WORK

As the main source of most new jobs in the economy, small businesses represent the "work" side of the welfare-to-work equation. As a result of the strong economy, labor shortages are an increasing concern for small firms. Welfare-to-work initiatives represent a opportunity for small businesses to access work-ready employees. It is important to emphasize that our role in the welfare-to-work initiative is consistent with our traditional mission. We want to serve our small business customers by providing them with good information on federal tax credits and local services that are available if they wish to hire people off welfare. SBA can also play an important linkage role by giving our small business customers referrals to intermediaries who are preparing welfare recipients for work.

#### TRANSFORMING THE SBA INTO A 21ST CENTURY LEADING EDGE FINANCIAL INSTITUTION

The 1999 budget supports SBA's transformation into a 21st Century Leading Edge Financial Institution. SBA has improved its program management by relying more on our private sector lending partners. For example, we have improved our processing through our preferred lender program or PLP. Under the Preferred Lending Program, lenders make the credit decisions and undertake all of the liquidation and servicing of loans. SBA approves loans for guarantee in under 24 hours. PLP has been very successful and has made a fundamental change in our business. In 1994, 16 percent of our 7(a) loans were approved through the PLP program. Last year, more than 52 percent of our loans went through the PLP center. We are grow-

ing our programs while the cost to the government is going down. Approximately 400 lenders have qualified as PLP's.

SBA will continue to devolve responsibilities to the private sector. Beginning this year, all of our lenders will be required to service and liquidate our 7(a) loans. And, we will, this year, begin a program of asset sales—starting with a minimum \$150 million sale in the fall and contract-out 30 percent of our disaster home loans to a private-sector service.

The budget includes a \$12 million initiative to improve the management and oversight of our loan portfolios and other programs through new systems, increased analytical capacity, new risk management approaches, and increased lender and resource partner oversight.

The budget includes a \$3 million initiative to allow the SBA to reach a standard of internal control comparable to one sought by major private financial institutions. Accordingly, SBA is implementing an internal controls program consistent with the Committee of Sponsoring Organizations (COSO) of the Treadway Commission. SBA already has one of the best financial management infrastructures in government. We were the only credit agency to receive an unqualified opinion on our 1996 audit. We recently have learned that SBA will achieve an unqualified opinion on the audit of our financial statements the second straight year. Now, SBA has embarked on a 5-year effort to reach the so-called COSO standards. COSO represents a cutting-edge approach to internal controls that goes beyond the accuracy of financial reporting to the measuring of efficiency and effectiveness of internal controls. Few, if any, private sector financial institutions now meet the high COSO standards.

The SBA budget proposal requests \$1 million to implement a system for criminal background checks on SBA borrowers. SBA's objective is to reduce losses in our loan programs through better detection of applicants with disqualifying histories. At the same time, the Agency seeks a system that will not delay the provision of credit to the vast majority of our small business borrowers.

The budget also would provide \$11.3 million for the Office of the Inspector General (OIG). The OIG is a valuable, independent organization within the SBA that provides outstanding assistance to the Administrator and the organization's Senior Management in preventing waste, fraud, and abuse and in furthering the efficient delivery of SBA's programs and services.

In mentioning the OIG budget, I would like to take a moment for a personal note. SBA lost a valuable member of our community when our Inspector General, James F. Hoobler, passed away in December. He served as our IG since being sworn in April of 1991. Dr. Hoobler was extraordinarily gifted and conscientious, and his loss has been felt throughout the SBA community.

#### SERVING AS A VOICE FOR AMERICA'S SMALL BUSINESSES

SBA will continue our leadership role on behalf of America's 22 million small businesses. Within the resources proposed in this budget, SBA will help small businesses succeed in the next century with better information on the use of technology and with better access to international business opportunities.

The budget requests \$1.4 million for SBA's Office of Advocacy. The Advocate provides outstanding assistance to America's small businesses in his role promoting regulatory fairness and reducing the costs of federal regulations, raising small business concerns in the context of major public policy issues, and contributing to basic research on small business issues. I want to emphasize the importance of providing a specific funding level for the Office of Advocacy which was established by Congress as a statutorily independent office. Separate funding is critical to maintaining the independence of this office.

The budget includes \$500,000 to support the Office of the Ombudsman and the Regulatory Fairness Boards. Now in our second year, this program is providing small businesses a place to raise issues and seek redress related to the enforcement federal regulations.

#### OTHER INITIATIVES IN THE PRESIDENT'S BUDGET FOR SMALL BUSINESS

The President's budget includes a \$1.5 billion initiative to expand the small business provision of pension plans. The initiative will provide a 50 percent tax credit on up to \$2,000 of the first year costs of setting up a pension plan and a 50 percent tax credit on up to \$1,000 on the cost of administering the plan. The initiative also includes a second component known as the SMART pension plan. SMART will provide simpler rules that will allow more small businesses to begin defined benefit plans.

Most importantly, the President's budget addresses small business needs for good, high quality workers. The budget includes major workforce investments—education,

job training, child care, health care, welfare-to-work, and pensions—that will provide America's small business community with employees who are better prepared for the job and more focused on their work.

#### CONCLUSION

The SBA's budget proposal is modest in its request for increased resources, but far reaching in its vision for improving our services to America's small businesses. With this budget, SBA will continue to prepare itself and America's small businesses for the future. With outreach to an increasingly diverse small business community, expansion of the use of technology to deliver our services, and improved understanding of the opportunities in the international marketplace, SBA will show small business the way to success in the 21st Century.

Thank you for inviting me to appear here today. I will be happy to answer any further questions that you have.

#### AFRICAN-AMERICAN LOANS

Senator GREGG. Thank you for that quick and concise statement. Senator Hollings.

Senator HOLLINGS. You have done an outstanding job. And I know that you have doubled the African-American loans. You have doubled the Hispanic loans. You have tripled the loans for women.

Now, how about even a little more. What about quadrupling loans for the African-Americans? You know, the political polls lie—I think back to my mother-in-law when she saw Robert Redford. I was having a little fundraiser, and she looked at him—noting he was shorter than she expected. She says moving pictures lie. [Laughter.]

These political polls lie. Affirmative action is not the cure for racism. It's the cause. Now, the solution is in your hands. Give our African-American friends a piece of the economic pie. Quadruple those African-American loans. That's the way to get rid of racism.

And you can do it.

Ms. ALVAREZ. Well, sir, we have—

Senator HOLLINGS. That's what you can do, really—and I have talked to the President about it. Call up the Nation's banks. Quadruple the loans.

You see, Lyndon Johnson, he knew. And when he took over as Vice President under Kennedy, he organized the EEOC and had them call up all these Defense contractors and say you've got to give some promotions, you've got to give some contracts to minorities.

Rather than talk about it and having meetings and crying and whining to each other all over the countryside, just do it. And you can. You're good. Let's start it at least in small business. Because it's busting out all over.

And if African-Americans get a chance, small business is where they are going to start. And then you will find that it will all blend in and they will do fine. But right now, they are just not having that opportunity.

And the banks, getting right to another point here, let's talk about 7(a) loans. We are going from where we started, just with \$3 billion in 1990 when we were down, to now when we are up, the economy is booming, and we are up to \$11 billion.

You know, with 7(a) loans we might be stalling those bankers. They might be using us rather than their own moneys. I noticed you reduced the subsidy rate.

Ms. ALVAREZ. Yes.

Senator HOLLINGS. Which is good. Don't get them too spoiled, because if the economy goes down, we are going to need that \$11 billion, and we are going to have a hard time providing the money here at the committee level.

Well I want to commend you. And Lenny is doing good down there at the university for our Small Business Development Center there.

Ms. ALVAREZ. Yes.

Senator HOLLINGS. You are doing an outstanding job. But there is one improvement I would ask for, and that is to continue doing what you are doing, but doing a little more on those African-American loans, in our section, at least. That will give them a chance.

Ms. ALVAREZ. If I may, for a second, I agree with you, and, in fact, very recently we announced an African-American initiative that would actually quadruple by the year 2000 the loans to African-Americans.

We have doubled, since 1992, and from 1997 to the year 2000 we are proposing to double that again. We think we can do it because, frankly, right now less than 4 percent of our portfolio is for African-Americans. We have been entering—

Senator HOLLINGS. Less than what percent?

Ms. ALVAREZ. Four percent. And that's not good enough.

Senator HOLLINGS. That's not good.

Ms. ALVAREZ. We have been working with the lending community on this. We have been developing relationships with organizations, the National Urban League, the Black Chamber, because we think we need to use them to help us get more of those loans through the door. So I totally agree with you.

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

#### NATIVE AMERICAN AND ALASKAN ISSUES

Senator GREGG. On that point, I don't want to see the 7(j) program diluted into a mish mash of 20 different programs. I think it is focused now, and it's on track. So I am concerned about this expansion of it.

I would presume that the native American and Alaskan issue could be addressed out of the 8(a) program. Why do we have to use the 7(j)?

Ms. ALVAREZ. 7(j) does help the 8(a) firms. In many cases we are talking about Alaskan Natives. There hasn't really been a particular focus on Alaskan Natives and native Americans even though we have an Office of Native American Affairs.

In fact, there are actually no funds in 8(a) to provide business development assistance. It all comes out of 7(j). We are going to be releasing some new regulations shortly for 8(a) which will make the interpretation of who gets into the program much broader.

We expect, for example, many more women who apply to get into the 8(a) program. We have the HUBZone program, for which we are preparing the regulations. And that will introduce all sorts of new participants—some of whom may be 8(a) firms, but who need this development help.

And we just feel that the native Americans and Alaskan Natives have been overlooked, and we can use some funding to help them.

Senator GREGG. I am sure you can. I just want to keep the 7(j) program a focused program.

Ms. ALVAREZ. I agree.

Senator GREGG. In the microlending area, what is the average size of the loan in microlending?

Ms. ALVAREZ. About \$10,000. The upper limit is \$25,000, but on average it is about \$10,000.

Senator GREGG. And you are spending about \$16 million on technical assistance?

Ms. ALVAREZ. That is correct.

Senator GREGG. What does that involve, the technical assistance?

Ms. ALVAREZ. John Gray, might want to speak to this, but when a person receives a microloan, we would like to see about 20 percent of that loan be designated as a grant that helps with the technical assistance.

John, do you want to address this for a second?

Mr. GRAY. I am John Gray, the Associate Deputy Administrator for Capital Access.

The way the microloan program is set up, the technical assistance component is paid directly to the microlender, which then provides the technical assistance to the ultimate borrower.

Senator GREGG. By technical assistance, you mean they go out and they help the person set up books and do things like that?

Mr. GRAY. Yes; and what is unique about this program is the technical assistance dollars apply over the life of the loan. So if there is a monthly problem or an annual problem, they are right there.

Senator GREGG. What is the default rate that you are finding? Of course you have not had this program long enough probably to have one. But what do you see?

Mr. GRAY. There is no default rate to the SBA yet. We loan to microlenders and they have not defaulted. We do have one problem in New Hampshire that we anticipate—but it is not based on the microborrowers. It is a management problem of the microlender.

The default rate is minimal from the actual microborrower.

Senator GREGG. Is that because it is so early in the program?

Mr. GRAY. No; it is actually because the microlenders themselves have the credit responsibility, and they really focus, because they do not want to lose their loan loss reserve which they are required to hold. They are actually on the ground, and very disciplined. I think that is the strength of the program.

Senator GREGG. So your request expands it to \$60 million. You don't expect any carry over this year?

Ms. ALVAREZ. Yes.

Mr. GRAY. We do expect some. And because it just became a permanent program, we expect the 103 intermediaries we have today to increase to 200. It is going to take a period of time to properly judge and analyze the new microlenders. So we probably will not hit the full dollar amount this year, and, therefore, we would have carry over into 1999.

Senator GREGG. What are you seeing as a percentage of carry over?

Mr. GRAY. We actually haven't projected that just yet. I believe that in the budget figure—

Mr. WALTER. We are not projecting any carryover for the technical assistance or direct loan program. It is in the guarantee program that we do project a carry over.

Mr. GRAY. In the guarantee, we do.

Senator GREGG. What percentage of microborrowers are minority?

Mr. GRAY. It is a higher percentage than the overall.

Senator GREGG. Of that percentage, what percentage are women?

Mr. GRAY. One hundred percent women owned, 45 percent. Fifty-one percent women owned, 10 percent. So we always use the 100 percent owned figure, and 45 percent of our borrowers are women.

Senator GREGG. Now, you are reducing as has been pointed out the subsidy rate. Do you expect to get that?

Ms. ALVAREZ. First of all, part of the reduction will be based on whether we can reprogram an additional \$10 million, which is in the letters that we sent to you.

When we realized last fall that we were going to have these recoveries, we started working with the subcommittees, and at that time \$10 million was allocated to the 7(a) program. That brought the subsidy rate down.

We then requested \$18 million, and we were appropriated \$8 million for this year. That further reduces the subsidy rate. With the reprogramming for an additional \$10 million we should bring down the subsidy rate.

Greg, do you want to talk about the specifics of that?

Mr. WALTER. I am Greg Walter, by the way. Deputy CFO.

The subsidy rate for this year started out at 2.19 percent for the 7(a) program. With the \$8 million appropriation for the monitoring and oversight, and including loan performance, that will lower the subsidy rate to 2.13 percent once the funding is released. And then with the additional reprogramming of \$10 million, that would further reduce the subsidy rate down to 2.06 percent which would, in fact, then leverage a \$9.5 billion 7(a) program this year.

And the subsidy rate for next year is 1.39 percent.

Senator GREGG. How do you get to 1.39 percent?

Mr. WALTER. It is a reflection of a couple of things that have happened. One, the loans continue to perform very well. We have seen that the purchase rate or the level of defaults continues to decline in the program over time, and the recoveries continue to increase. These are a result of several factors. One, our underwriting has gotten stronger, through stronger relationships with our lenders, and, second, on the back end, once there is a default, we have been emphasizing the servicing and collection of loans very much in the agency over the last couple of years, and thus our recovery rates are going up. So it is a combination of improved defaults, improved recoveries, and the general management of the program that has caused the rates to come down.

#### SUBSIDY RATE

Senator GREGG. Well, in the past it has been almost a downward event, it seems to me, the subsidy rate.

Ms. ALVAREZ. We have really worked hard to get that under control. We have worked with OMB. We brought on board about 30 new people to work as financial analysts. A lot had to do, I think, with a lack of people and expertise at our own agency. We have also brought in outside consultants to work with us on it. There has been a lot of investment in this.

Senator GREGG. Well, what happens if you do not reach 1.39 percent?

Mr. WALTER. That rate has already been decided. That is the administration's rate, and unless there is either a programmatic or legislative change that would cause it to change it will be 1.39 percent.

Senator GREGG. Do you have any more questions?

Senator HOLLINGS. No.

#### DISASTER PROGRAM

Senator GREGG. The disaster program, you are adding 117 people to this program. Why is that?

Mr. KULIK. We add to the disaster loanmaking side as we need people for disasters, and then we terminate them when that need has disappeared.

Mr. WALTER. The request for 117 positions is a net increase based primarily on the level of loanmaking. The personnel level is assumed to be higher in 1999. The 1998 level is assumed to be \$785 million, which is the 10-year average, and the 10-year average for 1999 would be \$901 million. So the assumed increase in the program level would cause a need to hire some additional temporary people to take care of the additional volume of loans.

Senator GREGG. Are these permanent people, or do you get rid of them as the loan—

Mr. KULIK. On the loan making side—

Senator GREGG. But you said they were on the servicing side.

Mr. KULIK. They are on the loan—

Mr. WALTER. On the loanmaking side.

Senator GREGG. Yes.

Mr. WALTER. These are just temporary employees, and as the demand goes up, we increase. As the demand goes down we decrease.

Senator GREGG. When would you expect that these people would be decreased.

Mr. KULIK. We wouldn't even put them on unless the demand was there.

Ms. ALVAREZ. It is only the projection. This 10-year historical average. Obviously there is no way to predict exactly what is going to happen with disasters. You just base it on a 10-year rolling average and make those projections. If it doesn't happen, they never come on board.

Mr. KULIK. For example, we had a high of about 3,500 people in the middle of the Northridge earthquake. Since then the numbers, even though we have had disasters every year, sizable ones, our number has come down to about 900.

Senator GREGG. I would like to get the last 2 years estimates, what the projection is, and then a report every 4 months or 6 months as to how many you are retaining and how this number is affected.

Mr. KULIK. We will do that.  
Senator GREGG. Great.  
[The information follows:]

Attached are three documents which outline the staff variations, since the inception of the current organizational structure in 1981. The compilation in Attachment A shows the number of employees at the end of each month, broken down by types. The cadre (cad) are permanent civil service employees, but are guaranteed only 6 months work each year. The temporaries (temp) are hired as and when needed and terminated when the work demand lessens. Attachment B shows the highs and lows of total employment during each year since 1981 and Attachment C shows the numbers of employees at the end of each month for 1997. Please note that these are disaster loan making field office employees. In addition, there are 18 employees in the central office and approximately 14 in our Denver fiscal office that are charged to the disaster loan making function. These employees also can be permanent, cadre or temporary employees. The numbers for these latter offices remain fairly constant.

ATTACHMENT A.—DISASTER FIELD PERSONNEL, 1982-98  
 [As of February 28, 1998]

	1982			1983			1984			1985			1986			1987		
	Cad	Temp	Total															
January .....	60	64	124	106	155	261	98	159	257	107	257	364	119	662	781	118	455	573
February .....	61	62	123	106	154	260	97	156	253	112	252	364	119	561	680	115	453	568
March .....	62	179	241	103	141	244	96	153	249	113	260	373	118	593	711	113	375	488
April .....	81	153	234	103	153	256	93	185	278	120	247	367	123	546	669	142	376	518
May .....	94	118	212	104	180	284	96	257	353	120	241	361	106	547	653	161	327	488
June .....	101	119	220	102	193	295	97	336	433	120	270	390	121	542	663	160	291	451
July .....	99	111	210	93	185	278	102	374	476	120	262	382	119	469	588	155	286	441
August .....	103	113	216	102	174	276	107	337	444	119	246	365	113	456	569	158	244	402
September .....	104	104	208	100	225	325	107	308	415	117	277	394	124	478	602	160	243	403
October .....	102	100	202	112	191	303	107	304	411	123	362	485	118	554	672	159	256	415
November .....	103	94	197	97	198	295	108	313	421	122	557	679	116	523	639	159	388	547
December .....	105	133	238	99	173	272	108	291	399	120	664	784	115	491	606	161	371	532

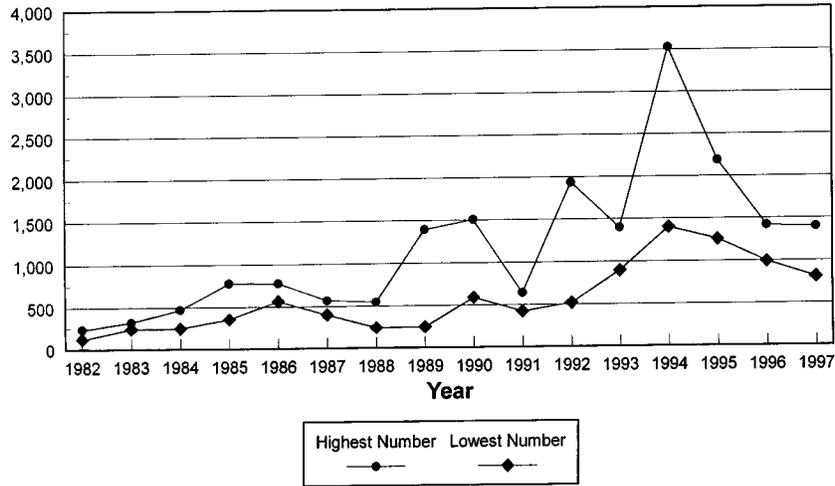
  

	1988			1989			1990			1991			1992			1993		
	Cad	Temp	Total	Cad	Temp	Total	Cad	Temp	Total	Cad	Temp	Total	Cad	Temp	Total	Cad	Temp	Total
January .....	158	391	549	143	333	476	99	1,411	1,510	113	533	646	155	406	561	185	1,217	1,402
February .....	158	388	546	139	331	470	112	1,295	1,407	126	515	641	154	403	557	186	1,160	1,346
March .....	156	339	495	140	327	467	114	1,050	1,164	141	479	620	153	380	533	186	1,041	1,227
April .....	152	282	434	134	313	447	111	854	965	137	482	619	159	365	524	182	946	1,128
May .....	151	154	305	131	339	470	105	854	959	136	497	633	163	436	599	181	897	1,078
June .....	147	127	274	128	328	456	108	802	910	143	420	563	172	541	713	182	783	965
July .....	138	105	243	126	319	445	110	723	833	146	394	540	172	587	759	179	968	1,147
August .....	135	160	295	125	315	440	111	642	753	147	322	469	179	768	947	181	1,095	1,276
September .....	135	198	333	122	270	392	110	593	703	155	300	455	187	1,597	1,781	179	972	1,151
October .....	134	204	338	122	271	393	109	578	687	157	269	426	186	1,753	1,939	179	855	1,034
November .....	131	190	321	118	1,076	1,194	109	517	626	157	280	437	185	1,476	1,661	186	817	1,001
December .....	132	183	315	117	1,279	1,396	110	488	598	158	325	483	186	1,323	1,509	190	709	899

	1994			1995			1996			1997			1998		
	Cad	Temp	Total	Cad	Temp	Total									
January .....	180	1,224	1,404	221	1,969	2,190	229	1,128	1,357	244	867	1,111	245	702	947
February .....	175	2,277	2,452	224	1,695	1,919	226	1,194	1,420	248	831	1,079	254	701	955
March .....	184	3,094	3,278	222	1,639	1,861	219	1,065	1,284	245	1,085	1,330			
April .....	200	3,199	3,399	220	1,459	1,679	231	899	1,130	246	1,156	1,402			
May .....	195	3,333	3,528	218	1,467	1,685	234	857	1,091	247	1,025	1,272			
June .....	197	3,059	3,256	220	1,367	1,587	231	767	998	247	901	1,148			
July .....	198	3,070	3,268	232	1,257	1,489	224	802	1,026	250	808	1,058			
August .....	208	2,711	2,919	231	1,138	1,369	239	809	1,048	250	744	995			
September .....	210	2,278	2,488	230	1,033	1,263	234	1,155	1,389	247	664	911			
October .....	211	2,309	2,520	227	1,337	1,564	245	1,161	1,406	249	617	866			
November .....	218	2,167	2,385	229	1,228	1,457	244	1,031	1,275	249	533	782			
December .....	221	2,020	2,241	230	1,030	1,260	245	764	1,009	247	569	816			

### DISASTER FIELD PERSONNEL 1982 - 1997

Number of Employees

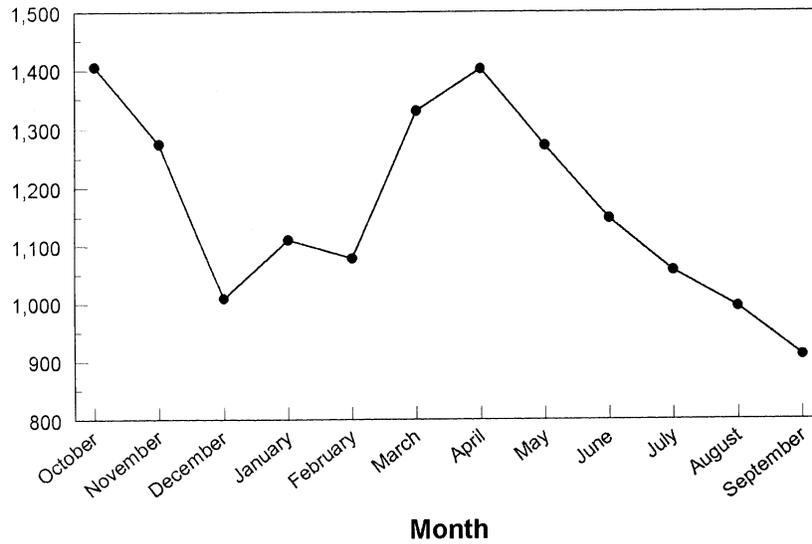


ATTACHMENT B

### DISASTER FIELD PERSONNEL IN FY97

October 1996 through September 1997

Employees



ATTACHMENT C

## EL NIÑO

Senator HOLLINGS. Is El Niño bringing in a lot more requests? These mud slides and floods and everything else of that kind?

Ms. ALVAREZ. Yes.

Mr. KULIK. It is now in California, and in Florida, and mostly because those disasters are very widespread. It is almost the entire State of California, and I believe three-quarters of the State of Florida that have been declared as disaster areas. So with the geographic spread, we have had to have more people than in a more contained disaster.

Senator GREGG. Does the fact that the economy is doing so well create less of a demand for SBA activity? I mean, with the strong economy should not banks be able to make these loans without having to have a guarantee?

Ms. ALVAREZ. Well, that is one theory. Actually I think that banks have become so familiar and knowledgeable about SBA programs, and our infrastructure has improved, and our redtape has been decreased to the point where if banks stayed away from SBA in the past, and didn't make loans that were legitimately SBA loans, it is a lot easier for them now to make those loans. I think we are talking about legitimate SBA loans that are much easier to make, because we are operating in a more efficient way.

Senator GREGG. Well, that has the other side of the coin effect, which is that banks which should be taking risks on their own are now transferring that risk to the taxpayer.

Ms. ALVAREZ. I have had one major bank, for example, apologize because they said they hoped we wouldn't mind that with some of their SBA borrowers they had discovered that they were really pretty good risks, and so they could do this on their own and make a profit.

Senator GREGG. I think you should encourage them to do that.

Ms. ALVAREZ. That's exactly what we are encouraging. Hopefully, we should be in the business to get out of the business.

## ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. OK. Well, the economy will go up and will go down, and SBA will always be needed, I'm sure.

Anything else?

Ms. ALVAREZ. No, sir.

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

## ADDITIONAL COMMITTEE QUESTIONS

## GOVERNMENT PERFORMANCE AND RESULTS ACT [GPRA]

*Question.* How are the agency's annual performance goals linked to the agency's mission, strategic goals, and program activities in its budget request?

*Answer.* Each of the Agency's annual performance goals links to one of the five general strategic goals from the strategic plan which forms the blueprint for achieving the Agency's mission. The specificity of the performance indicator and strategy for achievement were crafted by each SBA organizational entity, which in turn has budget narratives, justifications, and program and financing schedules in the Agency's fiscal year 1999 Budget submission. Finally, included in the annual plan is a crosswalk that matches resource estimates by budget activity and by strategic goal.

*Question.* Could you describe the process used to link your performance goals to your budget activities?

*Answer.* The budget portrays resources and requests by organizational activity and budget function. Some of these, but not all, are the same as the program activities in the GPRA annual performance plan. The GPRA moves agencies toward true program budgeting and the annual plan describes goals, indicators, and strategies by program. In preparing the performance plan, each SBA organizational entity was asked to list discrete goals, objectives, and strategies for fiscal year 1999 linked to the five Agency goals. Additionally, summary descriptions of activities included in the fiscal year 1999 SBA budget submission were also included in the annual performance plan to justify program budgets and to create a stand-alone document. Ultimately, true linkage of performance goals to budget activities requires a change in the budget account structure and a cost accounting system. The Agency's accounting structure is not activity-based and therefore does not provide accurate resource use by specific program. SBA has requested appropriations to update its accounting structure and will be moving to this environment in the future.

*Question.* Does the agency's Performance Plan link performance measures to its budget? (Does each account have performance measures?)

*Answer.* Nearly every program and financing (P&F) schedule in the budget has performance measures, except for the administrative management and executive direction categories. With the assistance of the crosswalk in the performance plan, the reader can link the budget estimates at the general goal level.

*Question.* To what extent does your performance planning structure differ from the account and activity structure in your budget justification? (Do you plan to propose any changes to your account structure for fiscal year 2000? Will you propose any changes to the program activities described under that account structure?)

*Answer.* The account and activity structure used in the budget matches SBA's formal organizational structure. Future plans include closer linkage of performance planning to this structure, with associated allocation of budgetary resources to performance measures.

*Question.* How were performance measures chosen? (Balance cost of data collection and verification with the need for reliable and valid data; inclusion of measures for which reliable data are not likely to be available in time for your first performance report in March 2000.)

*Answer.* Performance data were in most cases based on existing program data and information systems, and performance measures are those used by line management to manage the programs. The Agency expects that its development of Management Information Systems (MIS) will provide a critically-needed review of data existence, quality, relevance and reliability. Clearly, resources and training are required to collect, analyze and disseminate valid and reliable data, such as envisioned by our goal 2.

*Question.* What are the key performance goals from your fiscal year 1999 annual performance plan that you recommend this subcommittee use to track program results? For each key annual goal, indicate whether you consider it to be an output measure or an outcome measure. State the long-term general goal and objective from the agency Strategic Plan to which the annual goal is linked.

*Answer.* There are 96 performance indicators or measures to track program results against the five major strategic goals in fiscal year 1999. The vast majority of these are output measures and relate to one of the five general Agency strategic goals. Under each of the general goals in the strategic plan are 15 sub-goals or objectives, that include (1) increasing access to capital and credit, enhancing entrepreneurial development assistance, assisting small businesses to sell to the federal government and create networks that improve prospects of marketing their products; (2) becoming a leading edge, reinvented institution that offers cost-effective, customer driven products and services; (3) offering capital to victims of disasters; (4) leading the work portion of the welfare-to-work initiative; and (5) serving as a voice for small businesses to compete in the 21st century.

SBA's plan describes ways that SBA will "create opportunities for small businesses to succeed." This success can be measured in terms of the number of new start-ups helped by SBA assistance, as well as the number of companies expanded and maintained. This success can also be measured in jobs created, revenues generated, and taxes paid as proxy measures for economically successful and viable businesses. The reason for SBA programs and products is to help small businesses succeed. As intermediate measures, the following will be tracked: the aggregate amount of credit and capital made available to small businesses; the number of loans approved by underserved category of small business; the number of businesses receiving entrepreneurial development assistance from SBA resource partners; the percentage of Federal procurement that goes to small businesses; the existence of

an effective internal control environment in SBA; improved delivery systems for disaster lending; the number of commitments made by businesses to hire employees from the welfare rolls; and improved data capacity and positive results from regulatory agency involvement in advocacy review panels.

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

*Answer.* Where practicable, the Agency ensured that at least one outcome measure was included in each of the major goals, e.g., jobs created, businesses started, success rates of 8(a) firms, percent of procurement going to small businesses, sales from Small Business Development Companies (SBDC's) counseling, Committee of Sponsoring Organizations of the Treadway Commission (COSO)-based audit criteria used to create a leading edge internal control environment, business commitments to hire from welfare rolls, and improved data capacity to act as a "voice" for small businesses. The vast majority of the measures selected reflect actual measures used by managers to run their programs and measures over which they have substantial control.

*Question.* Do you have the technological capability of measuring and reporting program performance through the year on a regular basis, so that the agency can be properly managed to achieve the desired results?

*Answer.* While the SBA has the technological capability to measure all of its output measures, the appropriate data collection and reporting systems have not been developed. With funds requested in fiscal years 1998-1999 for systems modernization efforts, we hope to address these issues by the end of fiscal year 1999.

*Question.* The GPRA requires that your agency's Annual Performance Plan establish performance goals to define the level of performance to be achieved by each program activity set forth in your budget. Many have indicated that the present budget account structure makes it difficult to link dollars to results in a clear and meaningful way.

Have you faced such a difficulty?

*Answer.* Yes. Many program performance standards and measures being discussed within the Agency involve the capture of information not currently maintained by the Agency. Therefore, they will add a significant degree of complexity to assigning costs to these measures. Additionally, the current account structure maintained by the Agency was developed around the organizational structure of the Agency, not its individual programs, projects and activities (PPA's). As such, some form of crosswalk will need to be developed and maintained to bridge between these two distinct accounting structures.

*Question.* Would the linkages be clear if your budget account structure were modified?

*Answer.* This problem cannot be corrected by merely changing the budget account structure. It involves the actual manner in which an Agency manages, operates, and obligates funds. Multiple PPA's are managed by individual offices, and the Agency has significant administrative and overhead costs that support all PPA's. It is not normal for a single office to administer a single PPA. As a result, there will be a need to not only allocate direct costs to multiple PPA's, but to also allocate administrative and overhead costs to these PPA's in some structured and logical manner. This becomes very complex and subjective. We have not found that this type of allocation process exists widely in the Federal Government.

*Question.* If so, how would you propose to modify it and why do you believe such modifications would be useful both to your agency and to this committee than the present structure?

*Answer.* We do support the development and maintenance of a system to allocate Agency costs to the PPA level. However, those who review such a system and its results need to fully understand its limitations and its underlying assumptions. We also support the development of an annual crosswalk to stratify Agency costs to the PPA's, based on a cost allocation system. We do not, however, support the reclassification of the Agency's budget structure to match PPA's, because this does not reflect the manner in which the Agency manages, operates, or obligates funds. Therefore, this would present a substantial "disconnect" between the external budget for Congress and the internal budget for execution purposes.

*Question.* How would such modification strengthen accountability for program performance in the use of budgeted dollars?

*Answer.* The development and maintenance of a cost allocation system to allocate Agency costs to individual PPA's, coupled with performance standards and measures, would provide managers additional information that should be helpful in assessing the cost/benefit of providing goods and services to its customers. This can

result in efforts to make PPA's more efficient and effective, and be used as a tool to prioritize spending in the event of funding deviations from year to year.

*Question.* Under one of the new accounting standards recommended by the FASAB and issued by OMB, this year for the first time all federal agencies are required to have a system of Managerial Cost Accounting. The clearly preferred methodology for such a system, as stated in that standard, is the one known as "Activity-Based Costing," whereby the full cost is calculated for each of the activities of an agency.

What is the status of your agency's implementation of the Managerial Cost Accounting requirement, and are you using Activity-Based Costing?

*Answer.* The SBA has just completed a preliminary cost allocation study to allocate its fiscal year 1997 actual administrative obligations to the major PPA's. An additional product of this effort will be the development of detailed requirements to allow SBA to incorporate activity-based accounting into its planned modernization of its accounting systems. However, this modernization effort is not currently funded within the Agency's appropriation base, and therefore, funding for this effort is contingent on Congressional approval of current reprogramming actions, and future budget requests for systems funding.

*Question.* Will you be able in the future to show to this committee the full and accurate cost of each activity of each program, including in those calculations such items as administration, employee benefits, and depreciation?

*Answer.* Yes. Our future plans include the integration of activity-based accounting into our accounting and budgeting systems and processes.

*Question.* By doing so, would we then be able to see more precisely the relationship between the dollars spent on a program, the true costs of the activities conducted by the program, and the results of these activities?

*Answer.* Yes.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that, to what extent are your performance measures sufficiently mature to allow for these kinds of uses?

*Answer.* Most programs have mature output measures and systems to collect and validate the information. For outcome measures, derived statistics were used and work is required before March 2000 to validate the extrapolation and the logic. For other performance indicators, we must establish benchmarks and baselines in the current fiscal year and set goals for fiscal year 1999 to be measured in fiscal year 2000. The reliability problem will be addressed through the Administrator's monitoring of agency performance against the annual plan and through actual use of the data in different evaluation efforts.

Most of the performance measures are output measures (e.g., number of loans, hours counseled, courses given) which have been collected over the years and largely under the control of the managers—therefore they are mature. SBA is engaged in efforts to improve the relevancy of these measures and validity of the data on which they are based. In the annual plan, SBA has spread its overhead to the five strategic goals in its crosswalk but has not fully allocated overhead to sub-program or activity level. Where appropriate some performance measures were included for administrative management (i.e., CIO and some CFO activities were included in goal 2).

*Question.* Are there any factors, such as inexperience in making estimates for certain activities or lack of data, that might affect the accuracy of resource estimates?

*Answer.* Current cost allocation efforts at SBA will be helpful in assigning base costs to major program activities and establishing the requirements necessary for systems modernization plans to provide this type of information to managers and the Congress on a regular basis.

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions in your strategic plan issued on September 30, 1997?

*Answer.* The strategic plan was the first such effort at SBA and will be revised later this year, in draft form for additional discussions among SBA's managers, the Congress, and other stakeholders. External comments on the strategic plan and the process of developing the annual performance plan have highlighted several areas for revision, such as: a better integration of Office of Advocacy and the OIG activities in the agency's plan; more outcome measures and efforts at attribution of causality; description of budgetary resources from current fiscal year; expansion on mitigating external factors; more discussion of cross-cutting efforts; and expanded discussion of evaluation plans.

## QUESTIONS SUBMITTED BY SENATOR TED STEVENS

*Question.* Rural communities in Alaska face high unemployment and a remoteness unequaled anywhere else in the United States.

How effective are SBA's current programs in assisting small businesses in rural Alaska?

*Answer.* With limited resources, SBA now assists small businesses in rural Alaska in the following ways:

- Approximately twenty times per year, SBA staff from its office in Anchorage travel to rural Alaska villages to make presentations on SBA programs and service SBA loans. Recently, for example, SBA staff made a four-day trip for these purposes to Galena, Nulato and Kaltag.
  - Currently, 18 of Alaska's 71 8(a) firms are located in rural areas. Other 8(a) firms employ people in or from Alaska villages. SBA hopes to increase the number of Alaska 8(a) firms to 100 in fiscal year 1998.
  - In April, SBA inaugurated a 7(j)-funded management education program for disadvantaged small business executives at the University of Alaska—Anchorage (UAA). The first class will consist of 30 or more executives.
- To spur rural economic development in Alaska, SBA is integrating its service delivery more with private resource partners and Alaska's Small Business Development Center (SBDC). For fiscal year 1999, SBA seeks increased funding in the 7(j) program to help expand its delivery of economic development services to rural communities in Alaska.

*Question.* What recommendations do you have on improving the ability of the SBA to deliver services into the rural areas of Alaska?

*Answer.* To be more effective in this area, SBA needs to do what it does best, emphasizing federal procurement opportunities, business counseling and training, and improved access to capital. It must work closely with resource partners (like Alaska's SBDC) and with rural communities themselves. Importantly, as part of SBA's \$9.5 million request for its 7(j) program in fiscal year 1999, SBA seeks \$3 million to launch a three-year pilot aimed at helping Alaska Native, Native American and other rural small business owners in areas with compelling economic needs. With this funding in fiscal year 1999, SBA would do the following:

- Provide increased executive education and federal procurement training to rural and Alaska Native small business owners, all in close cooperation with Alaska's SBDC, SCORE volunteers, the University of Alaska and other resources in rural communities. SBA recently met with Jan Fredericks, the SBDC State Director, to discuss plans for closer cooperation with Alaska's SBDC in reaching out to more Alaska villages and rural communities.
- Work with its private sector partners to enhance management skills of eligible Alaska Native small business managers in business planning, cost accounting, cash management, human resources and other areas. For greater effectiveness, this training will be specifically tailored to Alaska Natives. Improving the business skills of Alaska Native small business owners will benefit their entire communities either directly or through economic spin-off.
- Emphasize electronic long distance learning techniques to reach remote rural communities. With the requested funding for 7(j), SBA would be able to award 7(j) grants to SBDC's in rural pilot areas without a matching requirement. SBA could expand Business Information Center (BIC) capability in areas such as Bethel, Fairbanks, Kenai, Juneau and Mat-Su Borough with improved computer links. This would help SBA and the SBDC to counsel rural small business owners who cannot afford extensive travel to Anchorage.
- Explore methods to provide enhanced technical assistance to microborrowers in rural areas, working closely with public and private sector partners committed to the operation of successful microlending in such communities.

SBA believes that these coordinated efforts could measurably increase economic activity in rural Alaskan communities. With 7(j) funding, SBA could support existing small businesses and encourage entrepreneurs to start new ones, leading to an increase in employment opportunities in Native villages and other rural communities. With SBA's help, rural Alaskan small business owners would compete more successfully for federal government contracts and would create more jobs in their communities. This increase in jobs would have a powerful impact on rural communities which seek to become less reliant on welfare and more developed economically.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

## WOMEN'S BUSINESS OWNERSHIP FISCAL YEAR 1999 BUDGET

*Question.* The proposed budget for fiscal year 1999 for the SBA includes \$600,000 for the National Women's Business Council. Has a Chairperson been named by the President and when will you announce the 14 members of the Council?

*Answer.* The person that the President is considering for the Chairperson of the National Women's Business Council is presently undergoing the background check process for nominees. When this process is concluded, I will inform you of the appointment.

As you know, I have notified you and other Senators and Members of Congress that the decisions on the appointments of the members to the NWBC have been completed. When the Chair appointment is completed, a formal announcement will be made.

I'm pleased to inform you that we believe that the NWBC reflects the support of Congress, and represents the spectrum of the small business community, including rural, urban, geographic and ethnic diversities of women small business owners in our country.

*Question.* Last year, Congress increased the annual authorization for appropriations for the Women's Business Centers program to \$8 million and, at that time, the Administration requested maintaining the funding at \$4 million. Now, one year after the authorization bill is completed, you are recommending increasing the authorization to \$9 million. Why the change of heart and what SBA program are you proposing to cut to offset this increase?

*Answer.* Last year, I presented and supported the budget drawn up by SBA's former Administrator, Phil Lader. The budget for fiscal year 1998 was the first opportunity I had as Administrator to develop my own priorities for the Agency. Advancing the cause of the "underserved" is a major focus for me, and reaching out to women and assisting them in building businesses contributes to that important goal. I hope to soon have at least one women's business center in every state, and with the added appropriation, build sub-centers in states with large populations and large territory.

We do not plan to cut any program at the SBA to fund the Women's Business Centers (WBC's).

*Question.* As a strong advocate of the Women's Business Centers, I would like your views on what can be done to improve cooperation and coordination between these centers and the nearest SBA District Office or the Small Business Development Center?

*Answer.* The Office of Women's Business Ownership (OWBO) has actually taken dramatic measures to ensure that close cooperation exists between all our currently-funded centers, the District Offices, SCORE and the nearest Small Business Development Centers (SBDC). The Taskforce of Cooperation was formed last fall that explored ways to make this happen. The Taskforce was made up of district directors, regional administrators, WBC directors, and a representative from SBA's Office of Field Operations. A specific list of actions and obligations was compiled by the group that included what OWBO would do to increase cooperation, what the WBC's would do, and what district offices would do. That list has been made a permanent part of the funding agreements for all new WBC's, and will be part of the contract for older WBC's when their renewal options come up this summer. We are very pleased that the WBC's are drawing ever closer into the SBA family of resource partners, and expect this action will greatly help district directors meet their women's goals.

*Question.* The budget request for SBA proposes awarding 30 grants for new Women's Business Centers in fiscal year 1999. While I strongly support expanding this program to all 50 states over time.

How would SBA manage a 3-fold increase in this program from the level of awards in 1997?

*Answer.* OWBO recently hired a full time employee to replace the contractor responsible for data collection. The duties of this position will not only cover data collection functions but will also include technical and programmatic responsibilities. In addition, SBA has moved the monitoring function of the WBC's to the district offices. District directors will henceforth appoint District Office Technical Representatives (DOTR's) to oversee all project activities of local WBC's. The DOTR's will be responsible for coordinating activities and initiatives between the district offices and the WBC's. These actions will enable the OWBO to effectively and efficiently manage a 3-fold increase in the WBC Program.

*Question.* How would 30 grant awards in one year affect SBA's ability to establish new Centers in subsequent years?

**Answer.** The approximately 30 new awards will be funded for 4 succeeding years. In each of those years, the oldest set of award recipients will graduate, which will allow the following cycle of funding: In fiscal year 2000, 15 recipients will graduate; in fiscal year 2001, only 2 recipients will graduate; in fiscal year 2002, 10 recipients will graduate; in fiscal year 2003, 3 recipients will graduate; in fiscal year 2004, approximately 30 recipients will graduate—these graduates will be those first funded in fiscal year 1999. In each of those years, the number of new awards will approximately equal the number of graduates from the preceding year.

**Question.** What budget would be needed to support the program in fiscal year 2000?

**Answer.** If we are funded at \$9 million in fiscal year 2000, the OWBO will be able to provide ongoing funding to approximately 46 WBC's and launch up to 12 new WBC's and sub-centers. Funding above the \$9 million level would enable OWBO to provide assistance to greater numbers of women throughout the country who want to start and expand businesses, bringing to even higher levels the ongoing contributions of women entrepreneurs to the economy.

**Question.** Does this increase ensure that adequate funds remain for centers receiving expanded support for five years rather than the three years first approved?

**Answer.** Yes, a \$9 million budget is adequate to fund all the centers for five years. If funds become available above the \$9 million level, OWBO can further expand the program to include additional WBC's in under-served areas.

**Question.** In the Request for Proposals issued by the SBA to solicit grant applications for WBC grant awards in fiscal year 1998, eligible applicants are required to provide assistance on government procurement/certification. The statute requires Centers to provide assistance and training related to management, marketing and finance. On what legal basis is the SBA now requiring new Centers to provide "government procurement/certification assistance" and might that requirement be inappropriate for all applicants in remote or rural areas?

**Answer.** Government contract assistance has been required since the first Program Announcement (RFP) in 1988 which stated: "Recipients shall assist clients in securing Federal, state, and local government contracts, grants, and cooperative agreements. Such services will include, but not be limited to: orientation of clients in the fundamentals of government procurement; assistance in preparation of documents necessary for securing government contracts; advice and guidance in preparation of routine and special reports to procuring agencies; and assistance in implementation of appropriate compliance procedures."

Over the years, the request for this assistance has been refined; the RFP in 1997 now states: "Projects must provide training and counseling in state or city certification of women business owners, where applicable, and on selling to governments at the local, state and federal level. Projects must have a plan on how to increase the number of public and private sector contracts to women business owners. Plans can include mentoring, training, bid and proposal preparation, matchmaking and networking. Sites may consider having Commerce Business Daily (the official publication announcing federal procurement opportunities, available at many libraries) and Federal Acquisition Regulations online for their clients. Projects must work with SBA district offices on procurement training opportunities and assistance."

The OWBO expects the WBC's to be resource partners for the Agency. Therefore, the decision to include procurement assistance in the RFP's exists to assist women in an arena where they have historically been at a disadvantage. Of the total federal procurement dollars, less than 2 percent goes to women-owned businesses. The Federal Acquisition Streamlining Act of 1994 established a 5 percent government-wide goal for contract awards to small women-owned businesses. One of Administrator Aida Alvarez's major goals is to reach the 5 percent goal by the year 2000.

**Question.** The Small Business Reauthorization Act of 1997 requires that the person heading the Office of Women's Business Ownership at SBA have the stature and qualifications attributed to the Senior Executive service. In light of your proposal to increase the size of the primary program overseen by this position, have you complied with the law to ensure the head of OWBO is a member of the Senior Executive Service? (Note: We have been advised that SBA has reached its ceiling on SES positions, such that this requirement has not been met.)

**Answer.** The SBA is currently at our SES ceiling and cannot upgrade the position without an increase in its SES ceiling from POM and in its on-career allocation from the White House. The SBA is processing a request for these allocations.

**Question.** Please explain how the \$1 million requested in your fiscal year 1999 budget for the Survey on Women Business Enterprises relates to the \$500,000 applied to this survey in fiscal year 1997, and the \$1 million you are authorized to reprogram in fiscal year 1998.

Has the cost of this survey increased from \$1.5 million to \$2.5 million? If so, why the increase? (Note: Last year, we were told that the survey would cost \$1.5 million.)

Answer. Collecting the women's business figures is a four year operation undertaken by the U.S. Census Bureau. The operation began last year, when SBA contributed the first \$500,000 to the Commerce Department in order to begin the process. The total cost spread over four years will be approximately \$3 million, according to the Census Bureau. In fiscal year 1998, SBA will transfer \$1 million to Commerce.

Costs over four years for the 1997 Survey of Women Owned Businesses, according to the Commerce Department are:

Fiscal year 1997 .....	\$527,814
Fiscal year 1998 .....	991,000
Fiscal year 1999 .....	750,000
Fiscal year 2000 .....	500,000

*Question.* Couldn't the collection of the women business enterprise data be combined with the information needed by the Office of Advocacy—reducing the cost of both efforts by concurrently gathering the information or extrapolating the women business information from the data collected by the Census for the Office of Advocacy?

Answer. No, because the two data bases are unrelated and are used for different purposes.

The Office of Advocacy's data base is only of firms that have employees and has no gender identification. The data base, compiled by the Bureau of Census, is used primarily to analyze the cost of regulation on firms of different sizes. It is also used to study growth year by year at the state and local level.

The SWOBE will cover all businesses headed by women, including part-time firms with only \$500 in receipts and no employees. (Eighty-five percent of women-owned firms have no employees). The SWOBE is a count of all activity by women, by county. It will be used to design many of the programs for women around the country bases upon simple counts.

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#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

*Question.* Administrator Alvarez, in 1992 we allowed the SBA 7(a) loan program to grow to \$3 billion because SBA argued that during the recession banks were unwilling to loan money and there were no other sources of capital. In this budget before us, you have proposed an increase to the 7(a) program to \$11 billion. Since the economy is so hot, shouldn't these banks be using their own funds instead of relying on taxpayer subsidies? I mean, if it's a recession you tell us there are no other sources and now in this period of prosperity, it appears there are still no other sources. Isn't the reality that as long as government guarantees are around, banks aren't going to risk their own money?

Answer. Banks are, in fact, risking their own money in lending to small businesses. Recent studies by the Small Business Administration's (SBA) Office of Advocacy indicate that small business lending has increased substantially over the last few years. However, banks continue to rely on the SBA loan guaranty in order to make funding available to those who cannot get credit elsewhere. The guaranty helps to ensure that small business and entrepreneurs have access to credit and capital in situations where the banks perceive that there is a greater risk than they want to take or there is a need for a greater term than they are willing to provide.

The Agency has as one of its primary goals the improved management of its loan portfolio in order to protect the taxpayer investment in this important program.

*Question.* Administrator Alvarez, SBA runs the 7(a) program something like an entitlement program. People come into banks and banks keep issuing loans. As you know, last spring this resulted in a proposal to shut down the program. Basically, we have a situation where the program is increasing to meet demand. The good news is that to date, the subsidy rate has been reducing due to lower interest rates and the healthy economy, meaning fewer defaults. So now that the program has grown from \$3 billion to \$11 billion, aren't you concerned about how much will need to be appropriated if interest rates go up or the economy stops booming?

Answer. The President's fiscal year 1999 budget proposes an increase in the program level for the 7(a) program. This request for the budget authority is based on the anticipated level of demand, and its cost is based on program subsidy rate. If interest rates increase and if there is a resulting increase in defaults, then the subsidy rate would also increase. This would mean that we would require a higher level of budget authority to support the same program level. Because there are so many

unknown variables, it is impossible to precisely predict what future requests might involve. Our goal is to help insure that small businesses and entrepreneurs who will need the SBA loan guarantees have the program available if and when the economy changes direction. SBA carefully monitors demand level, subsidy rates and lender performance, to ensure that the 7(a) program meets the needs of America's small businesses and entrepreneurs.

*Question.* Administrator Alvarez, it seems like there's a game going on with the SBA Disaster program. And it's the Congress that's getting "gamed." Your submitted budget assumes that Congress will increase interest charges to home and business owners that have been hit by natural disasters like tornadoes and floods. However, the Small Business Committees have refused for years to pass such legislation. Last year, you also said that you didn't need any appropriations for Disaster Loans, but this Subcommittee provided an appropriation of \$23 million to guarantee an additional \$115 million in loans. We obviously had to cut this from other programs.

Do you have any reason to believe that the Small Business Committees will be more supportive of changing subsidy rates and, might I ask, did the President point out his proposal during his visits to Florida and California to survey storm damage last week?

*Answer.* We hope the Committees will be supportive. If it were practical to restore all victims to their predisaster condition at no cost to the individual, we would favor it. But the cost to the Federal government would be overwhelming. This proposal resulted from the need to make hard fiscal choices. The proposal will still provide victims with financing at rates that are not available in the commercial market and help give them a down payment on their future.

The President did not go into detail of available Federal assistance in his trips. Because this proposal is for disasters commencing on or after October 1, 1998, it would have no effect on the current disasters in Florida or California.

*Question.* Could you tell us what the current balances are in the Disaster Loan fund and what you expect the shortfalls will be for the next year if the Small Business Committees don't pass the legislation and we provide you with your appropriation request of zero?

*Answer.* At the beginning of fiscal year 1998 we had \$1.0228 billion available in program funds. As of April 30, 1998 we had obligated \$419.1 million, leaving a balance of \$603.7 million in program funds. It is impossible to determine the exact need for disaster funds for the balance of the year, however the 10 year average indicates that the total demand for the year will be about \$785 million. This would leave carryover budget authority at the end of fiscal year 1998 of \$55.8 million. In addition, it was estimated that \$20 million of budget authority would be recovered during fiscal year 1999 from loans approved in earlier years. This would result in budget authority of \$75.8 million. The ten year average for fiscal year 1999 is estimated at \$901 million which would require budget authority of only \$53.4 million, leaving a carry forward of \$22.3 million for fiscal year 2000. If the Committees do not pass the legislation, the budget authority of \$75.8 million would only support a program of \$338 million. Based on the 10 year average of \$901 million, this would leave a shortfall of approximately \$125 million in budget authority.

*Question.* Administrator Alvarez, 8(a) has been providing business development opportunities through federal contracts to small disadvantaged businesses. Without access to federal contracts, many of these small firms might not have the opportunity to grow and expand. There are some who would end 8(a) because they are opposed to affirmative action. What, if anything, is the SBA doing to defend this program?

*Answer.* One of the most important steps that the SBA has taken to ensure that the 8(a) program is Constitutionally defensible is developing the SBA's proposed regulations governing 8(a) participation, 8(a) program serving and administration and entrance into the 8(a) program by non-minority entrepreneurs.

The new rules will ease reporting burdens for participants, limit contract concentrations, step up enforcement of competitive business mix requirements, limit sole source contracts and encourage partnerships between development 8(a) firms and successful business mentors. The new rule was also written to ensure that the program is constitutional and can stand up under legal scrutiny associated with the narrow tailoring prong of strict scrutiny. The new regulations broaden the participation in the program by lowering the evidentiary standard from "clear and convincing" to "preponderance of the evidence." This change will enable more applicants to meet the test and provide evidence of social disadvantage. The Agency is also actively engaged with the Department of Justice on matters relating to 8(a) litigation. In addition, outreach efforts to explain the proposed regulations include meeting with 8(a) constituencies, briefing Hill staff, providing testimony and speaking to other interested parties.

*Question.* How do you respond to criticism that 8(a) isn't working due to the statistic pointing to the failure of many 8(a) firms to remain viable after their nine years in the program?

*Answer.* A survey of former 8(a) program participants, conducted annually by the Office of Minority Enterprise Development indicated the following: of those firms completing their program term over the last three years (1994, 1995 and 1996) and responding to the survey with business data, 42 percent remain operational; of all the firms surveyed 40 percent did not respond.

The SBA publication "State of Small Business" indicates that 79 percent of all new businesses cease operations within 10 years. The former 8(a) participants at the time of the survey were in business from approximately 11 to 14 years. The 8(a) success rate of 42 percent for businesses with an average age of 12.5 years is 21 percent higher than the 21 percent success rate that all businesses achieve in their first ten years.

*Question.* Administrator Alvarez, I see that your request for Women's Business Centers is up to \$9 million from the \$4 million appropriated last year. The intent, I take it, is to increase the number of centers such that every state has one.

How many states currently have Women's Business Centers?

*Answer.* Thirty-six plus the District of Columbia and Puerto Rico.

*Question.* How many Centers did the \$4 million buy us last year?

*Answer.* In fiscal year 1997, Office of Women's Business Ownership opened 10 new Centers and continued to fund 18 Centers and the Online Women's Business Center. Approximately 8 percent of the line item went for administrative costs. In fiscal year 1998, OWBO will open a minimum of 3 new Centers as required in the legislation and will continue funding the 28 Centers and the Online Women's Business Center. No funds will be used for administrative purposes.

*Question.* And how many more will the additional \$5 million buy us this year?

*Answer.* The additional \$5 million for fiscal year 1999 will allow OWBO to open approximately 30 new Centers and sub-centers.

*Question.* Are you finding that the increase in resources we're giving these Women's Business Centers correlates with the dramatic increase we're seeing in women-owned firms?

*Answer.* The Women's Business Centers are performing an outstanding service. According to SBA's second report to Congress on the Women's Centers dated February 1998 entitled Evaluation of the Women's Business Centers of the Office of Women's Business Ownership of the U.S. Small Business Administration, "The Centers' achievement in establishing effective new programs \* \* \* in reaching out to great numbers of women wanting help to realize entrepreneurial dreams, in actually helping a tremendous variety of women and businesses to succeed \* \* \* is a proud record." The report also noted the following increases in service over the previous year's report: number of clients served increased 40 percent over Year One; hours of services to clients increased 36 percent over Year One; number of small loans received by clients more than doubled, and the total amount of dollars loaned increased by approximately \$800,000.

#### SUBCOMMITTEE RECESS

Senator GREGG. Thank you. The subcommittee will stand in recess until Tuesday at 10 a.m. when we will hear testimony from the FBI Director.

[Whereupon, at 10:47 a.m., Thursday, March 5, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 10.]

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**THURSDAY, MARCH 12, 1998**

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

The subcommittee met at 9:59 a.m., in room S-146, the Capitol,  
Hon. Judd Gregg (chairman) presiding.  
Present: Senators Gregg, Domenici, and McConnell.

**THE JUDICIARY**

SUPREME COURT OF THE UNITED STATES

**STATEMENT OF HON. ANTHONY M. KENNEDY, ASSOCIATE JUSTICE**

**ACCOMPANIED BY:**

**HON. DAVID HACKETT SOUTER, ASSOCIATE JUSTICE**  
**JAMES C. DUFF, ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE**  
**DALE BOSLEY, MARSHAL**  
**FRANK WAGNER, REPORTER OF DECISIONS**  
**FRANK LORSON, CHIEF DEPUTY CLERK**  
**TONY DONNELLY, DIRECTOR OF BUDGET AND PERSONNEL**

**OPENING REMARKS**

Senator GREGG. I will convene the hearing of the Subcommittee on Commerce, Justice, State, and Judiciary of the Appropriations Committee. We very much appreciate the Supreme Court's attendance today to give us its thoughts on the budget. I will open it up to your comments, Justices.

Justice KENNEDY. Thank you very much, Mr. Chairman.

Our budget is for just under \$37 million, which is less than 1 percent of the budget for article III courts as a whole.

Judge Heyburn, from the U.S. District Court for the District of Kentucky and the Administrative Office have that presentation to make, so I think ours is simple by comparison.

We have our own budget and personnel officer. We find that salutary, because not only does he prepare the budget, but he presents to us ideas for shifting staff positions and making economies at the Supreme Court. And it is as a result of that that we have had very few increases in staff over the year.

This year our budget has a 6-percent increase for our operating and salaries expenses, a larger increase if you count the buildings and grounds, which the Architect of the Capitol presents. He has a request for a \$2 million study to improve and upgrade our building, ultimately envisaging a \$20 million project over a number of years. That study is also in this budget.

We do ask for four new positions, all of them really technology related. We should have gone into the computer business, I think, Senator. Those positions are detailed in our request. One of those positions is for an Assistant Reporter of Decisions. As you know, we are very proud of our U.S. reports. They set a standard of quality for the whole legal world. We have a 4-year time lag between the time we issued the opinion and the time these came out. And our reporter, Frank Wagner, has cut that one-half, and proposes to cut it to a commercially reasonable 1 year by the end of our 1998 term.

We do need an Assistant Reporter of Decisions to enable him to do that, and to enable him to do almost all the editing before the decision is released. Now, and for all past years, when the opinion is released, the final edit has not been done; and we relied on attorneys and law professors to comment on improving statutory citations, et cetera.

Now it goes on the electronic media, and it really becomes a part of the corpus of the law right away, and so we want to have the ability to do that editing, this is the reason for the additional position.

We have here with us, and I would just like to introduce the members of our court staff who are accompanying Justice Souter and me: Jim Duff, the Administrative Assistant to the Chief Justice; Tony Donnelly, our Budget and Personnel Officer; Frank Lorson, our Chief Deputy Clerk; Dale Bosley, our Marshal; and Frank Wagner, the Reporter of Decisions.

They have helped us prepare this budget. We rely much on them and their judgment and we have very skillful professionals with us in the court.

#### PREPARED STATEMENTS

And if you have any questions, I'm sure Justice Souter and I will be pleased to answer them.

[The statements follow:]

#### PREPARED STATEMENT OF ANTHONY M. KENNEDY

Mr. Chairman and Members of the Committee, Justice Souter and I appreciate this opportunity to appear before your Committee to address the budget requirements and requests of the Supreme Court for the fiscal year 1999.

We have with us today James Duff, Administrative Assistant to the Chief Justice; Dale Bosley, Marshal of the Court; Frank Lorson, Chief Deputy Clerk of the Court; and Tony Donnelly, Director of Budget and Personnel.

As is customary, the Supreme Court's budget request is divided between the "Salaries and Expenses of the Court" and "Care of the Building and Grounds". For the "Care of the Building and Grounds" the total fiscal year 1999 budget request is \$5,871,000. Mr. Alan M. Hantman, Architect of the Capitol, will submit a separate statement to the Subcommittee regarding that portion of the total budget.

With regard to the "Salaries and Expenses" portion of the Court's budget, our total fiscal year 1999 budget estimate is \$31,095,000. This is an increase of \$1,817,000, or 6 percent, over the budget authority for 1998. Most of the increase represents base adjustments—that is, required increases in salary and benefits costs

and inflationary increases in fixed costs. Specifically, \$1,347,000 of the adjustment represents required increases in salary and benefit costs. And \$266,000 is the amount requested for inflationary increases in fixed costs, allowing us to keep up with rising costs in all of our necessary operations. These increases to the base are offset by a reduction of \$400,000 in this year's request, which was a non-recurring increase in last year's budget for enhancement of the police radio system, thus resulting in a \$1.2 million increase to our budget base.

In sum, we are requesting \$604,000 over base adjustments this year to fund four additional positions and two projects that are important to assure that the Court keeps pace with technological improvements in automation and telecommunications.

Two of the requested positions are in the Office of Data Systems, which is experiencing increased demands to provide the necessary support to users of the Court's automated systems. A Senior Programmer/Analyst is required to assist in developing new software applications. Trouble-shooting and maintenance of existing software consume the time of the current programming staff, leaving little time for essential software development activities such as the redesign of the Court's docket and financial systems. An additional Help Desk Technician is also required to assist Court employees as they encounter difficulties using the software and hardware already installed.

We request an additional Telecommunications Specialist to assist in managing increasingly complex and automated telecommunications services, including secure voice and data capability.

The addition of an Assistant Reporter of Decisions will enable the Reporter to prepare fully the Court's bench opinions prior to the initial release of the opinions by the Court. Currently, this extensive preparation occurs subsequent to initial release when the cases are made ready for publication in the United States Reports. Electronic distribution of the Court's opinions as they are announced from the bench has increased the likelihood that the opinions will be quoted by both the bench and the bar before thorough, postrelease work by the Reporter takes place.

The amount of \$215,000 of the \$604,000 request is to fund software upgrades to the Court's telecommunications systems. The software, which was installed in 1992, saves work by providing voice mail and interactive voice applications as well as control of all telephone traffic and features throughout the Court's fully automated telecommunications system. Approximately 5,000–7,000 calls are handled each month by these automated features installed in the Clerk's Office, the Marshal's Office and the Public Information Office. The systems need upgrading especially in view of the problems for software programs that are anticipated with the coming of the year 2000.

The amount of \$200,000 of the request is to provide funding for a contract to remove old surplus building wire. This complex task will require the identification and removal of old surplus phone and computer wire in electrical closets and building conduits and the rewiring of phone cables that are inadvertently disconnected. This work is essential for the success of future wire installation projects.

As we mentioned in last year's request, we anticipated seeking additional funds in the 1999 budget to enable the replacement of aging computer hardware and technology infrastructure such as the local area network, cabling and telecommunications. Also, we anticipated the need for modifications to software and hardware to accommodate changes to computer systems that must take place by the year 2000. Our predictions have proven to be accurate. The program increases we propose this year are directly related to the challenges of keeping up with the demands of technology.

I emphasize again this year that we continue our efforts to make the most efficient use of the Court's existing resources and to minimize the need to request additional funding or personnel. Last year, working within the existing budget base, we completely redeveloped the Court's opinion writing system and all other personal computer applications to take advantage of the most up-to-date computer software technology. Also, at no additional cost to the Court's budget, we utilized the services of specialists within the Department of Defense and the U.S. Secret Service to study and report on an emergency preparedness plan and overall security operations for the Court.

Despite the success of our efforts to work within the budget base, we anticipate the need to increase the Court's budget over the next few years to assure proper technological support for the Court's work. The more we depend on automation to accomplish our work, it becomes increasingly important to assure that our installed technology is adequately maintained and updated when needed. It is also important that the Court's employees receive the support of experts whose work in developing software applications and training computer users will continue to increase efficiency in the Court.

This concludes a brief summary of our request. We will be pleased to respond to any questions that the members of the Committee may have.

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PREPARED STATEMENT OF ALAN M. HANTMAN, AIA, ARCHITECT OF THE CAPITOL

Mr. Chairman and Members of the Subcommittee, I am pleased to once again submit my statement on the budget for the Care of the Building and Grounds of the Supreme Court. As you may recall, I officially assumed my duties as Architect of the Capitol on February 3, 1997. During the past year, I have been immersed in learning and evaluating the complexities of this agency and the responsibilities of this position.

I would like to take a brief moment to describe the present role of the agency. For the Legislative Branch, the Office of the Architect of the Capitol (AOC) is the agency responsible for the structural and mechanical care, maintenance, cleaning, and operation of the buildings and facilities supporting the Congress, including the Capitol Power Plant. This responsibility extends to the Botanic Garden, the structural and mechanical care and maintenance of the Library of Congress Buildings and Grounds. This office also undertakes the design and construction of new facilities and alterations of existing facilities.

As you know, for the Judiciary Branch, the Architect of the Capitol, by authority of the Act of May 7, 1934, is responsible for the structural and mechanical care of the United States Supreme Court Building and Grounds, and this is the reason for my statement in support of the funding requests. We are not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court and is provided for in the Court's salaries and expenses appropriation.

The budget request for the care of the building and grounds for fiscal year 1999 that I present begins on page 1.19 of the Supreme Court justification and amounts to \$5,871,000. The request represents an increase of \$2,471,000 over the fiscal year 1998 appropriation of \$3,400,000. Included in this amount is a decrease of \$381,000 to the budget base and an increase of \$2,852,000 in program and capital budget items.

The adjustments to the base are costs that support ongoing operations and maintenance, including compensation. The net decrease of \$381,000 in base adjustments is comprised of an increase of \$100,000 for mandated pay and benefits costs, increases totaling \$44,000 in costs of utilities, services, supplies, and equipment; and decreases from the fiscal year 1998 level totaling \$525,000 for nonrecurring projects.

Once again the budget includes a five-year capital budget plan. Increases totaling \$2,852,000 are requested for six capital budget items in fiscal year 1999. The capital budget is a relatively new concept for the Office of the Architect having been presented for the first time with the fiscal year 1998 budget.

The fiscal year 1999 capital budget request that I submit is grounded in a comprehensive and systematic agency-wide planning effort with in-depth involvement by the Supreme Court. A total of 13 capital projects are identified for the Supreme Court building and grounds for the five-year period beginning in fiscal year 1999, requiring an estimated total funding level of \$30.9 million over five years.

The bulk of that amount, \$22.2 million, is attributed to a project to provide an overall building improvements and systems upgrade, the first such comprehensive project planned for the building since its construction in 1934. The estimates and planning for this project are in the very early stages. The current fiscal year appropriation includes \$225,000 for a study on this project for the preparation of a schematic design package to determine the scope and preliminary cost estimates for this project. The fiscal year 1999 budget request contains a request in the amount of \$2 million to provide for the design phase which will take approximately two years.

Other very important factors that enter into projects of this magnitude are detailed decisions relating to overall scope of the project, construction schedules and milestones, and the potential need and cost for phased relocation of the Justices and staffs during construction.

Another important project for the Court that will be advancing to the design stage is the perimeter security enhancement project, which is currently estimated at \$5.3 million. A preliminary study provided by funds in fiscal year 1997 is being completed to provide the preliminary design and cost estimates for this project. In fiscal year 1999, an amount of \$500,000 is requested for detailed design development and preparation of construction drawings. The design will be developed in a manner consistent with design schemes being implemented throughout the complex of the U.S. Capitol.

The projects included in this capital budget reflect the needs that have been identified to date for the Court's building and grounds. I intend to continually evaluate

and update the needs to ensure that the capital budget is responsive to programmatic changes, the condition of the building and systems, and any other needs that may arise.

The five-year capital budget that is presented establishes a multi-year funding plan that describes the magnitude of cost to upgrade and maintain the Court building infrastructure in proper operating condition. The capital budget also identifies improvements that respond to accessibility standards and guidelines for the disabled. Balancing the needs of maintaining the existing infrastructure while keeping pace with technological enhancements and program needs is costly. We are all also aware of the effect that technological pressures can have on aging building systems, especially from the perspective of being capable of delivering new telecommunications technologies.

It is important to note that these requirements do not simply disappear if deferred. If projects requested for fiscal year 1999 are deferred, the costs to accomplish them will rise due to added deterioration, increased maintenance costs to sustain the systems in the interim, inflation, and fluctuations in market conditions. The deferred projects also will then add to the fiscal year 2000 funding need, which has already been estimated at \$5.1 million.

In last year's statement, I detailed many of the reasons that there was such a large increase in the funding level required for the maintenance of the building infrastructure. Rather than repeat those reasons, I will highlight them here:

—*Replacement of Aging Building Systems.*—The Supreme Court building is reaching an age and condition that requires major renovation and replacement of building systems.

—*Technological Advances.*—Technology, especially in telecommunications, is changing far more rapidly than the existing building infrastructures can support and adapt to.

—*Regulatory Compliance Requirements.*—Programs essential for the Architect of the Capitol to comply with environmental and hazardous material protection have received very high priority in terms of advancing the timetables for completion.

—*Security.*—Terrorist activity throughout the world has increased, and as a result there is a heightened sensitivity toward threats to security at the Capitol complex.

I assure the Chairman and Members of the Subcommittee that I will work closely with you and the Subcommittee staff, as well as the Court, between now and the time the Subcommittee marks up this portion of the appropriations bill to achieve a rational and adequate funding level to support the needs of the Court.

I would like to conclude with an observation related to the capital budget request. I readily acknowledge that the amount requested appears to be large, and given the current pressures to maintain a balanced Federal budget it will be extremely difficult to meet these needs. It is important that this Subcommittee and the Congress realize, however, that these projects are clearly necessary to properly conserve the Supreme Court building for future generations. The need for funding these projects will continue.

Mr. Chairman, that concludes my statement and I shall be pleased to respond to any questions that you and the Subcommittee may have.

#### DOMESTIC SPENDING FREEZE

Senator GREGG. Thank you, Justice Kennedy. Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman. In light of the appropriated accounts for domestic spending being so tight this year, frankly we are going to be almost at a freeze for the composite of domestic discretionary programs. As a consequence, I ask wherever I appear if the people submitting requests would give us an ancillary document which would indicate their highest budget priorities.

I think yours is a small enough budget that it is easy to discern. There is not much more than what you just testified. Perhaps on the bigger issue, my question will be what are your highest priorities. I do not mean that for today, but to be submitted at a later day.

Justice KENNEDY. These are the real experts, of course, behind us, on the budget of the courts overall. The Administrative Office of the U.S. Courts runs a very tight ship.

It is interesting: we have foreign visitors who come to the Supreme Court, chief justices from other countries, and they are very pleased to meet with us as a courtesy. But what they really want to do is go to the Administrative Office of the U.S. Courts, and Ralph Mecham, our excellent director, always gives them a good reception when they come. And they are always very impressed with the skill and the sophistication of our judicial administration. And over the years, when we have had what, about a 14-percent increase in the last 10 years in district court filings, but we have basically lived within budget. We have effected some very substantial cost savings in bankruptcy proceedings and so forth. Our court tries to mirror their good example.

#### SECURITY NEEDS

Senator GREGG. Well, you always seem to run a very tight ship, and I want to make sure we support you adequately, especially on the security needs, where you are upgrading your security. We are a little concerned that that seems to be going slowly rather than quickly. I would think you would want to move it along a little faster, but we will be there with funds to support you.

Justice KENNEDY. We will talk to our staff about that.

Senator GREGG. I did notice that Justice Souter said in response to putting TV in the court that it would be over his dead body.

Justice SOUTER. If you would like me to say that again—[laughter.]

Senator GREGG. I was just going to say, I had already received some calls from some prisoners in New Hampshire who remember Justice Souter, and were hoping we would put the TV money in our bill.

I do not have any other questions. We do appreciate your time. We thank you for coming, and if you have any further comments you wish to make, we would welcome them.

Justice KENNEDY. Thank you. We appreciate the fact that you and your staff look at our budget separately. It is a good exercise for us, and we also appreciate over the years the fact that the Congress as a whole, including this honorable body, have funded the staff and personnel and resources of the court at such adequate levels. We continue to do our work, and we think we are doing it the way we ought to.

Senator GREGG. Great. Thank you very much. Nice to see you.

Senator DOMENICI. Mr. Chairman, might I just add my accolades?

Senator GREGG. Certainly.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator DOMENICI. I believe the Supreme Court manages its affairs in an admirable manner, and I'm here to support them, as you are, and certainly to make sure you are adequately protected. Thank you for the way you presented this piece of the budget. It is very understandable, very simple, and very forthright. Thank you.

Justice KENNEDY. Thank you very much, sir.

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

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

POLICE RADIO SYSTEM ENHANCEMENTS

*Question.* Last year this subcommittee gave you \$400,000 to apply towards police radio system enhancements identified by a study to be conducted by March 1, 1998. It's my understanding that this study has been completed by Motorola and you are prepared to go forward with Phase I of your enhancements. How confident are you that Phase I will only cost you \$400,000?

*Answer.* Since the Court submitted a copy of the study to the Subcommittee Chairmen and staff on February 27, 1998, Motorola submitted an itemized proposal for \$397,000 to enhance the Court's existing Supreme Court Police radio system to the standards requested. We are confident that this proposal is thorough and accurate.

*Question.* What will this \$400,000 buy you?

*Answer.* As stated in the cover letter to Chairman Gregg and detailed in Motorola's Rough Order of Magnitude Proposal, this enhancement will provide: improved communications coverage in the greater Washington Metropolitan area, to include Justices' residences and major airports; compatibility and interoperability with federal, state and local law enforcement authorities ("PMARS"); increased reliability; automated roaming; improved Console operations for managing communications; superior encryption; and application of standards-based technology to broaden the choice of sources for emerging digital communications technologies.

*Question.* Do you anticipate needing additional funds after completing Phase I? Will Phase I bring you up to speed with the narrow band width requirements?

*Answer.* The Court asked Motorola to develop its proposal not only to meet the Court's currently stated requirements but also in anticipation that further geographic expansion will be required. It is difficult to predict how much further expansion will be required and whether additional funds will be needed, but much will depend on the scope of geographic coverage then considered desirable and what kind of protective security requirements will then be in place. Phase I satisfies requirements for the conversion of all Federal law enforcement radio communications systems to narrow band width by 2005. Motorola's existing proposal will enable the Supreme Court Police to communicate with all federal, state and local counterparts during the narrow band transition period. The equipment identified is capable of operating in both pre- and post-2005 system configurations.

TECHNOLOGY NEEDS

*Question.* I've been told that your total program increase of \$604,000 is primarily in response to the rapid advancements in technology and the effect that trend has had on the Court and its operations. I imagine you're now faced with the task of putting decisions on-line as soon as they're handed down, for example. Could you identify for the committee what needs the Court has identified with respect to technological developments and how that is reflected in your budget?

*Answer.* The Supreme Court's Office of Data Systems provides the development, operation, maintenance, and support of automated information systems for the Court. The Data Systems staff operate and administer a Hewlett Packard mini-computer, install and maintain approximately 250 personal computers (PC's) throughout the Court, and administer a complex local area network which connects PC's throughout the building. The Court's technology infrastructure is a complex mixture of Court-wide computer software applications, individual office systems, and off-the-shelf software products. Computer applications track the docketing of cases, assist in the production of Court Opinions, and support research of legal issues and questions related to matters before the Court. Automated networks facilitate the flow of information within the Court and allow electronic dissemination of information to outside entities as well as access by the Court staff to external databases. Automated systems are an essential part of the operation of the Court.

The specific needs identified as increases to the Court's budget relate to properly maintaining and updating the Court's existing software systems and hardware infrastructure as well as providing Court employees the highest level of training and support in developing software applications. Two additions to staff in the Office of Data Systems, a Senior Programmer/Analyst and a Help Desk Technician, will en-

hance improved software development activities and provide more assistance to Court employees who encounter difficulties using installed software and hardware. An additional Telecommunications Specialist will improve management of complex automated telecommunications services, including secure voice and data capability.

The Court's opinions are now distributed electronically as they are announced from the bench. Full and extensive preparation of the opinions for publication occurs subsequent to the initial release when the cases are made ready for publication in the United States Reports. The addition of an Assistant Reporter of Decisions will enable the Reporter to prepare fully the Court's bench opinions prior to the initial release of the opinions by the Court.

The Court has requested funding for two projects that will enable the Court to remain current with technological improvements in automation and telecommunications. Software upgrades projected to cost \$215,000 are required for the Court's telecommunications systems. These improvements are necessary especially in view of the year 2000 problem for software programs. The fully automated telecommunications system includes software installed in 1992 that saves work by providing voice mail and interactive voice applications as well as control of all telephone traffic and features. Approximately 5,000-7,000 calls are handled each month by automated features installed in the Clerk's Office, the Marshal's Office and the Public Information Office. \$200,000 has been requested for a contract to identify and remove old surplus phone and computer wire in electrical closets and building conduits, and to rewire phone and data cables that are inadvertently disconnected during the project.

## U.S. COURTS

### STATEMENT OF HON. JOHN G. HEYBURN II, CHAIRMAN, COMMITTEE ON THE BUDGET OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

#### INTRODUCTION

Senator GREGG. Well, we are now joined by Judge Heyburn, and also Senator McConnell, and so I will yield to Senator McConnell.

Senator MCCONNELL. Mr. Chairman, I just wanted to stop by and welcome my old friend, John Heyburn, to town. He is, as the members of the subcommittee know, the Chairman of the Budget Committee for the Judiciary, and a fine lawyer. We have labored in the vineyards together in various ways over the years.

I am personally aware of his legal skills, because in my previous incarnation as the county executive in my home county, John was one of our lawyers, and did a fine job, and has been on the Federal bench since 1992.

So I just wanted to come by and welcome him to the committee and insert his impressive résumé in the record, if I could, Mr. Chairman.

Senator GREGG. We would be happy to do that. It is an impressive résumé.

[The information follows:]

#### BIOGRAPHICAL SKETCH OF JOHN GILPIN HEYBURN II

John Gilpin Heyburn II was born November 12, 1948, the son of Henry R. Heyburn and Frances Starks Heyburn. Both his grandfather and father were attorneys and civil leaders in Louisville, Kentucky.

Judge Heyburn received his early education in the Louisville Public schools and graduated from Milton Academy, Milton, Massachusetts. In 1970 he received his A.B. degree from Harvard College, Cambridge, Massachusetts, where he majored in history, received seven varsity letters for participation in cross country and track and was named to the All-Ivy League cross country team.

Shortly after graduating from Harvard, Judge Heyburn worked for the Republican gubernatorial candidate, Tom Emberton, as a scheduler and advance man. Prior to entering law school, Judge Heyburn worked for a number of public service institutions, including the Park Duvalle Neighborhood Health Center, the Louisville and Jefferson County Youth Commission and the University of Louisville Urban Study Center, all of which focused upon the problems of urban areas. During that time Judge Heyburn conceived and organized a summer tutorial program serving hundreds of disadvantaged Louisville youth.

In 1976, Judge Heyburn received his J.D. degree from the University of Kentucky College of Law, where he was a member of the school's National Moot Court Team. While in law school, Judge Heyburn served as a director of Kentucky Citizens for Judicial Improvement, which promoted reform of Kentucky's judicial system by a constitutional amendment in 1976. He also served as an officer in the United States Army Reserves.

From 1976 until his appointment to the bench, Judge Heyburn was associated with the law firm of Brown, Todd & Heyburn, which at the time of his departure numbered approximately 120 attorneys. He was a partner at the firm from 1982 through 1992. Judge Heyburn's practice focused on commercial litigation, with a particular interest in construction contract litigation, a subject upon which he has written and spoken extensively. Between 1977 and 1981 Judge Heyburn also served

as special counsel to then Jefferson County Judge Executive Mitch McConnell. In 1981 and again in 1982, he served as legal counsel for two successive citizen commissions established to draft a new governmental charter for Louisville and Jefferson County. Judge Heyburn was active in each charter campaign as a spokesperson and strategist.

Judge Heyburn served as a director of the Louisville Bar Foundation and as chairman of the continuing legal education programs for the 1991 Kentucky Bar Association Annual Convention. He also served as President of the University of Kentucky College of Law Alumni Association and as a member of its Visiting Committee.

Judge Heyburn was active in civic and political affairs in Kentucky. Among other things, he served as a delegate to the 1984 and 1988 Republican National Conventions. In civil affairs, Judge Heyburn served as director of numerous charitable and public service institutions. From 1983 through 1986, he served by joint appointment of the Mayor and County Judge Executive as Chair of the Louisville and Jefferson County Crime Commission. Judge Heyburn was a member of the Leadership Louisville Class of 1991.

On March 20, 1992, President Bush nominated Judge Heyburn to the United States District Court for the Western District of Kentucky to succeed the Honorable Thomas A. Ballantine, Jr. His nomination was confirmed by the United States Senate on August 14, 1992, and he took the oath of office on August 28, 1992.

In 1994, the Chief Justice appointed Judge Heyburn to serve on the Budget Committee of the Judicial Conference of the United States. In January 1997, the Chief Justice appointed Judge Heyburn as Chairman of the Budget Committee. He also serves on the Standing Committee for the Sixth Circuit Judicial Conference.

Judge Heyburn is married to the former Martha Blackledge Keeney, who is an ophthalmologist and eye surgeon. They have two sons ages 6 and 9.

#### OPENING STATEMENT

Senator GREGG. We are happy to have you with us. You know, Senator McConnell is one of our leaders.

Senator McCONNELL. Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator McConnell.

We yield to your thoughts and ideas, Judge Heyburn, on what we should do relative to the budget of the court system.

Judge HEYBURN. Thank you very much.

It is a distinct pleasure and privilege for me to represent the judiciary, and maybe appropriately enough as we have a son of New Hampshire staring down on you and one from Kentucky staring down upon me, here in this historic room. [Referring to pictures of Henry Clay and Daniel Webster on the hearing room walls.]

It is a great honor for me to appear before you today. And it never ceases to remind me of the majesty and delicacy of our Constitution, and the way it operates day to day as the two of us from different branches meet.

Madison said that justice was the purpose of civil society, and, indeed, the purpose of Government. The Congress plays a part in creating justice, and the Founders created the judicial branch for the very purpose of doing that.

I come representing that branch, one that in our system actually depends for the resources to do that job upon another branch. I know that you, Mr. Chairman, do understand these relationships, and we from the judicial branch see that in the day-to-day operations and dealings with you and your staff. And I want to say at the outset that we very much appreciate the cooperative attitude that they bring to the budget process, and we certainly think it has helped us in giving you the kind of information that you need.

First of all, I want to thank the committee for the appropriation that we received last year, and as a more tangible expression of

that appreciate, on behalf of the third branch I want to promise our continued careful stewardship of those funds.

I am pleased to say that our budget request for this year envisions a 6.7-percent increase in obligations. This is the lowest increase, essentially, that anyone can remember. So I think we are making progress.

Our job is, in essence, law enforcement. The work that we have to do is continuing to increase by and large. The purpose of our budget is to ask for the limited funds that are necessary to do that job, and nothing more.

We are trying to be more efficient. We have an Economy Subcommittee that is pursuing many avenues to make sure that the funds that you give us are used carefully and efficiently.

I do want to thank the committee for your efforts to help us be more efficient. I think you deserve much of the credit, or we can share the credit for some of the things that we have done. Several years ago, for instance, Congress passed the Prisoner Litigation Reform Act, and we can see quite dramatically that that has had an effect in reducing the number of frivolous prisoner lawsuits, and partly as a result of that, in the fiscal year 1999 budget we are asking actually for fewer clerks at the district court level.

And it is traceable to a decline in the caseload in the district courts, a small decline, and we think that much of that is related to the prisoner litigation. So it shows that the things that you do can affect our work, and affect our ability to do it more efficiently.

Last year, as you probably recall, we had an extended conversation about defender costs, and how the program was being run. I want to compliment you and your staff for bringing up that issue. It helped us focus our attention on some things that need to be looked into.

As a direct result of our discussions and as a direct result of your legislation, we contracted with Coopers & Lybrand to do an independent study. They came up with some interesting findings, which I think are, on the whole, highly positive to the way we have been running the program, but we did learn a lot of things about why the costs are increasing where they are.

The study did highlight a few areas—well, one area, I should say, that we are continuing to work in, and I would be glad to discuss that study with you during the questions, if you like.

Another area we discussed briefly last year was courthouse security. The costs had, I think as you may well have pointed out last year, increased dramatically in fiscal year 1997 and 1998—about 20 percent each year. This year I am happy to say we are only requesting a 6.9-percent increase, and all of that is due to new or renovated facilities—or the great percentage of that is new and renovated facilities. In response to your questions, and the questions of Congressmen over in the House, we are continuing to look at security. We all wrestle with the question of how much security is enough security.

We want our courthouses to be safe places for people to feel safe, for jurors to feel comfortable going there, for citizens to feel comfortable going there, and we are continuing to try to strike the proper balance. We do not want to scrimp on security. On the other

hand, we do not want to overdo it, and we are continuing to look at that.

I also want to thank the committee and the Senate and in particular you for your actions on the COLA for judges last year. We believe that both Members of Congress and judges should be treated like other Federal employees, and receive a small appropriate COLA every year. And we think it ought to be in the fiscal year 1999 budget.

I think in reflecting upon last year, and upon the experience of most working Americans, they are used to receiving a COLA every year in their own every day lives. And I think my reflection as an amateur politician at this point is that the reaction, or rather lack of reaction, to what Congress did last year proves that they understand that these things are appropriate.

As Congress intended a number of years ago when the legislation was passed that put in motion this process, we ought to keep that process in motion every year, and then we will not be faced with larger increases to catch up.

I would like to make a couple of quick points about two smaller accounts within the judiciary that are important to us. One is the Administrative Office, which is the heart of the judiciary's policy and administrative support. We are going to be implementing a number of new automation programs over the next couple of years. The support we get from the Administrative Office is absolutely critical. The work Ralph Mecham and his staff do is critical to our efforts to be more efficient.

The Federal Judicial Center is also asking for only a 3.1-percent increase this year. They have been basically flatlined the last 5 years, and I would encourage you to give them the funding they need to continue to provide education to the judiciary.

I will mention one other brief matter, and that is we are requesting some language in the legislation which would authorize the judiciary to establish certifying officers as sort of a technical financial point. We hope you will include that in the legislation somewhere. It will enable us to better deal with our financial management at a local court level.

#### PREPARED STATEMENTS

I will be submitting my written testimony along with that of Judge Zobel, and Director Mecham, and representatives of the Federal circuit and the U.S. Court of International Trade for the record.

Again, it is a great pleasure to be here. I will be glad to answer any questions or discuss any subject that you would like.

[The statements follow:]

#### PREPARED STATEMENT OF HON. JOHN G. HEYBURN II

##### INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to testify before you on the Judiciary's 1999 budget request. It is indeed a pleasure to return for my second appearance before the Subcommittee.

On behalf of the entire Judiciary, I want to thank you Mr. Chairman, Senator Hollings, and all the Members of the Subcommittee for your extraordinary efforts in providing the Third Branch with our fiscal year 1998 appropriation. In this time of fiscal constraint, we greatly appreciate your support for the judiciary. The funds

you provided, together with other available sources of funding has permitted us to handle our known workload increases and will ensure the effective functioning of the court system. I also want to express my appreciation, on behalf of all the judges in the judiciary, for your role in providing a pay adjustment for judges in 1998, and especially to you Mr. Chairman, for your leadership efforts, which have been recognized throughout the judiciary. We hope this process will repeat itself in 1999.

Finally, I want to express my deep personal gratitude to you, Mr. Chairman, the Subcommittee, and your dedicated, hardworking staff for your support and willingness to work with me during my first year as Chairman of the Judicial Conference Committee on the Budget. The Subcommittee has been extremely responsive to our needs, and the staff demonstrates a high level of professionalism and always listens with an open mind.

#### RESTRAINED BUDGET REQUEST

We are pleased to be able to report to you today that the \$4.1 billion in obligational authority requested by the judiciary for fiscal year 1999 continues the trend in restrained budgets begun by my predecessor, Judge Richard Arnold. For the third year in a row we have succeeded in reducing the level of growth in both appropriated funds and total obligations. In fact, the 6.7 percent requested increase in total obligations represents the lowest such increase in 20 years.

If I were sitting in your position, I might ask how can the judiciary talk about reducing costs when its budget is increasing by 6.7 percent? My response would be that you have to look at this with a historical perspective, and you must take into consideration the nature of, and just as importantly, the continued growth in the work required of the courts. Reducing costs does not mean reducing our overall budget. What it does mean is that our economy and efficiency efforts allow us to provide the level of service expected by the bench, the bar and the public, and I might add by the Congress, but at a curtailed cost.

This restrained request comes in spite of a growing workload being placed on the courts. With the exception of civil filings which decline slightly, the workload estimates used to develop the fiscal year 1999 budget continue to grow.

The requested growth for fiscal year 1999 includes only those funds necessary to continue our current workload (offset by efficiency and other savings), and to handle workload created by the additional responsibilities Congress has given us. The 6.7 percent increase in overall spending in fiscal year 1999 breaks down to 5 percent for current services (maintaining staffing, and funding for inflation, pay adjustments, and other costs related to existing workload) and 1.7 percent to maintain a current level of service for the aforementioned workload increases which are not controlled by the judiciary.

We believe this is a very restrained request considering the resources that have recently been provided to the Justice Department by Congress, and our continued growth in workload. A good indicator of the increased workload we can expect from DOJ is the level of resources provided to the Department. In fiscal year 1998 the number of attorneys in the litigating divisions and U.S. attorneys offices grows by six percent. The number of FBI, DEA and INS agents and investigators grows by seven percent in fiscal year 1998. We can expect additional workload in fiscal year 1999 as a result of the efforts of these new investigators and litigators hired in fiscal year 1998.

A detailed explanation of our fiscal year 1999 request is included as an Appendix.

#### JUDICIARY'S CONTRIBUTION TO BALANCING THE BUDGET

My colleagues here and out in the courts are grateful to the Congress and especially to this subcommittee for providing the resources needed to meet our constitutional and statutory requirements. At the same time we recognize a requirement you have to balance the budget. In the past this subcommittee has encouraged us to do more with less and your admonishments were heard loud and clear throughout the courts.

To illustrate this, just four years ago we submitted a fiscal year 1996 budget request that amounted to an 8.5 percent increase in obligations over the previous year. That budget was based upon additional workload such as a 3.7 percent increase in offenders under supervision, a 6 percent increase in bankruptcy filings, and a 4.3 percent increase in criminal and civil filings. As I discussed earlier, for fiscal year 1999 we continue to experience a growing workload, and yet we have succeeded in paring down our budget. The requested 6.7 percent increase in fiscal year 1999 amounts to a reduction of 21 percent from the 8.5 percent increase requested in fiscal year 1996. In short, we have succeeded in lowering significantly our rate

of growth in funds at a time when there is no lessening in our rate of growth in workload.

The Congress has done an incredible job in achieving what was once considered an impossible goal—the balancing of the federal budget. I like to think that we in the judiciary, through our cost cutting efforts, have assisted you in attaining this goal. We have come a long way and, as I discuss below, we will continue to seek ways to enhance our productivity and reduce our cost of doing business, as long as it does not compromise the quality of justice. Providing a forum for our citizens to address their grievances is not an inexpensive proposition, but I believe the judiciary is on the right track.

Following are examples in three areas of our budget where we have been able to achieve savings.

#### *Staffing*

The number of judges and court employees needed is directly linked to the judiciary's workload. With workload that is not controlled by the judiciary, but is placed upon the courts year after year, the demand for additional judges and staff continues to increase. Cognizant of continuing budget constraints, we sought ways to ensure the wise and more cost-effective use of our human resources.

The judiciary has implemented cost-conscious policies to address the need to establish or eliminate Article III, bankruptcy, and magistrate judgeships, and to appoint or transfer judges in those positions. Some of these initiatives include determining whether a judgeship should remain unfilled or should be recommended for elimination if the workload warrants it and considering the use of visiting judges before requesting additional judgeships.

To hold down the number of court personnel needed, a multi-year effort is underway to identify business practices that have the potential to result in more efficient and effective operations and to foster their implementation in the courts. This effort has the potential to enhance the courts' ability to function at curtailed staffing levels.

#### *Space and Facilities*

Containing the costs of court facilities remains a high priority for the judiciary. Areas that the judiciary continues to pursue include the sharing of courtrooms by senior judges, the possible closing of additional facilities without a resident judge, implementation of a space reduction incentive program, revisions to the U.S. Courts Design Guide to reduce building construction costs, and the possible sharing of facilities with state and local governments or other entities to reduce costs.

#### *Public Safety*

The judiciary takes very seriously its law enforcement responsibilities as administered through the probation and pretrial services programs. Public safety should not be jeopardized in the interest of saving money. The judiciary, however, has been able to manage this program in a way that produces savings while still ensuring public safety. Through its home confinement program, the judiciary saves the government considerable resources when compared with the alternative of incarceration. Further, offenders in the electronic monitoring component pay for nearly half the cost of that program.

Another public safety component for which the judiciary receives funding is the court security program. The funds are appropriated to the judiciary, and then transferred to the U.S. Marshals Service, which has statutory responsibility for the provision of security to the judiciary. Funds pay for court security officers and security systems and equipment. Under the policy guidance of the Judicial Conference, the U.S. Marshals Service has developed standards on the appropriate number of court security officers and pieces of screening equipment needed in each facility. The fiscal year 1999 request for additional court security officers provides for the safety of all individuals in court facilities in the most cost-effective manner.

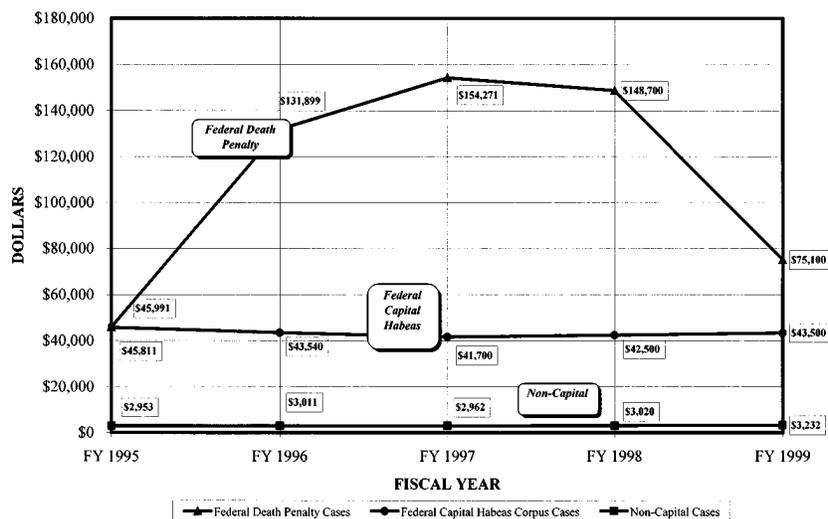
#### CONTAINING DEFENDER SERVICES COSTS

The judiciary not only is attempting to contain costs in the courts, but also in other areas of the budget such as the Defender Services Program. I need not remind Congress that providing an individual a fair trial and an adequate defense is a critical component of this nation's criminal justice system. Congress has recognized this and has provided adequate resources to allow the judiciary to meet its obligations. Congress has, over the past several years, raised concerns about increases in the overall average annual cost per representation that exceeded the rate of inflation.

In February, we transmitted to Congress the results of a comprehensive analysis of the cost of the Defender Services Program by an independent consultant, Coopers

and Lybrand, L.L.P. This report was developed in consultation with the General Accounting Office. The main finding in the report is that overall average costs in this program are being skewed by a relatively new phenomenon in the federal system, federal death penalty prosecutions. Coopers and Lybrand found that when the cost of death penalty representations, especially a handful of very expensive high profile capital cases, are excluded, the average annual cost of the remaining cases grows by a rate roughly equivalent to inflation. In fact, Coopers and Lybrand went one step further and stated that the cost increases for these non-capital cases "have been reasonable". The reasonableness of non-capital prosecution costs can best be illustrated by the attached chart which displays the average annual panel attorney cost per representation by case type from fiscal year 1995 through fiscal year 1999. The flat line at the bottom of the chart indicates how little the average annual cost per representation has grown in non-capital cases. Since non-capital cases make up approximately 99 percent of the total number of defender representations, I believe it is safe to assume that the costs of the Defender Services Program are "under control".

**FY 1995-1999 Panel Attorney Average Annual Cost per Representation by Case Type**



The aforementioned chart also illustrates the differential between the average annual cost of capital and non-capital cases, and shows the impact high profile death penalty prosecutions have on average annual costs. In fiscal year 1997, at the height of several of these high profile cases, the average annual cost per representation for all capital prosecutions was \$154,000. These high profile cases have concluded the trial phase and we are unaware that any similar cases are being considered by the Justice Department. Consequently, we predict that the average annual cost per representation in a capital prosecution in fiscal year 1999 will decline by over 50 percent from fiscal year 1998 levels to \$75,000.

For fiscal year 1999, we request what I believe to be a reasonable budget of \$391,831,000, an 8 percent increase over fiscal year 1998 funding. The growth above fiscal year 1998 results primarily from: (1) a projected 4.2 percent increase in the overall number of representations, (2) standard pay and inflationary increases, and (3) a \$5 increase in hourly panel attorney rates for non-capital cases.

Panel attorney hourly rates have become somewhat problematic for us. As you know, we rely to a great extent upon private panel attorneys to provide representation for federal defendants. Since 1986, the hourly rates used to reimburse these attorneys for their services have been increased once, in 1996, by \$5. In 1986, the In-Court hourly rate was \$60. If this rate had been adjusted annually for inflation (CPI), the rate in 1997 would have been \$88. The rate today is only \$65, or 26 percent below the inflationary adjusted rate. Concerns have been raised about the quality of the services being provided by panel attorneys who are being paid at an hour-

ly rate which in most areas may not even cover overhead. Rate increases are needed to provide the financial incentive to develop and maintain panels with the federal criminal practice experience needed to provide quality representation.

#### A FAIR AND INDEPENDENT JUDICIARY

Although managing the judiciary's resources efficiently is a primary concern, ensuring that this nation has a fair and independent system of justice is of the utmost importance. This country is one of the few that has an independent judiciary. It is part of what makes this country great, and it touches all of our lives, but it does come with a price.

The judiciary provides a variety of services for this country and its citizens. It protects the public by providing a forum for those accused of crimes to be removed from society if found guilty. It has a law enforcement function by monitoring the activities of individuals accused of crimes and awaiting trial, or convicted of crimes and sentenced to terms of probation or supervised release. Through the bankruptcy system, the judiciary contributes to a stable economy by providing a mechanism for debtors and creditors to resolve financial problems in a way that they can continue with their businesses and their lives. Through the civil litigation system, businesses or individuals who have disputes with each other can seek resolution in the federal courts. Finally, the Judiciary permits those accused of crimes to have access to a fair trial by providing counsel to those unable to afford it.

The judiciary cannot prevent anyone from seeking its services. It cannot deny justice and it cannot control its workload. What the judiciary must do is identify the necessary resources to remain independent and dispense justice fairly, and to utilize those resources efficiently and responsibly.

#### PREPARING FOR THE NEXT CENTURY

The judiciary is not only ensuring that our founding fathers' goals of a fair and independent justice system are met, but it is also looking to how it can best meet those goals in the new century.

Foremost in our effort is to ensure that we have the most modern and efficient information systems in place to dispense justice fairly. These automation and technology initiatives are being explored as potential ways to improving justice at reduced costs while still handling a growing workload.

The electronic courtroom is a vision of the not-too-distant future. The judiciary is currently studying the use of emerging technologies in appellate, district, and bankruptcy proceedings. These technologies include video conferencing (beyond its use in prisoner proceedings), video evidence presentation systems, electronic court-reporting methods (e.g., real-time stenography), and courtroom access to a variety of office automation applications and databases. A report assessing the advantages and disadvantages of using these technologies is scheduled to be completed this summer.

Expansion of videoconferencing for judicial proceedings and administrative purposes is also expected to continue. More districts will be using videoconferencing for prisoner related proceedings and it is anticipated to become a widely used medium for meetings, conferences, and training seminars. Videoconferencing produces a number of benefits—more efficient scheduling for judges and court staff, enhanced access to the court for the bar and public, reduced security risks when prisoners do not have to travel to appear for proceedings, and in some cases lower travel costs. A satellite broadcasting capability for the Judiciary is to be deployed in the next few months which will provide more economical training programs to broader audiences.

The judiciary now makes available a variety of publications and other information to the public through the Internet. In addition to enabling faster response times, this reduces postage, printing and staff costs involved with responding to inquiries by mail or telephone. Significant efficiencies have also been realized through the establishment of an intranet site and its use is expected to expand.

The judiciary continues to explore the benefits that may be associated with receiving case filings using electronic methods. These efforts are seeking more efficient case management systems to support judicial officers. A number of side benefits such as electronic filing, retrieval, and information sharing between courts, the bar, and the public will result from this work. The judiciary is working to resolve a host of technical, management, legal, procedural, and security issues involved with moving towards an electronic case management system.

## CONTRIBUTIONS OF THE ADMINISTRATIVE OFFICE

All of the judiciary's achievements and efforts that I have mentioned so far and all of the other work of the judiciary would not happen were it not for the support of the Administrative Office (AO) staff.

The projects underway to utilize resources more effectively in the area of staffing and facilities, to manage the cost-saving home confinement and electronic monitoring contracts, to manage drug testing contracts, to analyze the use of defender services and court security resources, and to prepare the judiciary for the next century through initiatives such as facilitating the installation of satellite downlinks needed for video technology are all spearheaded by Administrative Office staff in support of the courts.

All of the above efforts and many more are in addition to the daily support the Administrative Office provides to the courts and the Judicial Conference. Some of these include:

- Researching and preparing analysis on hundreds of issues considered by Judicial Conference committees each year.
- Providing core administrative services such as accounting, personnel, payroll, budget, and facilities planning.
- Developing better ways to handle court business and training and assisting judges and court personnel in implementing programs, improving operations, and managing the courts.
- Supporting the Judicial Conference's planning efforts by conducting strategic studies and providing technical assistance, research, and analysis related to planning issues and topics.
- Preparing manuals and publications containing essential information about judicial business.
- Providing management and organizational training to court staff on how to operate most efficiently.

I urge that the Congress fully fund the \$5 million (5.6 percent) increase requested for the AO in 1999. This level of growth funds pay adjustments and inflationary increases and allows staffing to be restored to the 1995 authorized level. Over the past four years total judiciary FTE have increased by 15 percent. Not only has AO staffing not kept pace with the population they serve, it actually declined from fiscal year 1995 to 1997 by 4 percent. This has prevented the AO from providing both the support needed by the courts in core functions, but also to implement new systems. Automated systems that support financial, personnel, defender services, and court security activities, among others, will greatly improve the efficiency of the judiciary and bring it into the twenty-first century. Some of these systems are being implemented now and others will be in fiscal year 1999. Automating critical tasks and implementing the system to do so will require extensive AO support to the courts. The fiscal year 1999 request for the AO will provide the resources to support these new systems and still allow the AO to maintain an adequate level of support for its other core activities.

## FEDERAL JUDICIAL CENTER SUPPORT

Please let me also comment briefly on the Federal Judicial Center, which is seeking a 5.6 percent increase over its current appropriation. I know that the Chief Justice and the Board of the Center reviewed this proposed request carefully in light of the demands on the Center and the real and effective reductions in its funding in the last few years. The Board believes, and I believe, that it is a very reasonable submission and I urge full funding at the requested level.

This subcommittee has made clear that it wants the judiciary to spend less for travel for education and has called for the use of video technology to provide more education to the judges and staff of the Federal judiciary at increasingly lower costs. The Center has responded, as explained in Judge Zobel's statement, and has already broadcast nine programs, reaching over 7,000 people.

As noted in Judge Zobel's statement, the Center has long used alternatives to traditional travel-based education. The great majority of the people it trains receive education in the courthouses using Center materials. As a working judge, I can tell you as well that the services the Center provides are vital in enabling us and our staffs to work efficiently. The Center orients new judges to their jobs, and all of us turn to it for updates on legislative and case law, for help in managing difficult criminal and civil cases, and more efficient juror selection. The Center teaches our probation and pretrial services officers how to supervise defendants effectively and to help judges determine the appropriate sentences. Its management training programs teach court staff the tools used in the private sector to reduce costs, streamline operations, and better serve the public.

## CONCLUSION

In closing, let me emphasize the critical and unique services the judiciary provides to our society and our efforts to provide these services in the most cost-effective way possible.

We recognize the importance of achieving a balanced budget and want to continue to work with you to achieve and maintain that goal. The judiciary takes seriously its responsibility to use resources prudently, as it does its responsibility to provide a fair and independent justice system. We believe we are achieving both of these goals.

I want to thank you for this opportunity to testify before you today, and we are available to provide any additional information you may need.

## APPENDIX

## SUMMARY

The fiscal year 1999 appropriation request for the Courts of Appeals, District Courts and Other Judicial Services totals \$3,616,903,000, an increase of \$328,426,000 over our fiscal year 1998 appropriation level. In addition to appropriated funds, the judiciary requires the use of other funding sources to supplement our appropriations. Included in these sources of funding are fee collections, carry forward of fee balances from a prior year, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 1999 is only \$242,856,000 or 6.7 percent.

Of the \$243 million increase in obligations 75 percent (\$181 million) is necessary to maintain current services by providing for inflation and other uncontrollable adjustments such as existing judges and staff. The remaining 25 percent (\$61 million) is primarily needed to respond to increasing workload. The request for the principal programs are summarized below.

## SALARIES AND EXPENSES

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of \$3,247,895,000 is required for this activity, \$200 million over fiscal year 1998 estimated obligations. Funding totaling \$299 million is expected to be available from other sources to offset the S&E requirements, leaving an appropriation need of \$2,948,723,000. Included in these other sources of funding are \$135 million in funds expected to carry forward from fiscal year 1998; \$134 million in fee collections; \$27 million from the Violent Crime Reduction Trust Fund; and \$2.5 million from the Vaccine Injury Trust Fund.

Over 78 percent of the \$200 million increase (\$157 million) is needed to fund uncontrollable adjustments such as inflation, the filling of vacant judgeships and additional space rental costs. The increase in space rental costs reflects inflation, the annualization of new space delivered in fiscal year 1998, the delivery of new space in fiscal year 1999 and a security surcharge the General Services Administration (GSA) is applying to its customers. Rental payments to GSA are estimated to increase over 13 percent from \$574 million in fiscal year 1998 to \$650 million in fiscal year 1999 and make up almost half of the requested adjustments to base.

The remaining increase (\$43.4 million) will primarily fund the personnel needed to address increases in our uncontrollable workload. The increases fund the following:

*Judges.*—An increase of \$3.2 million is requested for 7 new magistrate judges and related support staff. This increase is needed to provide an effective, yet less costly, way of providing help to Article III judges to handle the large volume of civil and criminal cases facing the courts. An increase of \$1.2 million is also requested for 4 additional recalled bankruptcy judges and their related staff. Recalled bankruptcy judges provide an effective way for districts to deal with mushrooming bankruptcy workload until it is determined whether additional bankruptcy judgeships should be approved.

*Additional Court Support Personnel.*—Funding is requested for additional FTE for appellate and bankruptcy courts and for probation and pretrial offices while FTE in district courts will decrease. Bankruptcy and appellate filings have continued to grow over the past several years, while workload is anticipated to decrease in district courts because of a reduction in civil filings and the sunset of the Civil Justice Reform Act. In the probation area, the number of offenders received for supervision will continue to increase, but more significant is the shift from relatively low-risk

probation cases to high-risk violent offenders on supervised release. Consequently, an increase of \$23.6 million will fund 427 additional clerk's office FTE and related expenses and \$15.4 million will fund 195 additional FTE in probation and pretrial offices.

#### DEFENDER SERVICES

A total of \$391,831,000 is requested for the Defender Services program to provide representation for indigent criminal defendants in fiscal year 1999. Of this amount, \$360,952,000 is requested in direct appropriations and \$30,879,000 is requested as a reimbursement from the Violent Crime Reduction Trust Fund. The total requirements for fiscal year 1999 are \$28,964,000 over the fiscal year 1998 projected obligations of \$362,867,000.

Most of the increase (\$27,764,000) is needed for uncontrollable adjustments, such as pay and benefit adjustments, inflation, increased space rental costs and a projected increase in caseload. Included in these adjustments are funds for 71 additional FTE for Federal Defender Organizations to provide representation to 2,300 additional defendants as well as a net reduction of \$2.5 million in panel attorney costs. While there is a projected overall increase of 1,600 panel attorney representations for fiscal year 1999, costs of this activity are offset by a significant decrease in projected Federal death penalty requirements due to the disposition of several expensive cases. Also included in the requested adjustments is a \$5 per in-court and out-of-court hour rate adjustment for private panel attorneys in those districts which do not receive the \$75 per hour compensation rate. Panel attorney rates in 77 of the 94 districts, while raised in 1996 for the first time since 1984, are still an impediment to our ability to attract qualified attorneys to serve as court-appointed counsel.

The remaining increase (\$1.2 million) would fund the start up costs of four new federal defender organizations. The Congress and the Judicial Conference have urged us to establish more federal defender organizations as an alternative to using panel attorneys in districts where this would be appropriate.

#### FEES OF JURORS AND COMMISSIONERS

For the Fees of Jurors program, a total of \$70,087,000 is required, of which \$68,173,000 is requested in direct appropriations, \$1,426,000 is requested as a reimbursement from the Violent Crime Reduction Trust Fund and \$488,000 is expected to be available in carry forward balances from fiscal year 1998. The total requirements for fiscal year 1999 are \$2.2 million higher than estimated fiscal year 1998 obligations (\$67.9 million). This increase funds inflationary adjustments and an increase in juror days.

#### COURT SECURITY

For the Court Security program, a total of \$179,524,000 is required, of which \$179,055,000 is requested in direct appropriations and \$469,000 is requested as a reimbursement from the Violent Crime Reduction Trust Fund. This is an \$11.6 million increase over estimated fiscal year 1998 obligations (\$167.9 million). This request reflects an overall net reduction in funding required for adjustments to base (-\$4.7 million) including: inflation; costs associated with a wage labor rate increase for court security officers (CSO); funding to annualize the costs for 387 new court security officers brought on in fiscal year 1998; and a reduction for non-recurring equipment and CSO start-up costs acquired in fiscal year 1998.

The remaining increase of \$16.4 million funds 168 additional court security officers which will provide for the basic security necessary in existing (78), new and renovated (90) facilities housing full-time judicial officers. In addition, funds are provided for cyclical replacement of weapons and explosives screening and systems equipment.

#### VIOLENT CRIME REDUCTION TRUST FUND

The Violent Crime Control and Law Enforcement Act of 1994 (Crime Bill) established the Violent Crime Reduction Trust Fund. The Crime Bill and the Antiterrorism and Effective Death Penalty Act of 1996 authorize funds to be appropriated from the fund to the judiciary to finance the expenses associated with implementing these acts. Of the \$60 million authorized for the judiciary in fiscal year 1999: (1) \$27.1 million would reimburse Salaries and Expenses costs; (2) \$30.9 million would reimburse the Defender Services account; (3) \$1.4 million would reimburse the Fees of Jurors account; (4) \$469,000 would reimburse the Court Security

account; and (5) \$100,000 would reimburse the activities of the Federal Judicial Center.

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PREPARED STATEMENT OF HON. RYA W. ZOBEL, DIRECTOR, FEDERAL JUDICIAL CENTER

Mr. Chairman and Subcommittee members. My name is Rya Zobel. I am a United States District Judge and have been the Director of the Federal Judicial Center since 1995.

The Center is the federal courts' agency for education of judges and supporting staff and for analysis and evaluation of judicial procedures and case management. This appropriations request has been endorsed by the Center's Board, which the Chief Justice chairs. It has been coordinated with the Administrative Office and with the Judicial Conference's Budget Committee, whose chairman, Judge Heyburn, will speak for the Center today. I am available to answer any questions you may have of me. I am pleased that Judge Heyburn joins me in seeking full funding for the Center.

The Center's fiscal 1999 appropriations request of \$18,470,000 represents an increase of 5.6 percent, or \$945,000, over our fiscal 1998 appropriation, which is the same as our fiscal 1997 appropriation. The request for fiscal 1999 is about the same as our 1994 appropriation and a half-million dollars less than was available to us in 1992.

Of the requested increase, over two-thirds is for standard base adjustments—\$642,000.

We are requesting program growth of only \$333,000, for 4 video and media positions and small recurring funds for distance education equipment. With these four additional positions, the Center's staffing strength will be 144 FTE's, more than 10 percent below what it was before I became director in 1995.

Congress has emphasized that judicial branch education should rely less on travel and use satellite video broadcasts as an inexpensive alternative. Permit me three points:

First, Congress' interest in non-travel based education has long been the Center's interest, well before satellite broadcasts were feasible. As long as ten years ago, over half of the 10,000 participants in our training participated in their courthouses. That percentage last fiscal year was 85 percent even as the number of participants in our training had grown to 34,000. Corresponding figures for the calendar year are higher.

Second, the amount the Center spends on travel has declined dramatically—the Center's estimated fiscal 1998 travel expenditures will be about one-third or \$1.5 million less than we spent in 1995.

Third, the Center has led the judicial branch's distance education efforts. The Chief Justice, in his year end report, noted that the Center Board had approved a strategic plan for the Center and that the plan responds to Congress's interest in reducing government spending on travel by directing the FJC to continue its emphasis on satellite broadcasting and other forms of "distance learning." More specifically:

- In 1996, we used over a half-million dollars of our travel funds to construct a second video studio specifically for instructional broadcasts; additional funds came from the Sentencing Commission and the courts' budget. We inaugurated that studio last month with a program for probation officers on supervising violent offenders.
- To save taxpayers' dollars, we have cooperated with Executive Branch agencies to learn the best methods for use of instructional studios such as the one we built, and we have been active in government-wide efforts to promote distance learning. A member of the Center staff was recently elected government sector vice-president of the Federal Government Distance Learning Association.
- In 1996 we assessed the federal courts' receptivity to having satellite downlinks on the courthouse. We are grateful to the Judicial Conference and the Administrative Office for allocating both the funds and the management resources to establish a network of downlinks that will be operating in federal courts later this year.
- We have already provided court personnel instruction on how to use these downlinks once installed, and are prepared with a regular schedule of educational programs for this cost-effective medium to commence as soon as the courts' downlinks are in place.
- Using other downlinks, we have already broadcast 9 satellite education programs to over 7,000 court personnel, on topics from how probation officers

should deal with street gangs to the decisions of the Supreme Court in its 1996–97 term.

—In addition to satellite broadcasts, we have introduced the judicial branch to educational audio conferences and on-line computer conferences, and presented 32 since 1996.

These methods join other distance education techniques we also use. For example, within four months after the Judicial Conference's March 1997 approval of a "Risk Prediction Index", the Center produced an interactive, multi-media, non-travel based educational program to teach probation officers how to use this new tool. Center researchers had developed the Index to help officers determine the amount of supervision that individual federal offenders require.

The Center Board endorsed the request before you today, not because it will provide all the resources that the Board believes the Center needs. Rather, the Board believes this request will provide the minimum resources necessary to allow the Center to continue to provide federal judges and court staff the practical training they need in order to do their jobs recognizing the continued need to control spending, including spending for travel.

I thank the subcommittee again for its support. I will be glad to answer any questions you might have about our fiscal 1999 request or about the Center and its missions.

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PREPARED STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR, ADMINISTRATIVE  
OFFICE OF THE U.S. COURTS

Mr. Chairman and Members of the Subcommittee, it is my pleasure to appear before you today in support of the fiscal year 1999 budget request for the Administrative Office of the United States Courts (AO). To start with, I wish to thank Chairman Gregg, Mr. Hollings, the other Members of the Subcommittee, and your staff for your continued support of the AO. In fiscal year 1998, Congress provided the AO with the funds necessary to partially restore our staffing levels, which had declined by 4.3 percent between fiscal years 1995 and 1997. We were very pleased that you recognized the need to strengthen AO support of the courts, and I am eager to tell you how we have used these resources to improve the administration of the judiciary. Our modest request for fiscal year 1999 will allow us to restore AO staffing back to fiscal year 1995 levels.

The AO's policy and support responsibilities touch on all aspects of operations in the Third Branch. No other federal agency has the far-reaching responsibilities for the workings of an entire branch of government as does the AO for the judiciary. Its many responsibilities put the AO in a unique position to effect change throughout an entire branch of government. The AO met this challenge by identifying and implementing improvements that help the courts work better, at less cost. Through our efforts, the judiciary is better able to contribute to the national goals of winning the war against crime, enforcing the rights of all citizens, and eliminating the budget deficit.

RESPONSIBILITIES OF THE ADMINISTRATIVE OFFICE

Chief Justice Rehnquist addressed the responsibilities of the AO in his fiscal year 1997 annual report on the courts. In that report he stated that the AO "serves the Judicial Conference of the United States and the federal courts in many ways." For example, "it collects data and analyzes statistics, consults with the courts about their needs and priorities, makes improvements in judicial administration, and implements and promotes Judicial Conference policies and programs." To provide an idea of the magnitude and scope of the effort required, consider that the AO is involved in supporting the following:

- The Judicial Conference and its 24 committees, which establish policy for the federal judiciary.
- Over 2,000 judicial officers—including active and senior appellate and district court judges, bankruptcy judges, and magistrate judges—an increase of 11 percent over the past four years.
- 26,326 court staff FTE, an increase of 15 percent over the past four years.
- About 128,300 individuals under the supervision of probation and pretrial services officers, an increase of 12 percent over the last four years.
- 3,274 court security officer positions, an increase of 45 percent over the past four years.
- 27 million square feet of space, a 14 percent increase in square footage over the past four years.

Chief Justice Rehnquist relies upon me, as the Chief Administrative Officer of the federal courts, to ensure that the AO provides support for these and other aspects of the judiciary. On a daily basis, AO activities include:

- Implementing the policies of the Judicial Conference and supporting its network of committees by providing staff to plan meetings; develop agendas; prepare reports; and provide substantive analytical support to the development of issues, projects, and recommendations.
- Providing centralized core administrative services for the courts such as payroll, personnel, and accounting services.
- Developing and executing the budget and providing funds to the courts for local budget execution.
- Defining resource requirements through forecasts of caseloads, work-measurement analyses, assessment of program changes, and reviews of individual court requirements.
- Conducting education and training programs on court administrative functions.
- Auditing the courts' financial operations.
- Managing national contracts for drug-testing of those under supervision by probation and pretrial services officers.
- Developing and supporting automated systems and technologies used throughout the courts.
- Coordinating with the General Services Administration and the courts on the construction and management of the judiciary's space and facilities.
- Monitoring the U.S. Marshals Service's implementation of the Judicial Facilities Security Program, which provides court security officers and security equipment for courthouses.
- Managing appointed counsel programs funded through the judiciary's Defender Services appropriation.
- Responding to numerous inquiries from Congress, the media, and the public.
- Providing a variety of services to the courts designed to increase their overall effectiveness, including the delivery of operation manuals and the conduct of court reviews.

ADMINISTRATIVE OFFICE FUNDING

The AO is requesting total funding of \$94,082,000, a 5.6 percent increase over expected fiscal year 1998 obligations. This modest level of growth is less than the increase requested for the rest of the judiciary (6.7 percent), which is supported by the AO. The budget request includes only inflationary increases and the funds necessary to restore staffing and services to 1995 levels. The total funding needed is comprised of appropriations, reimbursements from the courts primarily for automation support, fiscal year 1999 fee collections, prior year carryover, and independent counsel reimbursements.

Over three-fourths of the requested increase for fiscal year 1999 is for salary and benefit inflationary cost adjustments. Personnel costs account for about 90 percent of the AO budget, so this is not surprising. The remainder of the requested increase is for an additional 11 FTE to restore staffing and related services back to the fiscal year 1995 authorized level. As described below, restoration to the fiscal year 1995 staffing level is critical to the ability of the AO to continue providing necessary support to the entire judiciary.

The AO was fortunate, due to your leadership, to receive a 5.2 percent increase in appropriations for fiscal year 1998. This will allow us to increase staffing levels by 12 FTE. In the following section, I discuss how these additional staff will be used to enhance ongoing efforts to improve financial and program management both within the AO and throughout the judiciary.

ADMINISTRATIVE OFFICE STAFFING

Over the past four years the judges and staff of the Judicial Branch who are supported by the AO have grown by approximately 15 percent. The AO workload is directly related to the overall increase in the number of judges and staff in the judicial branch. Not only has AO staffing not kept up with this growth in the courts, it actually declined from fiscal years 1995 to 1997. Thus, our workload has increased but our staff has decreased. The following chart compares recent FTE growth in judges and court staff to the comparable changes in the AO staffing:

	1995	1997	1995-97 change (percent)	1999	1995-99 change (percent)
Judges and Staff .....	26,919	28,253	+ 5	30,932	+ 15

	1995	1997	1995-97 change (percent)	1999	1995-99 change (percent)
AO Direct FTE .....	668	639	- 4	668	.....

Although the population we serve continues to grow, the AO request provides for staff at only the level funded in fiscal year 1995. Without the requested resources, the AO cannot continue to provide the needed level of support to the courts in the core areas of personnel, payroll, accounting, training, procurement, and security, while continuing to assist the courts in developing and implementing new automated systems and procedures to improve the operation and productivity of court programs.

Between fiscal years 1995 and 1997, we attempted with a lower level of staff, to both maintain a high level of core services and develop new systems and procedures. This necessitated a limited hiring freeze, which allowed for the hiring of personnel for only our highest priority needs. This attempt did not succeed and resulted in unacceptable delays/cutbacks in efforts such as: the development of a replacement Criminal Justice Act payment system; performance of annual audits; field assessments of court unit operations; improvements to internal controls; and court training and education projects. These and other initiatives are important to AO efforts to ensure that funds provided to the judiciary are spent properly and in the most effective manner possible.

With the additional resources provided by Congress in fiscal year 1998, we will be able to hire an additional auditor; an internal controls officer; a distance learning specialist; a budget and a program management position to support defender services; and a number of specialists to assist in developing and implementing a new court accounting system; a new personnel/payroll system; a new jury management system; and new criminal debt collection procedures for the courts.

The additional resources we request for fiscal year 1999 will further enhance our ability to support the courts, especially in the area of new technologies. Resources will be applied to continue implementation of the new payment system for panel attorneys and experts, the personnel/payroll system, and the jury management system. All of these new systems will reach a critical phase in fiscal year 1999, requiring specialized staffing to integrate the new systems into our central accounting system and to provide on-site technical and training support. Additional resources are also required to expand distance learning efforts, to better assist courts in procuring high technology equipment and services, and to provide ongoing support to efforts to improve the civil justice component of our courts. I would be pleased to provide additional explanation of any of these areas of enhanced support. The bottom line is that the benefactor of this support is not the AO, it is the courts and ultimately the taxpayers. A few extra staff at the AO allows us to improve procedures, the justice system, streamline operations, and reduce costs within the courts. To illustrate the impact of AO staff, the following section provides examples of how the AO works with the courts to improve productivity.

#### ADMINISTRATIVE OFFICE PROMOTES EFFICIENCY THROUGHOUT THE JUDICIARY

Of the myriad services that the AO provides to the courts, perhaps the most important are our efforts to increase the efficiency of court operations. It is certainly an activity of which I am very proud. It is not only desirable, but necessary for the courts to operate with increased efficiency because they are not provided 100 percent of the staffing justified by our workload formulae. In the past, I have spoken separately of the AO's achievements and of the efficiency measures implemented by the courts, but they are becoming more and more indistinguishable. Some of our most noteworthy achievements are those that promote the efficiency and effectiveness of the courts.

Chief Justice Rehnquist highlighted an important example in his 1997 report on the judiciary. He stated that, "Led by the Administrative Offices' efforts, the federal Judiciary has achieved an impressive devolution of management authority and control away from Washington to the individual federal courts." The Chief Justice refers to our effort to decentralize financial, personnel, procurement, and other administrative activities to the local federal courts, who best know their own needs. He continued by stating, "This kind of decentralization has benefitted both the Judiciary and the taxpayer because it encourages every court to find innovative ways to increase efficiency and save money." To facilitate this new decision-making process, the AO has simplified the way it allots operating funds to the courts. Funds previously allocated in 40 separate expense categories were combined in one aggregate amount using objectively developed formulas. The Chief Justice remarked that "the

paperwork burden for preparing each court's budget request was substantially reduced or eliminated, and the courts were assured an equitable distribution of these operating funds."

You have recently received the second Report to Congress on the Optimal Utilization of Judicial Resources. This report showcases the efficiency efforts of the judiciary. It is the result of a combined effort between the program committees of the Judicial Conference and the Economy Subcommittee of the Budget Committee. While every program committee is dedicated to efficiency, it is the sole purpose of the Economy Subcommittee. As you know, the Economy Subcommittee and its support staff from the AO operate as the judiciary's Office of Management and Budget. Their work on assessing diverse requests, limiting increases, and improving program operations is indispensable.

We take the efforts discussed in the Report very seriously. Some of the efforts are completed and are resulting in savings for the judiciary, others are underway, and still others are in the planning stages. But I can assure you that they are all real commitments that AO staff are working toward. Let me summarize some of our efforts for you.

#### *Automation and Technology*

The AO has spearheaded the use of videoconferencing for court proceedings and administrative purposes in the judiciary. Currently, 18 district courts use videoconferencing to support prisoner-related proceedings, such as pretrial hearings, witness testimony, and evidentiary hearings. An additional 16 districts will be added by the end of this fiscal year and another 16 sites are to be added by fiscal year 2001. Videoconferencing also is expected to become more widely used for meetings, conferences, and training seminars. The use of videoconferencing helps the judges and court staff to schedule more efficiently, reduces the security risks involved in transporting prisoners, and reduces travel costs.

The AO also is pursuing the use of satellite broadcasting for its training programs. The judiciary plans about 50 broadcasts for fiscal year 1998 with an estimated viewing population of 800 to 1,000 people each. To overcome the problems with scheduling leased facilities, a broadcast studio located at the Thurgood Marshall Federal Judiciary Building here in Washington, DC will be used by the AO, the Sentencing Commission and the Federal Judicial Center for future broadcasts.

Two other on-going projects that offer great promise are electronic case files and electronic courtrooms. A limited number of courts have begun testing these technologies and they are currently being assessed for benefits, costs, and feasibility. Implementation of electronic case files would allow the courts and attorneys to file, retrieve, and share pleadings, motions, briefs, and orders electronically without leaving their office. Potential benefits include reducing the time spent on manual tasks such as data entry, photocopying, and document filing, retrieval, and dissemination. It has the potential for reducing the space needed for paper records and providing more accurate, up-to-date records. Electronic courtrooms would make use of videoconferencing, video evidence presentation systems, electronic court-reporting methods, and courtroom access to various databases. Electronic courtrooms are likely to reduce trial times while improving juror understanding.

The electronic public access program to case information has proven to be a success, receiving over 9 million calls in fiscal year 1997, allowing the bar and public to access court information directly from their office. The program is self-funded with user fees and is being enhanced to provide more services. Another success is telephone interpreting, which provides interpreter services by telephone for short judicial proceedings, allowing courts to utilize the services of certified interpreters without incurring travel and per diem costs. About 800 hearings were conducted with telephone interpreting in fiscal year 1997. The AO continues to administer the Bankruptcy Noticing Center. The Center is operated by a private vendor and is responsible for mailing bankruptcy notices, of which there are about 72 million a year. The AO is also working on improvements to the process, including electronic noticing and automatic docketing of the notice to the originating bankruptcy court.

The AO also continues to work on upgrading or replacing the automated systems that provide basic administrative services to the judiciary. These include the court accounting system, the personnel and payroll systems, the jury management system, the library system, and the system that makes payments to panel attorneys and experts for those unable to pay for their own defense.

#### *Space and Facilities*

The AO developed criteria and an analysis process for the courts to use when determining whether to establish or maintain facilities without resident judges. The AO also administers an incentive program to reduce space. Together, these efforts

have resulted in the judiciary releasing 62,773 square feet of existing space with an associated rent savings of about \$1 million in fiscal year 1997.

The AO also participated in a major update of the U.S. Courts Design Guide, which identifies the requirements to make federal courthouses functional and secure. The revisions to the Guide are expected to reduce future building construction costs by about five percent, or \$2 million, for an average project.

#### *Defender Services*

The AO is as concerned as you are about containing the cost of providing legal representation for defendants unable to retain counsel on their own. The study of the rising costs conducted by Coopers and Lybrand, L.L.P., in cooperation with the AO, confirmed some of our previous thoughts about the program and provided some new insights. The main finding was that costs are in line with what one would expect of the increase in the number of representations, the increasing proportion of capital and capital habeas representations, and the cost incurred in a handful of extraordinarily expensive capital representations each year. As you know, the judiciary has no control over the number of individuals for whom it must provide defense services, but it has taken significant steps to curtail costs.

The AO has provided staff and support for several improvements that should help control defense costs. The Judicial Conference adopted a policy last year urging each circuit to establish a special process for the review of capital habeas corpus cases for which attorney compensation exceeds \$100,000. Courts are being encouraged to require counsel in federal capital habeas corpus cases to submit proposed litigation budgets for court approval before representation starts and employ case management techniques commonly used in complex civil litigation. Finally, the judiciary is conducting two-year pilot projects to explore using a supervising attorney to assist with administering the panel attorney program and with reviewing claims submitted by panel attorneys and other service providers.

Another important effort that the AO provides staff support for is the new Subcommittee on Federal Death Penalty Cases. This Subcommittee is exploring issues related to the cost and quality of defense representation in federal death penalty cases. The Subcommittee will be reporting to the full Committee on Defender Services this May.

#### *Other*

The AO provides oversight and management support to the probation and pretrial services program. Probation and pretrial services officers supervise offenders serving sentences in the community, individuals released from prison on supervised release, and persons released to the community pending adjudication. In fiscal year 1997, an average of 4,700 individuals were in home confinement on a daily basis. This resulted in a net cost savings to the government ranging from \$32 million to \$69 million in corrections facilities, depending on the type and level of confinement assumed. Furthermore, offenders paid \$1.8 million toward the costs of electronic monitoring in fiscal year 1997. The AO also is testing mobile computing for officers to provide immediate access to information and allow them to record their field activities without returning to the office.

The AO conducts the Methods Analysis Program to help courts identify and develop more efficient practices. The Program uses teams of functional experts and analysts to conduct in-depth reviews of specific court operations to identify innovative approaches or better practices for accomplishing work. Examples of practices identified include writing an abbreviated pretrial services report in cases where bond is not an issue and eliminating the filing of discovery documents in the case opening process.

To help the courts implement the decentralized budgeting system in place throughout the judiciary the AO recently completed an assessment of financial training needs throughout the courts for judges, court unit executives, and financial operating personnel. The AO now is developing plans for implementing recommendations for training programs.

#### EFFICIENCY WITHIN THE ADMINISTRATIVE OFFICE COMPARES FAVORABLY TO OTHER JUSTICE SYSTEM AGENCIES

In addition to supporting judiciary-wide cost cutting efforts, the AO itself is an excellent example of efficiency, particularly when our budget and responsibilities are compared to similar organizations. The AO's responsibilities are somewhat comparable to the general administration functions at the Department of Justice (DOJ). Both are responsible for providing administrative services to large organizations that help enforce the nation's laws. Appropriated fund staffing levels in the Justice Department management and administration accounts that most closely resemble

the AO in function grew by almost 18 percent from fiscal year 1995 to 1998. Over that same period, AO appropriated fund staffing declined by almost two percent. Also, as the chart below shows, AO appropriated fund staffing levels amount to two percent of total judiciary FTE in fiscal year 1998, while the FTE funded by appropriations for the aforementioned DOJ management and administration accounts amount to almost five percent of total DOJ FTE.

## COMPARISON OF ADMINISTRATIVE STAFFING LEVELS

	Fiscal year 1998 FTE	Percent of total
Judiciary:		
Total, Judiciary .....	30,637	.....
Administrative Office .....	657	2
Department of Justice:		
Total, DOJ .....	119,811	.....
Management and Administration by Account:		
General Administration .....	656	.....
Antitrust Division .....	59	.....
U.S. Attorneys .....	223	.....
U.S. Marshals Service .....	74	.....
Trustees .....	52	.....
FBI .....	1,896	.....
DEA .....	698	.....
INS .....	1,192	.....
Bureau of Prisons .....	1,276	.....
Subtotal, M&A .....	6,126	5

I point this out, not to complain about the level of resources provided to DOJ, but to point out that we are a lean organization. When changes occur in the population we serve or in the type of support we are asked to provide, we require additional resources. The modest increase we request in fiscal year 1999 is necessary if we are to continue to provide the high level of support required by the courts.

## CONCLUSION

Mr. Chairman and members of the subcommittee, thank you for your time and attention. As you know, few government missions are as essential as the administration of justice. The AO is the judiciary's administrative core, serving the courts so that they can focus on serving the public. I know you will be considering many worthy requests for funding and just ask that you give the AO the same thoughtful consideration that you have in the past.

This concludes my prepared statement. I would be pleased to answer any questions you may have.

## PREPARED STATEMENT OF HALDANE ROBERT MAYER, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Mr. Chairman, I am pleased to submit my statement to the Committee for this court's fiscal year 1999 budget request.

Our 1999 budget request totals \$16,828,000. This is an increase of \$1,211,000 over the 1998 approved appropriation of \$15,617,000. \$693,000 of the increase is for mandatory, uncontrollable increases in costs. The remaining increase of \$518,000 is for funding for additional positions.

*Partial funding for third in-chambers law clerk.*—The court is requesting the additional positions to begin providing third law clerks to the judges on a permanent basis. The judges of this court now have two permanent in-chambers law clerks (compared to three or four for other circuit judges). The third law clerk is needed because of the complexity of the court's caseload and because all merits decisions are handled in chambers without assistance from a central legal staff. This funding request is for seven law clerk positions. I ask the Committee to meet this court's long-standing need by authorizing the funding requested. We are currently funding the additional law clerks with funds made available by leaving some staff positions

vacant. The court has a vacant settlement attorney and several staff attorney positions vacant at this time. Authority to fund the third law clerks on a permanent basis would allow the court the funding needed to hire a settlement attorney as well as additional staff attorneys.

*Funding for additional positions in the Clerk's Office.*—The court is also requesting funds to hire four full-time positions in the Clerk's Office. These positions are needed to keep pace with the court's growing jurisdiction.

#### *Mandatory Increases*

As stated above, our fiscal year 1999 increases in mandatory items, over which the court has no control, total \$693,000. As described in our budget materials, these mandatory increases result primarily from inflation and pay increases.

#### *Program Changes and Requests*

*Personnel Requests—Additional Law Clerks.*—The sum of \$375,000 is requested for the third law clerk positions. This would cover an increase of seven full-time law clerk positions. This does not provide a third law clerk for each of the twelve active judges. However, it would allow the court to hire seven additional law clerks on a permanent basis. The base budget of this circuit currently provides for two law clerks and one secretary in each chambers. This number is one law clerk and one secretary (or additional law clerk) less than the Judicial Conference of the United States has authorized for active circuit judges. One of the seven law clerk positions would be used to hire a law clerk to serve in part as an administrative assistant to the chief judge. This position is authorized for all other circuit chief judges.

The third law clerk positions for all twelve judges of this court have been included previously in our request for a 1993 supplemental appropriation, and in our appropriation requests in 1994, 1995, 1996, 1997 and 1998. This long-standing need, however, remains unmet.

One additional in-chambers law clerk for each active judge of this court has become a necessity because of the increased complexity of our cases, such as patent infringement cases which often have a large number of difficult issues, and because of the additional subject matter jurisdiction which Congress has given the court, such as review of veterans' cases, and appellate jurisdiction under the recently enacted Congressional Accountability Act of 1995 and the Presidential and Executive Office Accountability Act of 1996. During the past few years, the court has hired temporary third law clerks for judges by using lapsed funds from a vacant judgeship and from vacant staff positions which we decided were not as urgently needed as the additional in-chambers law clerks. We have, for example, delayed implementing our settlement program and deferred hiring three staff attorneys and support staff. The additional, though temporary, help of the in-chambers law clerks has enabled the court to moderate the rise in median disposition time for merits cases, which is now about nine and one-half months, and to prevent a serious backlog of undecided cases.

The court has a great need to have the temporary third law clerk positions made permanent and funded. Once the court has a full complement of judges, the lapsed funds from a judicial vacancy will no longer be available to hire such clerks on a temporary basis. Further, with only temporary positions we are unable to guarantee employment beyond the end of a fiscal year, which can be an obstacle to securing the services of the best qualified law clerks.

This court did not begin requesting funding for the third law clerks until it became apparent that it was necessary to do so. The request is based on need.

*Personnel Requests—Administrative Staff Positions in Clerk's Office.*—The court requests funding for four additional clerical positions for the Clerk's Office at a cost of \$143,000. There is now only one secretary in the Clerk's Office. Another secretary position is needed to assist the chief deputy clerks and to insure that the secretarial functions for the entire office, now exclusively provided by the secretary to the Clerk, are available whenever required. A systems manager position is needed because the complexity of the Clerk's database management system has grown beyond the competence of the non-technical staff to maintain as extra duties. Two deputy clerk positions are needed, one position for a calendar/deputy clerk to alleviate the calendar functions now performed by the chief deputy clerk as an extra duty, and one position for a records manager to develop a records management system now required to keep pace with the large increase in the permanent records which the court has accumulated since its creation in 1982, and which must be maintained and preserved.

I will be glad, Mr. Chairman, to answer any questions the Committee may have or to meet with Committee members or staff about our budget requests.

PREPARED STATEMENT OF GREGORY W. CARMAN, CHIEF JUDGE, U.S. COURT OF  
INTERNATIONAL TRADE

Mr. Chairman, Members of the Committee: The Court's budget request for fiscal year 1999 is \$11,822,000, which is \$344,000 or approximately three percent more than the \$11,478,000 provided for in fiscal year 1998.

The overall increase of \$344,000 consists of "Mandatory Adjustments to Base and Built-in Changes" as follows:

- \$269,000 is requested for pay and benefit cost adjustments for judicial officers and court personnel.
- \$10,000 is requested for other mandatory changes, including increases in postage and printing.
- \$20,000 is requested for inflationary adjustments for lawbooks.
- \$45,000 is requested for GSA space rental increases.

The Court's fiscal year 1999 request includes funds for the continuation and support of such fiscal year 1998 projects as video conferencing and real-time court reporting and for the implementation of such additional projects as the development of a web-site in order to provide the general public and the bar with information, expanding in-house training in the utilization of automation and technology, and implementing the Financial Accounting System for Tomorrow. The continuation and expansion of these information technology projects will continue to prepare the Court to enter the 21st Century.

I would like to emphasize that the Court will continue, as it has in the past, to conserve its financial resources through sound and prudent personnel and fiscal management practices.

The Court's "General Statement and Information" and "Justification of Changes", which provide more detailed descriptions of each line item adjustment, have been submitted previously. If the Committee requires any additional information, we will be pleased to submit it.

PRIVATE ATTORNEY COSTS

Senator GREGG. Thank you, Judge.

I will yield to Senator Domenici first.

Senator DOMENICI. Well, Mr. Chairman, first, I want to thank you for your help last year in getting the 2-year legislation which will be effective for 2 years unless we extend it with reference to more disclosure in the public defender system and the costs that are being incurred.

Senator GREGG. Yes.

Senator DOMENICI. I have not had a chance to review thoroughly how it is being implemented, but I have looked at it in a cursory manner—

Judge HEYBURN. It just started in January.

Senator DOMENICI. You have set forth some rules, and Mr. Mecham has shown them to us, and we are looking at them. Clearly it is moving in the right direction, and I am very pleased that from what I can tell every effort is being made to comply with them. I think it is very important that we find out as much as possible about this. None of my intentions, Judge, were to deny adequate defense.

Judge HEYBURN. No; we viewed your questions as entirely helpful. To a certain extent it began with our discussions in your office last year, and continued with our discussions here at this meeting. And I believe that it is a totally positive situation. It has helped us understand the program more, and I think the results will be positive for everybody.

Senator DOMENICI. I still continue to have a concern. In my mind's eye, and I don't know how it works, and it may be totally theoretical, but for very, very serious offenses, like capital offenses or first degree murder offenses, the costs that we are paying to the

public defenders are frequently so large that one wonders how somebody worth \$200,000 or \$300,000 could defend themselves.

I can see a person with little or no resources getting a \$300,000 or \$400,000 or \$500,000 defense, and I can see somebody who has assets of a couple of hundred thousand dollars, 45 years old, and they don't get any. They have to spend \$150,000 of it on less of a defense, and that concerns me.

I do not expect you to be Solomon. I do not know how to solve that, but that continues to be on my mind. I do not want to expand for whom we pay expenses. I am not suggesting that, but you understand what I am discussing right now.

Judge HEYBURN. Exactly.

#### FUNDING PRIORITIES

Senator DOMENICI. I guess I would ask whether you or the Administrative Officer could, and I hope it is not too much work, but I understand that many of your budgets do not go up very much, many of the internal pieces, but the overall is still a 9.9-percent increase on the judiciary and everything related to it.

Judge HEYBURN. Appropriations. 6.7 percent on the actual obligations.

Senator DOMENICI. Correct. I am just wondering if you might ask the administrative officer to tell us what would be the highest priority among those. That is hard to do, I know.

Judge HEYBURN. Well, we certainly will, and I would like to respond to that.

Senator DOMENICI. Sure.

Judge HEYBURN. Our philosophy is that we ask you for what—maybe you hear this from other people—we ask you for what we really need, and you can look at our budget. We are asking for, in the accounts that I am here representing, about \$260 million of increase.

About \$190 million of that is increases to the actual base, which includes a 2.3-percent increase for employees, and GSA rent increases. Seventy million dollars of it is rent increases that GSA imposes upon us, including a security surcharge that they are attempting to impose on us.

We are asking for additional money based on our increased workload. And they are high priorities. One is \$15 million approximately in the probation area. We have a record number of convicted felons and others who are out there on supervised release.

And not only do we have a record number on supervised release, but they are of a different category. About 5 years ago more of them were on pretrial release. Now that the sentencing guidelines have been going for a number of years, and a greater percentage of these people are felons who have served their sentence and they are now out. They are more dangerous by history and typically take more effort to supervise. But it is \$15 million there.

Over the last 4 years we probably had a 60-percent increase in bankruptcy filings. We are asking for a \$30 million increase to fund bankruptcy clerks. If we do not fund that, that means creditors do not get paid, debtors do not get dismissed from bankruptcy. It causes tremendous commercial delay and confusion.

And actually, in an attempt to hold down our budget request, we have delayed requesting the full amount. I know the staff knows this, but based on the staffing formulas, we could have requested the entire \$60 million last year in our budget.

But we thought that the increase was so dramatic that maybe it would go down. Also, we are not sure that the staff of the bankruptcy courts could adequately hire that many people that fast. So we only asked for one-half of it last year and one-half of it this year.

Another \$16 million is for security, which we can discuss if you would like to. We are actually asking for \$7 million less for the district courts and appellate courts combined.

So, we think it is a tight budget, and as the staff know, and the chairman knows, and you know, I am sure, we do not attempt each year to spend all the money you give us just to prove that the amount you gave us was the right amount.

If we can save it, we do, and last year we carried over a substantial amount, most of it due to either good management on our part or circumstances which were completely beyond our control, which resulted in less expenditure. We hope that the same thing will happen this year if circumstances warrant it.

Senator DOMENICI. Thank you. You don't have to submit anything in writing. We will just review what you said. Thank you very much.

Senator GREGG. Thank you, Senator Domenici.

#### COURT SECURITY

One question I have is the explosion in costs relative to the U.S. marshals, and especially the overhead costs. It is all tied into security to some degree. On the other hand, it is also tied into this moving of prisoners. I am wondering if you have any thoughts on where this is going.

Judge HEYBURN. Well, we are hoping that it is ending. This year's request is only a 6.9-percent increase. I think that we are reaching a plateau. Almost all the additional resources for CSO's—and this is in our budget—this year comes because of new facilities.

We are looking at the numbers that the U.S. Marshals Service has given us, and going over those again. We have talked with staff about this. And at some time in the future, in the next month or so, we hope to give you a detailed listing of exactly where the new CSO's are going to go, and exactly what the rationale was for them. We just want to confirm that ourselves. I am not certain, as we have told the staff, whether there is going to be any difference.

But we want to look at it very, very carefully, because there is a question as to how the Marshals Service is allocating new CSO's, particularly when we have new buildings going on line. Sometimes there is a transition there. The old building is still in existence, and you are transitioning to a new building. So we are looking at that.

I know that whenever we open a new building, of course there are some expenses that we incur in our budget, and then there are some expenses that are in the marshals' budget. And I cannot really comment on those.

Again, it is a subject that we are struggling with. We are trying to find the right balance. Nobody wants the courthouses to be fortresses. We do want the public to be safe and to feel safe, and I would hope we are getting to the point where we have standards that are consistent and the increases that we will see in future years relate to new facilities or a new perceived threat, if such a situation exists.

I hope that is responsive.

Senator GREGG. Yes; I think that was responsive.

#### DEFENDER SERVICES COSTS

Now, the Coopers & Lybrand study, which I have looked at in a cursory way, seems to essentially say that the expenditures on the defender program are what would be expected from the growth of the demands.

But there still remains the capital crimes issue. Have you got any new ideas on how we get control over the costs of capital defenses?

Judge HEYBURN. Well, the capital crimes issue is, as I am sure you are aware, is really into two categories. One is the capital prosecutions, and then the other part of it is the capital habeas cases.

The capital prosecution side is driven by factors that are to a great extent, not totally, beyond our control—that is, the number of capital cases that the U.S. attorneys and the Justice Department determines to bring.

The resources they bring to those prosecutions drive the costs. Now, we are attempting to sensitize the judges and attorneys to better budgeting, so we think that is going to have some impact there.

But as the Coopers & Lybrand study suggested, if there are more capital cases brought, and there are more prosecutorial resources brought to bear in those cases, the defense costs are going to be higher. There is just no way around that.

The other area is the capital habeas cases. And overall, the study showed that the cost of defending capital habeas cases has declined slightly. Overall, the number of those cases is increasing, and that is causing an increase.

There is a particular problem in a couple of districts in California. The cost per case is twice as high as the rest of the country; and, a greater number of death row inmates in California, a greater percentage of them, have habeas cases going.

Twenty-five percent of those on death row in California have habeas cases going and only about 10 percent in the rest of the country. So there is a discrepancy, and the average cost in California is something like \$85,000 and in the rest of the country it is \$28,000 to \$31,000.

So we have already done some things which we think will affect the situation. The ninth circuit already has imposed a case budgeting requirement on habeas cases. They have already reduced the presumed rate that will be allowed for attorneys representing habeas cases from what was an average of about \$150 an hour. Now the maximum is \$125, and it will be lower for associates and others.

So that will start to have an immediate effect, and there are some other things that the ninth circuit is looking into. We have our own committee that is looking into ways to, No. 1, further analyze the situation in California, to see what exactly is behind the numbers, and to see what specific actions we can take to reduce it.

The total defender budget we are requesting is \$392 million. The capital habeas portion of that is about \$28 million. The California portion is about \$12 million. So we are talking about a small segment, but if California were in line with the rest of the country, we are talking about a number of millions of dollars of savings. But irrespective, even if it were just \$100,000, we are concerned about the discrepancy, and want to deal with it. And we will.

Senator GREGG. Well, I do think it is an issue that you want to continue to focus on, because it just seems incomprehensible, the costs.

#### NEW TECHNOLOGIES

Now, to what extent does videoconferencing and the use of electronics give courts an option to save dollars, because of not having to move people around the country and using communications of the 21st century.

Judge HEYBURN. I think increasingly it does. I cannot stand here and tell you it is widespread, because the judiciary, just like everybody else, is learning how to use these new technologies.

But we have an electronic courtroom project, and we have some model courts that are using electronic presentation of evidence, and the U.S. attorneys are heavily into this. This saves a substantial amount of time, not only for judges, but apropos of our just now concluded conversation, it saves trial time which affects defender budgets.

We have a bankruptcy noticing system that is saving money, electronic noticing. We have a number of videoconferencing pilot projects to allow conferences between prison inmates and judges and attorneys.

We are beginning an electronic case filing system, which again could in the future save on clerks and time. There is electronic public access to the court dockets, which again has a number of benefits—easing the public access, but also less work for the clerks.

So there are a number of projects that are going on. I would say it is fair to say that most of them are in their infancy. And some of them will prove, I think, highly beneficial. Others may prove to have different kinds of benefits.

But we are trying all of them.

Senator GREGG. So you have a formal structure for taking a look at all of this?

Judge HEYBURN. Absolutely. Yes.

#### COST-OF-LIVING ADJUSTMENT

Senator GREGG. OK. On the pay raise issue, I certainly intend to put in the COLA again, so you will have it.

Judge HEYBURN. We appreciate that.

## CLOSING REMARKS

Senator GREGG. Do you have anything else you wish to comment on?

Judge HEYBURN. I do not think so, except to say again that we very much appreciate your attitude and that of the staff, in dealing with us in what we feel is a very, very fair way, and if you have concerns, bringing them to our attention.

We hope you appreciate the fact that we are trying to be responsive in every way that we can to your concerns. From my limited point of view now, over 1½ years of doing this particular job, I think the results have been positive for both of us.

## ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. I agree. I think we have made good progress in a lot of areas that we both have an interest in.

Judge HEYBURN. Yes.

Senator GREGG. Thank you for your assistance.

Judge HEYBURN. Thank you.

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

## ADDITIONAL COMMITTEE QUESTIONS

## DEFENDER SERVICES

*Question.* Last year our Conference Report clearly expressed concern over the rapidly rising costs in the Defender Services program, including the average cost of capital representations. I notice that your request for this year is \$360 million, up \$31 million from last year's enacted level. Will you comment on this \$31 million increase, and what it says, if anything, about the increasing costs of capital punishment trials?

Can you explain how the Judiciary measures and determines expected caseload increases in general? How is this reflected in your budget request?

Will you comment on this \$31 million increase?

*Answer.* The fiscal year 1998 Defender Services financial plan will support at least 92,000 Criminal Justice Act (CJA) representations<sup>1</sup> and totals \$362,867,000. It is funded from the following sources: \$329,529,000 in direct appropriations, \$24,953,000 from the Violent Crime Reduction Trust Fund and the balance through the transfer of fees from the judiciary Salaries and Expenses account as needed in accordance with the language from the House and Senate conference report.

For fiscal year 1999, the judiciary has requested funding in the amount of \$391,831,000 (\$360,952,000 in direct appropriations and \$30,879,000 from the Violent Crime Reduction Trust Fund) to support 95,900 CJA representations. The increase between the fiscal year 1998 financial plan of \$362,867,000 and the fiscal year 1999 budget request of \$391,831,000 is \$28,964,000 (7.9 percent over fiscal year 1998 projected obligations) and consists of the following items.

	Amount	Percent
Government-wide OMB-mandated pay and benefit adjustments .....	\$8,863,000	2.4
Panel attorney rate adjustment .....	5,096,000	1.4
Other mandatory changes (e.g. standard inflationary increases) .....	9,016,000	2.5
Additional 3,900 representations and changes in caseload mix .....	4,789,000	1.3
Establishment of new defender organizations .....	1,200,000	.3
<b>Total .....</b>	<b>28,964,000</b>	<b>7.9</b>

<sup>1</sup>The Statistics Division of the Administrative Office of the U.S. Courts is in the process of reviewing the fiscal year 1998 and fiscal year 1999 caseload projections. Re-estimates will be provided to Congress throughout the appropriations process as more current data is available.

*Question.* What does the \$31 million increase say, if anything about the increasing costs of capital punishment trials?

*Answer.* The panel attorney average annual cost per federal death penalty representation increased in fiscal year 1996 and fiscal year 1997. It is anticipated that, on a per representation basis, this cost will decrease in fiscal year 1998 and fiscal year 1999 due to the resolution of several unusually large and costly cases. However, while the cost per representation is falling, the number of federal death penalty representations is rising. This may result in significant costs to the judiciary in the future. Since the Department of Justice does not predict how many federal capital prosecutions it will bring in a given year, it is difficult for the judiciary to estimate the number of cases and the associated funding that will be necessary in order to provide defendants with constitutionally mandated representation services.

*Question.* Can you explain how the Judiciary measures and determines expected caseload increases in general?

*Answer.* The Statistics Division of the Administrative Office of the U.S. Courts projects the annual number of federal criminal defendants that will require counsel under the CJA. This is generally based on the number of Assistant U.S. Attorneys the Department of Justice predicts it will employ. The Statistics Division then divides the projection of federal criminal defendants into those for whom panel attorneys and those for whom federal defenders will provide representation. It is generally assumed that panel attorneys will provide representation for approximately 40 percent of the criminal defendants. In addition, panel attorneys usually represent approximately 10,000 defendants in other CJA cases (e.g., trial disposition appeals, capital and non-capital habeas corpus cases, probation revocations, bail presentment hearings, representation of witnesses). Federal defender organizations are expected to be appointed in the balance of the representations, depending on the number of attorneys they anticipate hiring.

*Question.* How is this reflected in your budget request?

*Answer.* The Defender Services budget request is based upon the projected number of representations as described above. For panel attorneys, the number of representations and the cost per representation is estimated and the product of these two numbers is the funding requested for the panel. For federal defender organizations, obligations are determined by projecting the attorney and support staff that must be on board in order to provide representation in the cases anticipated and determining the cost of that staff (i.e., salaries and benefits, rent, expert services, travel, and other overhead expenses).

*Question.* Your fiscal year 1999 budget request includes \$16 million for security surcharges assessed by GSA. Why are these charges assessed and what are they for?

*Answer.* Following the April 1995 bombing of the Alfred P. Murrah Building in Oklahoma City, Oklahoma, an Interagency Security Committee led by the Department of Justice was established to assess the vulnerability of federal facilities to bombings and other security threats and to recommend enhanced security measures for federal buildings. Beginning with fiscal year 1999, the costs incurred by GSA for these security measures are to be paid through space rental rates assessed each agency. These charges are building-specific costs and are based on the judiciary's percentage of a building's occupancy. The costs include the maintenance of GSA building-wide capital security enhancements, outdoor security cameras and recording devices, intrusion alarm systems, garage access control systems and other physical security measures such as concrete planters and vehicle barriers and costs of contract guards assigned to perimeter patrols and some screening duties in large multi-tenant federal buildings. GSA has provided the judiciary with a building-by-building listing of the charges. We are currently analyzing the charges presented and will advise the Subcommittee as to whether the GSA-provided detail listing is accurate prior to mark-up of the appropriations bill.

*Question.* What has the judiciary done to reduce courthouse space needs and construction costs since last year?

*Answer.* The Judicial Conference approved a number of initiatives, proposed by its Committee on Security and Facilities, related to space and facilities management in 1997. All of these initiatives are either complete or in the advanced stages of implementation.

#### *Changes to Space Standards and Design Guidelines*

The federal judiciary has consistently emphasized the need to contain the costs of court facilities. One of the judiciary's major initiatives in this regard is its recent comprehensive review of the U.S. Courts Design Guide. The Guide contains the information needed by GSA, private sector designers and builders, and members of

the judiciary about the special requirements for federal courthouses that make them functional, secure, quality public buildings.

While the comments received from users during this recent review indicated the Guide was accomplishing its purpose, the judiciary also received a number of excellent suggestions for improvements. These specific recommendations for changes to the Guide were approved by the Judicial Conference at its March 1997 meeting and have been incorporated into the Guide which is now available. Approved changes to the Guide include:

- Narrative has been added to emphasize the important role the project budget, long term durability, and maintenance costs play in determining the level and type of interior finishes in new courthouses and in renovation projects;
- Use of exotic hardwoods is prohibited;
- The sizes of chambers suites when chambers library collections are shared between or among judicial officers is reduced. Designs that reduce chambers law-book costs and do not increase rental costs are now included in the Guide as optional design configurations for new construction and remodeled space;
- The amount of space needed to move from one space to another, i.e., circulation space, is defined in more detail in order to limit this space;
- Design architects and court staff are prohibited from adding spaces not originally contemplated in design programs, including spaces that increase floor size or building volume;
- Staff office sizes are delineated in more specific terms;
- Narrative has been added to encourage the use of and reaffirm the need for shared use of space common to all court offices, such as conference and training rooms and staff lavatories, and specific standards on the size and number of these facilities is now included;
- The Conference took no position on locating courtrooms and chambers on separate floors, but this design configuration will be included in the Guide as an option available to courts wishing to incorporate it into construction projects;
- The Conference agreed to prohibit any action taken by a court or circuit judicial council that would lead to extravagance in courthouse construction or renovation; at the same time the Conference recognized the need to make design decisions that ensure courthouses constructed or renovated represent long-term value.
- The Conference also agreed to include in the Guide a number of changes and clarifications that will likely result in some cost avoidances, whose exact savings cannot yet be estimated (e.g., incorporating language emphasizing cost control and budgetary constraint both in a separate prominent chapter and in budgetary and programming “notes” throughout the document).

The anticipated cost savings resulting from these Conference-approved changes to the Design Guide are significant. A private cost estimating firm has analyzed these changes through the comparison of a “typical” courthouse project that might have been designed without the approved changes to the same courthouse if it were designed with the approved changes. The consultant’s conclusion is that the changes would result in an overall difference of some five percent, or over \$2 million in a \$40 million project. This five percent is in addition to the \$1.5 million in cost savings effected by any previous changes to the Guide since its original publication.

The Judicial Conference anticipates that the Guide changes it has approved will reduce construction cost and will continue to result in high value federal courthouses that are functional, durable, safe and economical.

#### *Sharing Space with State and Local Governments*

The Conference has also adopted a policy encouraging courts to explore shared court facility arrangements with state and local governments, or other entities, to reduce space rental costs. Administrative Office staff is developing instructions and procedures for use by courts wishing to enter into such arrangements. Ultimately, however, the authority to approve entering into these arrangements lies with the General Services Administration.

#### *Space Management*

As part of a comprehensive space management initiative the Conference also agreed that, circuit judicial councils should submit an evaluation of current space (i.e., a space inventory) in each judiciary-occupied building every two years. The purpose of this analysis is to assist courts and councils with determining whether space can be used in a more efficient manner or released to the General Services Administration.

*Courtroom Planning Assumptions*

Likewise, in recognition of congressional interest in the number of courtrooms constructed in new courthouses and in major alteration projects the Conference approved specific planning assumptions that can be used to determine the courtroom capacity in new buildings. These assumptions, which have been incorporated into an automated model that can be used by courts and circuit judicial councils as a complement to other available planning tools, address several factors that can affect the number of courtrooms needed in the short and long term. Some of these factors include the average age of a district judge upon appointment, the average number of years it takes for a replacement judge to begin work, and the number of years that a senior judge would require a courtroom dedicated specifically to his or her use. Prior to taking this action, there were no specific assumptions for use by the courts. The Conference agreed that courts and circuit judicial councils should have the opportunity to modify any of these planning assumptions (listed below) to ensure that an individual court's needs are taken into account when making projections of space requirements.

*Courtroom Planning Assumptions as Approved by The Judicial Conference of the United States*

- The average age of a district judge upon appointment is 48 years old;
- A replacement judge will begin working 2 years after the judge being replaced takes senior status;
- A senior judge will require a courtroom dedicated specifically to his or her use for 10 years after taking senior status;
- A judge will elect to take senior status upon the date of eligibility;
- Once a court's caseload warrants a new judgeship, it will take three years for the new judge to begin work.

## COURTROOM SHARING POLICY

*Question.* What is the judiciary's policy on sharing courtrooms? Why should each active judge have their own courtroom when clearly space is such a problem?

*Answer.* The Conference adopted a policy on courtroom sharing in March 1997. This policy has been published in the United States Courts Design Guide. The policy supports the position of providing a courtroom for each active district judge and also encourages courts and circuit judicial councils to consider the number of courtrooms to be constructed in new and existing facilities for senior judges not drawing a caseload requiring substantial use of a courtroom, and for visiting judges. The Conference asked the judicial councils, which have the statutory authority to determine the need for court accommodations (28 U.S.C. sec. 462(b)), to develop a policy on sharing courtrooms by senior judges when a senior judge does not draw a caseload requiring substantial use of a courtroom, and for visiting judges. Administrative Office staff is in the process of reviewing the circuit judicial council policies that have been received to date. The policies from all councils should be available in mid-1998.

Upon review of the issue of courtroom usage, the Conference determined that providing a courtroom for each active district judge allows judges to dispose of cases expeditiously and to set firm trial dates because courtroom availability is guaranteed. Firm trial dates promote settlement in civil cases and pleas in criminal cases, thereby avoiding the need for and cost of trials. This practice also permits timely handling of emergency matters, such as requests for injunctions, grand jury problems, contempt hearings, and detention and bail appeals. Moreover, providing each active district judge a courtroom accommodates unscheduled opportunities to settle large multi-party cases, opportunities that may be lost without the immediate access to a courtroom. This practice also ensures that cases that go to trial are handled expeditiously, as encouraged by the Speedy Trial Act of 1974 and the Civil Justice Reform Act of 1990.

*Question.* It's my understanding that you all are expecting to hear from GSA on approximately 1.5 million square feet of space to be delivered to the Judiciary sometime during 1998. What is the status of delivery of this space?

*Answer.* As is the case each year, the judiciary updates the space rental data provided in its budget justifications to reflect the most up-to-date information available about scheduled occupancy dates prior to mark-up. The Administrative Office is now in the process of verifying both projected amounts of square footage and their associated costs as part of this cyclical updating process. It is anticipated that these data will be available in mid-May 1998. The data are made available so that the Appropriations Subcommittee can make any necessary adjustments to the information initially submitted.

*Question.* I'm sure the question of the day is what to do with this problem of judicial appointments. What I want to know from you is, how do you budget for judges when you don't know how many will be appointed this year by Senator Hatch's committee?

*Answer.* The projections for the number of average judges' vacancies in fiscal year 1999 are based on the following assumptions:

—The projection assumes that 47 judges will be confirmed and 36 judges will take senior status or retire during fiscal year 1999. These estimates are based on historical experience. For confirmations, the historical data used is based on a four year cycle following a presidential election; for fiscal year 1999 the average confirmations for fiscal year 1983, 1987, 1991, and 1995 were used. For new vacancies resulting from senior status and retirements, annual historical averages are used.

—The base for the fiscal year 1999 projection is the fiscal year 1998 financial plan which funds 740 average FTE for Article III judges, with 758 judges on board at the end of the fiscal year.

The projections are within reason based on historical experience, but may change as more current data is available on actual confirmations and new vacancies which occur during fiscal year 1998. Re-estimates will be provided to Congress throughout the appropriation process as more current data is available.

GOVERNMENT PERFORMANCE AND RESULTS ACT [GPRA]

*Question.* The judicial branch, like the legislative branch, does not come under the Government Performance and Results Act of 1993 (Results Act). However, in a variety of instances, the tenets of the Results Act have been incorporated into the operation of the judiciary simply because they are good business practices. Furthermore, in the spirit of GPRA, we are continually exploring new and innovative management, planning, and resource allocation practices to ensure that the judiciary operates effectively and efficiently in delivering services in accordance with its mission, goals, and objectives. Although the GPRA questions for the record were clearly addressed to executive branch agencies, we have provided answers, where applicable, to highlight the judiciary's results-oriented activities.

How are the agency's annual performance goals linked to the agency's mission, strategic goals, and program activities in its budget request?

*Answer.* Judiciary planning efforts set forth a mission, goals, and objectives, and describe intended strategies for accomplishing them, thereby establishing a judiciary-wide context for setting annual priorities and providing direction to decision makers in making budget requests. The judiciary is beginning to include narrative in its annual budget request defining the link between program mission and goals. For example, the fiscal year 1999 Defender Services budget request linked the program's mission to three goals.

*Question.* Could you describe the process used to link your performance goals to your budget activities?

*Answer.* Each judiciary program area, in contemplating annual resource requirements, describes the anticipated results to be achieved in that fiscal year. Each quarter, the judiciary conducts formal programmatic and financial reviews to examine progress in reaching goals, program results and outcomes, and program effectiveness and efficiency. A formal training program on performance measurement helps judiciary staff develop missions, goals, and measures that are linked to resource requirements.

*Question.* Does the agency's performance plan link performance measures to its budget?

*Answer.* The judiciary is not required to complete an annual performance plan but it does use performance measures that link to resource use. For many years we have been measuring and reporting the results of court operations in such documents as Federal Court Management Statistics and the Annual Report of the Director. More recently, in 1995, the Administrative Office (AO) incorporated program results reporting in its quarterly financial review process—the process by which managers report on the execution of their programs. The purpose of this effort is to focus on the link between resource investment and program results. Moreover, we have begun building on this effort to determine ways in which we can expand on and enhance the measurement system already in place.

*Question.* To what extent does your performance planning structure differ from the account and activity structure in your budget justification?

*Answer.* At this point, there is no difference between the planning structure and the activity structure.

*Question.* How were performance measures chosen?

Answer. The judiciary reports, in such documents as Federal Court Management Statistics and the Annual Report of the Director, a broad range of performance indicators that show the effectiveness and efficiency with which the judiciary conducts business. The judiciary is currently examining these indicators to determine if they could be improved to establish even stranger links between resource use and program outcomes.

*Question.* What are the key performance goals from your fiscal year 1999 Annual Performance Plan that you recommend this subcommittee use to track program results?

Answer. Although the judiciary was not required to produce a fiscal year 1999 Annual Performance Plan, planning is a priority. Following Judicial Conference approval, the first Long Range Plan for the Federal Courts was published in 1995. This document articulates the mission and core values of the federal courts and contains close to a hundred specific goals and strategies to implement them. We recommend the subcommittee look to the specific goals contained in the document. The Plan is designed to evolve over time with changes in the judiciary.

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

Answer. As mentioned earlier, the judiciary is not required to issue an Annual Performance Plan. However, the judiciary is making progress in defining outcome based results-oriented performance measures. As all organizations involved in the effort are realizing, this is not an easy process. It requires changing mind-sets, determining whether things previously viewed as not measurable can in fact be measured, and refocusing budgeting practices. The challenges the judiciary faces are comparable to those of the executive branch. We continue to meet with executive agencies to share our experiences and learn from others.

*Question.* Do you have the technological capability of measuring and reporting program performance throughout the year on a regular basis, so that the agency can be properly managed to achieve the desired results?

Answer. Numerous systems and processes that focus on results, efficiency, performance, and accountability drive daily operations in the judiciary. Several examples include our decentralized budgeting and personnel systems that provide the overall framework and resource constraints within which local managers must achieve their goals and results, the routine reporting of numerous performance-type indicators that help encourage managers to improve operations by facilitating comparison between courts on a variety of critical measures, and the Methods Analysis Program which serves to improve performance by identifying better business practices. Furthermore, as mentioned earlier, the judiciary conducts quarterly programmatic and financial reviews to examine spending practices, program results and outcomes, and program effectiveness and efficiency. In addition to holding managers accountable for their programs, these reviews are an important component of the judiciary's overall efforts to maximize the use of scarce resources; an element of these quarterly reviews is an assessment of whether resources need to be realigned among programs to ensure the judiciary's highest priority needs are met.

*Question.* The Government Performance and Results Act requires that your agency's Annual Performance Plan establish performance goals to define the level of performance to be achieved by each program activity set forth in your budget. Many agencies have indicated that their present budget account structure makes it difficult to link dollars to results in a clear and meaningful way. Have you faced such difficulty?

Answer. At this point in our efforts, the judiciary has not experienced such difficulty.

*Question.* Under one of the new accounting standards recommended by the Federal Accounting Standards Advisory Board (FASAB) and issued by OMB, this year for the first time all federal agencies are required to have a system of Managerial Cost Accounting. The clearly preferred methodology for such a system, as stated in that standard, is the one known as "Activity-Based Costing," whereby the full cost is calculated for each of the activities of an agency. What is the status of your agency's implementation of the Managerial Cost Accounting requirement, and are you using Activity-Based Costing?

Answer. Over the past two years, the judiciary has explored and begun implementing an activity-based resource system. We have adapted our financial review structure to hold managers accountable for the way resources are used to achieve results along program lines and are exploring changing the way resources are requested. Like performance measurement, an activity-based cost system requires a cultural change as well as training, not to mention changes in data collection sys-

tems. As part of our performance measurement training, managers were instructed on the basic principles of activity-based costing.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that, to what extent are your performance measures sufficiently mature to allow for these kinds of uses?

*Answer.* As mentioned previously, the judiciary uses a variety of performance measures that demonstrate the effectiveness and efficiency with which the judiciary conducts business. The judiciary is examining these measures to determine if they could be improved to allow for the kinds of uses in which Congress is interested.

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions in your strategic plan issued September 30, 1997?

*Answer.* As mentioned earlier, the Judicial Conference approved the Long Range Plan for the Federal Courts in 1995. This document articulates the mission and core values of the federal courts, and contains close to a hundred specific goals and strategies to implement them. Revisions in the Plan may occur periodically as the Plan was designed to evolve over time with changes in the judiciary.

The judiciary realizes that, for results-oriented management to be successful, coordination with all three branches of government is required. It is particularly important to have discussions with Congress and the Department of Justice (DOJ) as much of our workload is directly generated by legislation and DOJ policy. Realizing this, in 1994, a historic meeting was held of representatives of all three branches of the federal government, along with state and local government representatives and academics. This conference was instrumental in its contributions to the long-range planning process in discussing how Congress' federalization of state civil and criminal law will affect the judicial system. The second of these three-branch conferences was held in 1996. The 1996 conference continued the discussion begun during the first. The judiciary will host the third conference in 1997, as the first was hosted by the executive branch and the second by the legislative branch.

In addition, the Executive Committee of the Judicial Conference continues to meet quarterly with the Attorney General and other Department of Justice senior staff to discuss issues of mutual interest. Also, working groups comprised of judges and officials from the Justice Department have met periodically to share information and opinions on current legislative issues. These discussions lead to planning more accurately for workload increases associated with pending legislation.

Strategic planning is an integral part of the judiciary's internal governance and management processes. The judiciary has strategic and long range plans. Formal, comprehensive strategic planning efforts began in the judiciary in 1990, three years before GPRA, when the Federal Courts Study Committee recommended the judiciary establish a permanent capacity to determine long-term goals and develop strategic plans by which they can reach them. The Chief Justice responded by creating a Judicial Conference Committee on Long Range Planning and by enhancing strategic planning capabilities in the Administrative Office. The committee's established charter was to identify broad issues and challenges confronting the judiciary and develop strategies for addressing them.

Complementing the Long Range Plan, in 1996 the judiciary completed The Administration of Justice: A Strategic Business Plan for the Federal Judiciary in accordance with the Judicial Amendments Act of 1994. It identified the following six strategic business areas and establishes objectives for each: adjudication, administration of the courts, supervision of defendants and offenders, defender services for eligible criminal defendants, policy-making and national administration, and rule-making.

The Strategic Business Plan provides a foundation for more specific plans and planning processes. In particular, the Judicial Conference's Committee on Automation and Technology, which oversees the judiciary automation program, produces the Long Range Plan for Automation in the Federal Judiciary. This document sets forth the mission, vision, and goals, of the judiciary's information technology program and summarizes the program's major initiatives.

Realizing the importance of input from all of the stakeholders who have a part in the federal judiciary, the judiciary's strategic planning process has included, from its inception, consultation with state and federal judges, lawyers from all segments of the nation's bar, officials of the executive and legislative branches, experienced planners from public and private sectors, and members of the public. In parallel with this outreach, internal stakeholders are regularly contacted through surveys on current topics and through extensive advisory and user groups on specific subject matters, such as courtroom technology or training.

Over the past several years, the judiciary has made numerous changes in program policy, organization structure, program content, and work processes to become more results-oriented. The most notable examples are the following:

*Decentralization of critical functions to the courts.*—A number of critical administrative and management functions have been decentralized to the courts. These functions are performed better locally than centrally and decentralizing them greatly enhances local managers' ability to focus on results. Two major decentralized functions are budgeting and personnel:

—*Budget decentralization.*—As described further in the answer to the next question, the judiciary switched several years ago to a decentralized budgeting system in order to improve local management flexibility, accountability, and decision-making and to produce a more results-oriented environment.

—*Decentralized personnel system.*—Complementing the decentralized budgeting environment, a decentralized personnel system was recently implemented which improves local management of personnel resources. The enhanced flexibility and decision-making capabilities offered by this system allow managers to optimally apply personnel resources and to achieve more efficiently organizational goals and results.

*Methods Analysis Program.*—To help improve the results achieved by court personnel on a day-to-day basis, the judiciary initiated the Methods Analysis Program in 1994. This program identifies better business practices that have the potential to result in more efficient and effective operations. To date, several hundred practices have been identified. This program contributes significantly to the judiciary's ability to maintain high levels of service with reduced staffing levels.

*Information technology efforts.*—The judiciary has undertaken a comprehensive and forward-looking information technology program to improve results. These efforts allow the judiciary to handle a continuously growing caseload while, at the same time, minimizing overall spending increases and maintaining services to the public.

*Economy Subcommittee.*—In 1993, the Judicial Conference established an Economy Subcommittee of its Budget Committee. With a charter to improve fiscal responsibility, accountability, and efficiency in the judiciary, the subcommittee's efforts are a critical component of the judiciary's overall effort to remain focused on end results.

*Comprehensive strategic planning.*—In 1996, the Judicial Conference made additional changes in the Conference structure to enhance the judiciary's planning apparatus. The Conference determined that strategic planning should be an intrinsic part of each committee's policy-making function rather than exclusively under a separate long range planning committee. Thus, individual conference committees have been given strategic planning responsibilities and have designated committee members to serve as planning liaisons. In addition to facilitating strategic planning within their committees, the liaisons serve as an advisory group to the Judicial Conference's Executive Committee.

*Quarterly program and management-by-objective reviews.*—As also described further in the answer to next question, this recently established program provides a quarterly forum to review the financial and programmatic results of major judiciary programs.

*Innovative local efforts.*—Courts throughout the country develop and implement productivity improvement programs and processes tailored to their local cultures to improve results, save resources, provide better public service and cope with staffing shortages.

The structure of the federal courts is decentralized. Unlike business organizations that can enforce policies from the top down, the federal court's work is carried out by judges whose independence is guaranteed by the U.S. Constitution. In an effort to hold local court managers accountable and employ more efficient business practices, a decentralized budgeting program was adopted for the courts in 1991. Under this program, most budget execution functions are decentralized to the local court level rather than conducted centrally at the Administrative Office. This system gives local court managers an incentive to identify and employ more efficient business practices, a greater ability to prioritize scarce resources, and the flexibility to distribute resources according to unique local needs. The system holds managers accountable for their performance since they must accomplish their mission within defined budgetary limits.

Several initiatives and aspects of our planning and budgeting processes demonstrate how the judiciary bases planning and decision-making on realistic assessments of projected resources. First, the Long Range Plan recognizes that the near future will continue to be an era of austerity as far as federal budgets are concerned, and that the long-term future will require far more resource management by a federal court system with an increasing workload and limited personnel and other resources. The Plan also states, however, that the federal courts must con-

tinue to seek the resources necessary to carry out its constitutionally and congressionally-mandated responsibilities.

Second, in 1993, the Judicial Conference established an Economy Subcommittee under its Committee on the Budget, providing the judiciary with a mechanism akin to that provided by the Office of Management and Budget in the executive branch. This action demonstrated the importance of a permanent, analytical and systematic means of developing final budget estimates that are consistent with both overall strategic plans and projected resource levels. In addition to reviewing the judiciary's budget submission, this group initiates and pursues studies concerning ways to economize and to stimulate further change to a more results-oriented way of conducting business. In the years ahead, the Judicial Conference and its committees will continue to thoroughly scrutinize funding requests from the various components of the judicial family before they are submitted to Congress.

Third, each year the chairman of the Judicial Conference Committee on the Budget issues a guidance letter to the chairmen of the program committees of the Judicial Conference. This letter describes the expected budget climate and sets forth the assumptions to be made in constructing budget submissions. Furthermore, based upon these assumptions, the chairman sets a target for the overall judiciary budget increase that balances judiciary spending needs with the reality of the fiscal environment.

#### SUBCOMMITTEE RECESS

Senator GREGG. The hearing is recessed.

[Whereupon, at 11:28 a.m., Thursday, March 12, the subcommittee was recessed, to reconvene subject to the call of the Chair.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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**THURSDAY, MARCH 19, 1998**

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

The subcommittee met at 10 a.m., in room S-146, the Capitol,  
Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Campbell, and Hollings.

**FEDERAL COMMUNICATIONS COMMISSION**

**STATEMENT OF HON. WILLIAM E. KENNARD, CHAIRMAN**

**ACCOMPANIED BY ANDREW FISHEL, MANAGING DIRECTOR**

**OPENING REMARKS**

Senator GREGG. I will convene the Subcommittee on Commerce, Justice, and State, which is hearing this morning from the Chairman of the Federal Communications Commission [FCC], and then we will hear from the Chairman of the Securities and Exchange Commission [SEC], two agencies which come under this committee's jurisdiction. I do not have an opening statement. Do you?

Senator HOLLINGS. No; thank you, sir.

Senator GREGG. So we will go right to you, Mr. Chairman.

**OPENING STATEMENT OF MR. KENNARD**

Mr. KENNARD. Thank you, Mr. Chairman, Mr. Ranking Member.

Thank you for the opportunity to review with you the fiscal year 1999 budget estimates for the Federal Communications Commission. I am especially pleased to be here in my first appearance as Chairman of the FCC since I took office 4 months ago. With me is the FCC's Managing Director, Andrew Fishel.

I would like to summarize a few major points this morning from my written testimony, and then, of course, take your questions. And I would ask that my full statement be included in the hearing record.

First, let me say that I think I speak for all of us at the FCC in saying that we feel exceptionally privileged to be at the agency at this time; working at an agency in an era of such importance to the history of communications.

I believe that when people look back on this period of time some years hence, they will remember it in the history of communications as being about two fundamental transforming events. One, the conversion from analog to digital technology; and, two, the paradigm shift from monopoly regulation to competition.

Both of these transforming forces—the transition to competition and the conversion to digital—really challenge the FCC to accommodate unprecedented and momentous change, and I am confident that we can meet that challenge with your guidance and support.

As I look ahead to the work of the agency over the next several months, I think it is important that the Commission resolve but three major issues I would like to talk about. All are central to this transition from monopoly to competition, and the conversion to digital technology.

One is implementing the universal service mandates of the 1996 act. Another is fostering competition in all communications markets, but particularly in local telephone markets. And third is resolving the unresolved issues in the transition from analog to digital television.

As I set forth in my full statement, our chief policy goal this year is to implement the procompetitive, deregulatory national policy framework set forth in the 1996 act, and a central focus of that will be reforming universal service.

Now, there are some people who believe that reforming universal service, or the concept of universal service is fundamentally inconsistent with the move to competitive markets. I do not share that belief. I believe that the premise of the 1996 act is that universal service and competitive markets can coexist, but it is going to take a lot of work for us to get there, work at both the Federal and State levels.

And I am committed to putting in the work, and making sure that we work with our State partners, and you, in the Congress, to make this very important transition.

It is also important that we finish implementing the universal service provisions for the high-cost fund, and also for schools and libraries and rural health care facilities.

I have heard your concerns about the implementation of the schools and libraries mechanism. I have met with many Members of Congress about that. Our staffs have met, and I want you to know that you have my commitment to work with you, to resolve your concerns, and make sure that this mechanism for funding schools, libraries, and health care facilities is consistent with your intent, and also works for the country.

Competition: as you can see from the chart that is attached to my written submission, we are seeing some competition develop in local phone markets. But I think it is important to emphasize that competition is not going to develop in one surge across all markets. It is going to develop faster in some places than others. It is going to take more time than in others.

We saw this in the long distance marketplace, which took some time to develop competition, but it came. We saw this in the cellular and wireless markets, and it took some time, but it came.

And I believe that ultimately the forces of competition are so powerful that they are really bigger than any law or any agency

or any court, and they will come. Our role is really to foster them wherever and whenever we can.

It is not in my view a question of whether competition will come, but really a question of when it will come.

As the FCC enters its third fiscal year since the enactment of the 1996 act, fostering local competition in telephony will be among our highest priorities. So we will be implementing the section 271 process to permit Bell Operating Co. entry into in region long distance.

And my vision here is for the FCC to make sure that this process is one that is open and transparent, one that all of the stakeholders understand how it works, and are involved in the dialog with the agency, so we demystify the process so that everyone understands what we are trying to accomplish.

But ultimately it is my belief that we must remain consistent to congressional intent to insure that local telephone markets are truly open before we allow BOC entry into long distance.

Another important matter that I touched on earlier is digital television. This transition from analog to digital television is the most significant change in television history in my view—much more significant than the transition from black and white to color.

I believe the role of the FCC is to make sure that we take the regulatory uncertainty out of the process. That means the regulatory environment to govern this transition must clarify what the public interest obligations are of television broadcasters in the digital age.

And as we move toward more competitive markets across the board, it is my vision for the agency that we redeploy our resources. We should take resources away from application processing functions and move them more to consumer protection areas, because we have seen as competition develops, we have more problems like slamming and cramming in telephone markets.

I would also like to see the agency continue its efforts to move toward electronic filing. I believe this is a very, very significant change for the agency. We have seen it already as we have implemented electronic filing of applications for our wireless services.

We have seen the way the public interacts with the agency change dramatically. People around the country can get information from the agency, and interact with the agency in ways that makes it much easier for them to do business with us.

We get 227,000 hits on our website per day. So many more people are communicating with the agency electronically than ever before.

Let me just say in conclusion that the Telecommunications Act of 1996 has already produced some important, tangible results. There is much work left to be done, but if we work together I am sure that we can accomplish much more, in bringing more competition to consumers, reforming universal service, and ultimately continuing to have a telecommunications infrastructure that is the very best in the world, and of which we can all be very proud of.

#### PREPARED STATEMENT

Your support of the Commission's fiscal year 1999 budget request will help this vision become a reality, and I thank you for your support, and I would be happy to answer any questions that you have.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM E. KENNARD

Mr. Chairman, Ranking Member, and Members of the Subcommittee, thank you for the opportunity to review with you today the fiscal year 1999 Budget Estimates of the Federal Communications Commission. I am especially pleased to be here, as this is my first appearance before the Subcommittee since I became Chairman on November 3, 1997.

This morning I would like to: summarize the highlights of our fiscal year 1999 Budget Estimates; discuss what the Telecommunications Act of 1996 has accomplished so far to achieve competition and what remains to be done; note some examples of our other ongoing work responsibilities; highlight our plans to streamline and deregulate the FCC through the first "biennial review" of all of our regulations; describe our "Year 2000" computer upgrade plans; and, finally, share with you my hopes and plans for the rest of this year to implement the Communications Act and the other statutes entrusted to the FCC.

*Competition and Conversion*

Before I discuss these matters, however, I think I speak for all of us at the FCC in saying that we feel privileged to be working at the Commission at this important time in the history of communications law and policy. When the history of communications policy in this decade is written, I believe it will largely be about two transforming events: the move to embrace competition as an organizing principle in the law and the conversion from analog to digital technology.

First and foremost, there is competition. Competition has been a goal of communications policymakers for many years. With the 1996 Act, it has become our national policy and the organizing force of much of our work. The 1996 Act gives us the tools to accelerate the pace of competition and, with your support and sufficient resources, I am confident we will.

Second, there is digital conversion. Virtually every sector is undergoing this transition: analog to digital radio; analog to digital cellular networks; analog to digital telephone networks; and analog to digital broadcast and cable television. The almost infinite versatility and capacity of digital technology is giving consumers awe-inspiring products and providing communications companies new ways to deliver those products.

Together, these two transforming forces—competition and digital conversion—challenge the FCC to accommodate unprecedented change. With your support for the resources we are requesting today, I am confident we can meet the challenge.

*Recent Accomplishments*

In fact, I am very proud of what we have already accomplished in my first four and one-half months as Chairman of the FCC. Here are some highlights of our recent accomplishments:

- In November 1997, at my first meeting as FCC Chairman, the Commission revised its rules for foreign entry in light of the World Trade Organization Agreement on Basic Telecommunications Services, which took effect last month. We did so by adopting companion telecommunications and satellite entry orders liberalizing entry into the U.S. market for foreign-licensed service providers while retaining competitive safeguards. Implementation of the WTO Agreement will fundamentally alter the competitive landscape of the global market in telecommunications services, providing vast opportunities for American industry. Increased competition in the international market will also hasten the decline in international calling rates. In November, we also proposed rules to implement the Commission's new authority to auction certain mutually exclusive broadcast licenses; streamlined the process for reviewing and resolving formal complaints against telecommunications carriers; and adopted policies that permit non-U.S. licensed satellites to provide services in the United States.
- In December 1997, we adopted a Notice of Proposed Rulemaking (NPRM) to strengthen our program access rules in order to boost competition with cable in the multichannel video marketplace; we approved an order to ensure that 911 emergency calls will work nationwide on all cellular telephones; we conducted the first in a series of special en banc presentations, this one on the status of competition in the multichannel video marketplace; we launched a proceeding to determine the appropriate methodology for assessing fees for ancillary and supplemental services provided by digital broadcasters in implementation of the Communications Act; and we announced our first ever "biennial re-

view” of the FCC’s rules and regulations in a common sense, comprehensive fashion.

- In January 1998, we released our fourth “Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming,” as required by Section 628(g) of the Communications Act. A major finding of the report was that cable still controls approximately 87 percent of the multichannel video marketplace. I directed our Cable Services Bureau to undertake a review of our cable rate regulations and an investigation of the nature and causes of rising cable rates and programming costs. We released our annual survey report on cable industry prices pursuant to Section 623(k) of the Communications Act. We also adopted price disclosure requirements for away-from-home public telephone calls to help end telephone price gouging by operator service providers.
- In February 1998, we adopted an NPRM to help us implement our new Universal Licensing System for wireless radio services. This initiative will automate our licensing and application functions for these services with state of the art technology. We are consolidating and streamlining our current 11 wireless databases into one unified, integrated system, and reducing or eliminating many of our existing rules. We also adopted final rules, policies and channel assignments for the new video age of digital television (DTV); adopted an order to further the privacy rights of telecommunications customers; and proposed to simplify and consolidate our service rules governing the Direct Broadcast Satellite (DBS) service as well as sought comment on whether we should impose alien ownership restrictions on the DBS service, and possible DBS-cable cross-ownership restrictions.
- In March 1998, so far, we have approved the revised voluntary industry system for rating TV video programming and adopted technical rules to implement the accompanying “V-chip” program blocking technology. These actions will help put these important tools in the hands of American parents. We also adopted a Notice of Inquiry to examine all of our major broadcast ownership rules as part of our “biennial review.”

I would like to turn now to our fiscal year 1999 budget request and our future plans and policies.

#### *Overview of fiscal year 1999 Budget Estimates*

The Federal Communications Commission proposes a fiscal year 1999 budget of \$212,977,000, and a staffing level of 2,105 full-time equivalents (FTE’s). This represents an increase of \$26,463,000 over the FCC’s fiscal year 1998 funding level, but with no increase in staffing. Approximately 51 percent of the increase, or \$13,615,000, would cover mandatory, uncontrollable cost increases for salaries and benefits (\$4,153,000), rent payments to the General Services Administration (GSA) for the FCC’s new headquarters in the Portals Building (\$8,412,000), Federal Protective Service increases (\$527,000), and inflationary increases to other contract services (\$523,000).

The FCC’s request also includes a request of \$5,756,000 (22 percent of the increase) for critical upgrades to the Commission’s FCC’s information technology infrastructure. These resources are vital to ensure that all of the Commission’s information technology infrastructure and licensing systems operate smoothly through the transition to the Year 2000. Failure to make these upgrades would seriously jeopardize Commission operations on January 1, 2000 with some disruption occurring earlier.

We have also requested \$975,000, or 4 percent of the fund increase, to complete the implementation and maximize the effectiveness of the FCC’s National Call Center (“NCC”) in Gettysburg, Pennsylvania, and to establish a satellite Call Center facility in Washington, D.C. These resources will provide substantial cost savings by centralizing much of the FCC’s call handling into a central Call Center, as well as provide improved FCC customer service through one centralized information service.

An additional \$6,117,000, or 23 percent of the requested increase, represents the first installment repayment to reimburse GSA for its costs in relocating FCC headquarters employees to a consolidated building. In July 1997, the GSA agreed to provide funds to the FCC so we could relocate to the Portals. This agreement stated the FCC should seek reimbursement for GSA of all funds provided to the FCC under the agreement during fiscal years 1997 through 2007. If appropriated, the repayment of these funds to GSA would take place over a 10-year period beginning in fiscal year 1999 and continuing through fiscal year 2008. This 10-year plan for reimbursement covers expenditures by GSA for building design and buildout, design and installation of information systems architecture, and purchase of systems furniture.

The amount to be collected from regulatory fees would increase from \$162,523,000 in fiscal year 1998 to \$172,523,000 in fiscal year 1999. The President’s fiscal year

1999 Budget, however, proposes a change to our current appropriations language. This change would prevent the FCC, as it would other regulatory agencies funded largely from regulatory fees, from offsetting its total fiscal year 1999 appropriation through regulatory fees. Instead, the Administration proposes in fiscal year 1999 that the FCC appropriation would be fully funded on a one-time basis from the General Fund of the Treasury. The regulatory fees, although collected in fiscal year 1999, would be unavailable for use by the FCC until October 1, 1999 (fiscal year 2000).

With these requested resources, here are some examples of what we hope to accomplish during the coming fiscal year in each of the FCC's four primary activity areas: (1) authorization of service; (2) policy implementation and rulemaking; (3) enforcement; and (4) public information services.

*Authorization of Service.*—We will continue to promote efficient and innovative licensing and authorization of services by meeting established Speed of Disposal goals and by using auctions whenever feasible to license or authorize telecommunications services quickly and efficiently, including the auctioning of mutually exclusive broadcast licenses pursuant to the Balanced Budget Act of 1997. In fiscal year 1999, we will complete the deployment of electronic filing capabilities for five of our largest licensing and registration systems in the Cable Services, International, Mass Media, and Wireless Telecommunications Bureaus, and in the Office of Engineering and Technology. The FCC's experience to date with the new Universal Licensing System for its wireless radio services demonstrates the benefits to both the Commission and industry from automation and electronic filing. We also intend to process applications to construct digital TV stations which conform to their original allotment sites within five days of receipt. In addition, we anticipate a significant number of applications under Section 271 of the Communications Act from Bell Operating Companies seeking authority to provide in-region long distance service, each of which must be resolved within 90 days. Finally, we will simplify and streamline the entire broadcast licensing process by reducing filing burdens, simplifying application forms, and re-engineering and integrating 13 Mass Media Bureau licensing and authorization of service databases.

*Policy Implementation and Rulemaking.*—We will encourage competition in the telecommunications industry through pro-competitive, deregulatory rulemakings, that reduce consumer costs and increase the telecommunications choices available to consumers. For example, we must also continue to implement the local competition provisions of the Communications Act, review, revise, and eliminate rules to reflect changing marketplace conditions, including forbearing from rules that competition makes unnecessary to protect the public interest, and review requests for preemption of state and local laws or actions that create barriers to offering any telecommunications service. We will also continue working to implement the universal service provisions of the Communications Act by working to improve the connections between the Internet and this country's classrooms, libraries, and rural health care facilities, by maintaining affordable telecommunications services to rural America, by making telecommunications services and equipment accessible to all persons with disabilities, and by making emergency information carried on cable systems available to all persons with hearing disabilities.

We will continue to implement the World Trade Organization Basic Services Agreement. This Agreement will allow carriers from WTO-member nations to apply for authorization to provide competitive telecommunications services to United States customers and will open doors to United States carriers seeking to offer telecommunications in overseas markets. We will also seek to ensure that public safety groups have adequate spectrum and advanced telecommunications equipment by completing the development of operational, technical and spectrum requirements for meeting Federal, State and local public safety agency communications requirements through the year 2010. We will continue to explore all means of promoting competition in the marketplace for multichannel video programming.

*Enforcement.*—The importance of the enforcement of the Commission's rules has increased in an era of deregulation and increased competition. Common carrier oversight, for example, is required to ensure that consumer abuses such as the unauthorized transfer of long distance carriers, also known as "slamming", are curtailed. We are also examining ways to strengthen enforcement of our cable program access rules so that new market entrants can more readily and fairly obtain access to the programming they need to become viable competitors to incumbent multichannel video programming distributors. Moreover, increased use of the radio spectrum and the marketing of new electronic equipment have greatly increased potential interference problems. There has also been an increase in unauthorized "pirate" radio stations.

Overall, it is important for the Commission to adopt a new paradigm for enforcement that relies more on companies to certify that they are in compliance with our regulations, but with increased enforcement for non-compliance. Swift, predictable, and sufficient enforcement is critical as we move toward competition.

We also intend to strengthen our enforcement program by using the latest technical and engineering techniques to improve interference and consumer complaint resolution, by partnering with the private sector and with other governmental units to resolve shared telecommunications issues, and by using industry and customer feedback to determine effective levels of enforcement and appropriate enforcement policies and procedures.

*Public Information Services.*—Our goal in this area will be to provide information services to our customers in the most useful formats available and in the most timely, accurate and courteous manner possible. We will accomplish this goal by providing “one stop” information shopping to our customers through the consolidation of our nine public reference rooms into one, when we move to the Portals, and through attaining true nationwide coverage at our National Call Center.

In fiscal year 1999, we hope to complete the final phase of this ambitious project which provides information on every aspect of the FCC through a toll-free number that can be accessed by anyone within the United States, 1-888-CALL FCC (225-5322). Since the FCC began limited operation of the NCC in June, 1996, it has responded to more than 485,000 telephone inquiries. Establishment of the NCC has already saved the FCC approximately \$3 million per fiscal year in salary and benefits costs and allowed for the reallocation of 40 FTE's to other critical work assignments. The NCC, along with the FCC's Internet Website, [www.fcc.gov](http://www.fcc.gov), forms the backbone of the FCC's educational and information outreach programs. (During January and February 1998, the FCC's Home Page received an average of 227,000 hits per day, up from an average of 135,000 hits per day during the same period in 1997.) It is therefore essential for the FCC to complete the final phase of its implementation of the NCC in fiscal year 1999. To do so, we request your approval of our \$975,000 fiscal year 1999 budget request item.

#### *Telecommunications Act of 1996*

I turn now to what the Telecommunications Act of 1996 has accomplished in its first two years to achieve telecommunications competition and what work remains to be done to achieve still more competition. Some critics have already declared the 1996 Telecommunications Act a failure. I think they are wrong. For in my judgment, Congress got it right in 1996: competition beats monopoly every time as the best way to deliver the best telecommunications services to the American public. And the evidence is growing that competition is indeed on its way. As was amply demonstrated during the Commission's January 29, 1997, en banc hearing on the status of local telephone competition, the Telecommunications Act of 1996 has successfully moved us in the right direction—toward greater competition.

Competition will happen, eventually. The debate about competitive issues is really a debate about when it will happen, and for whom. It will come faster, of course, if we have rules that favor competition. Such rules would allow competition as fast as technology and financing allow.

As you can see from the chart attached to my testimony entitled “Market Shares of New Entrants to an Industry”, it has taken time for competition to develop in other markets we today regard as competitive. For example, in the long distance and residential cellular service markets, it took years between the introduction of competition into the market, and the time that new entrants had gained appreciable market share.

For the reality is that moving a monopoly market to competition is hard work: for the incumbent, the new competitors, and the policy makers. Those within companies charged with creating and meeting competition need to resolve complex operational issues. They need to design system interfaces and write software. They need to negotiate contracts, arbitrate differences, sign agreements and implement them. For policy makers, we must insist that this hard work be done and that the parties create or have available swift, meaningful ways to enforce obligations under these agreements.

All this takes time. And while some call it “regulatory,” it is actually deregulatory. That's because competition and choice won't exist unless local telephone companies create this competitive infrastructure and unless they are forced to keep this infrastructure well-maintained and running smoothly.

#### *Development of Competition: Slow But Steady*

To get a true picture of the development of local competition, we should not be looking for dramatic, sudden upsurges in local competition, but instead for the type

of steadily increasing momentum that we saw with the introduction of competition into the long distance market. As illustrated by the chart, we are still in the very early stages of the development of local exchange competition. I have no reason to expect, however, we will not see the same type of acceleration of competition in this area that we have seen in other markets, especially long distance and cellular.

In fact, that's exactly what we are seeing. Illustrative examples are many and varied. We see growing competition in the hundreds of state-approved interconnection agreements between incumbents and competitive local exchange carriers ("CLECS") entering the local telephone market. The top 10 CLECS have switches in 132 cities spanning 33 states and the District of Columbia. Approximately 2,400 interconnection agreements have been created under the 1996 Act's framework. And over the past two years, \$14 billion has been invested in CLECS, and their combined market capitalization has risen to over \$20 billion.

We also see competition in New York City where over 20 percent of the local business market is being served by carriers other than the incumbent Bell Company. We see competition in the investment going into cable modems and the restructuring of the high speed data segment of the cable industry. We see growing competition in the increasing interest on the part of the wireline industry in Digital Subscriber Line technologies, which allow you to get expanded capacity similar to fiber from a copper loop. We see it in the fixed wireless service providers, like Winstar and Teligent which have begun to offer service that competes with traditional wireline. And we see it in the hundreds of satellites being put up for narrowband access and also for nationwide, even worldwide broadband wireless data access.

The country is seeing many other benefits of the 1996 Act. For example, wireless telephone prices are dropping rapidly and the number of subscribers now tops 50 million nationwide. In the nine months from April to December 1997, prices for cellular and PCS services dropped over 12 percent for low volume customers and over 31 percent for high volume customers. In fact, the Wall Street Journal reported on March 3, 1998 that Bell Atlantic's recent decision to reduce by 15 percent its rates for digital wireless phone service may well spark a "price war" among cell phone service providers. Long distance rates, meanwhile, fell 5.3 percent between January 1996 and November 1997.

The 1996 Act is beginning to deliver other benefits as well. On January 30, 1998, schools and libraries began to submit applications to the Schools and Libraries Corporation for universal service support to connect our nation's classrooms and libraries to the Internet. As of March 5, 1998, 25,600 applications for universal service discounts had been received from schools and libraries. Nearly 70 percent of these applications are for new services. As of February 24, 50 percent of applications received have been from school districts, 28 percent from schools, 19 percent from libraries and library consortiums, and 3 percent from multiple entity consortiums. The Schools and Libraries Corporation will be processing and granting these applications later this spring, well before the start of the next school year in the fall.

This is measurable progress. Of course, we have much further to go to reap the full benefits of the 1996 Act. In particular, too few residential consumers yet have the opportunity to choose among competing providers of local exchange services. There are some promising prospects as cable companies and companies affiliated with utility companies begin to provide residential, local telephone service, but competition has yet to blossom in the residential market.

Moreover, the courts have clearly slowed the pace of development of competition. We have seen the careful statutory design of Congress disrupted by judicial rulings that have added uncertainty, slowed investment and planning, and frustrated promising market entry strategies. Without these judicial setbacks, we would be further along the road to full competition in telecommunications. These court decisions threaten to continue to hobble the development of competition and to deny our country the growth that broad telecommunications competition would create.

Nonetheless, as the FCC enters its third fiscal year since enactment of the 1996 Act, implementation of the Act's remaining provisions in a pro-competitive and timely fashion will remain the principal FCC task. Most significantly, the FCC will continue to examine how to streamline the process of evaluating Bell Operating Company petitions for entry into in-region inter-LATA toll service. As directed by our fiscal year 1998 appropriations legislation, we have also begun a review of the statutory, definitional and universal service provisions of the 1996 Act, and will submit a report to Congress no later than the statutory deadline of April 10, 1998.

We will also work closely with the States to continue to implement the universal service provisions of the Act, commence a proceeding to delineate further operating support systems to propose performance assessment and reporting mechanisms, establish rules for the recovery of costs for long-term number portability, outline pricing flexibility for local exchange carriers as they face new competition, and address

the appropriate regulatory treatment of commercial mobile radio service carriers who provide fixed or combined fixed-mobile services.

We also expect later this year to issue a Notice of Inquiry pursuant to Section 706 of the 1996 Act concerning the availability of advanced telecommunications capabilities, to commence a proceeding to identify and reduce or eliminate market entry barriers, and to conclude a proceeding on broadcast spectrum flexibility.

*Other, Ongoing Workload*

Our continuing, heavy workload to implement the Telecommunications Act of 1996 is a major justification for our fiscal year 1999 budget request. But so are the Commission's other enormous and growing work responsibilities. Here are just a few illustrative examples from five of the FCC's operating bureaus:

*Cable Services Bureau.*—As of March 1998, the Consumer Protection and Competition Division of the Cable Services Bureau had 583 matters pending before the division, including petitions, complaints, and rulemakings. These matters are overwhelmingly filed by private parties or local governments. Among these petitions and complaints, for example, are approximately 80 mandatory signal carriage or "must-carry" cases, 73 requests to modify "areas of dominant influence" to receive different television programming, and over 260 rate regulation appeals. The Financial Analysis and Compliance Division of the Bureau, meanwhile, had approximately 750 rate complaints pending. (Between September 1993 and February 1996, the division issued 4,553 rate case decisions.)

*Common Carrier Bureau.*—The Common Carrier Bureau expects to make policy recommendations to the Commission on over 60 major, Commission-level proceedings in the second quarter of 1998 alone. This figure does not include any number of Bureau-level proceedings that the Bureau will complete during the same three month period. One telecommunications area in particular that has exploded as a result of both more competition and deregulation has been informal complaints and inquiries. In 1995, for example, the Enforcement Division of the Common Carrier received 25,482 complaints and inquiries about various telephone consumer abuses and concerns such as "slamming" and disputed billing charges. In 1997, the number of such complaints nearly doubled to over 44,000.

*International Bureau.*—The International Bureau plans to present to the Commission 27 items between April and September 1998. Two major growth areas for the Bureau include satellite space station applications and Section 214 applications. The number of applications received for satellite space stations increased from 164 in fiscal year 1996 to 195 in fiscal year 1997 (a 19 percent increase). The number of Section 214 applications received for satellite space stations increased from 564 in fiscal year 1995 to 637 in fiscal year 1996 (a 13 percent increase). In fiscal year 1997, the number of Section 214 applications received increased 17 percent to 745.

In addition to the increase in the number of applications over the years, there is more complexity involved in processing International Bureau applications. Service providers are developing innovative services, requiring significantly more bandwidth, and at the same time seeking to co-exist with established services while sometimes also requiring global coordination.

These new services additionally require the Bureau to initiate licensing rounds, develop service rules and, in most instances, coordinate with other domestic users of the spectrum. Just getting one new service off the ground is extremely time and labor intensive as it invariably raises new legal issues and poses technical challenges. The Bureau currently has four new services—2 GHz, 28 GHz, 40 GHz and the Skybridge FSS LEO system—for which proceedings must be initiated and completed prior to commercial satellite use of the spectrum. Finally, the International Bureau also must develop methods for implementing the recent commitments made to open the United States market to foreign satellite systems.

*Mass Media Bureau.*—In the Mass Media Bureau, the elimination of radio ownership limits by the Telecommunications Act dramatically increased the volume of radio sales applications. For example, in 1995, we received 2,300 such applications. In 1996 the number increased to 3,700. In 1997, it was more than 4,100. During the first three months of 1998, radio sales applications have continued to come to the FCC at a higher rate than even in 1997. In another mass media area, political programming regulation, because this is a mid-term election year, during the next six months we expect to receive approximately 1,000 phone calls a month from broadcasters, political candidates and their media buyers.

*Wireless Telecommunications Bureau.*—Finally, the Wireless Telecommunications Bureau intends to bring to the Commission for its decision approximately 56 items over the next six months. The Bureau also plans to conduct six auctions during the rest of 1998, assuming the Commission completes the pending policy and rule-making items. As of February 28, 1998, the Wireless Bureau has pending 448 infor-

mal complaints and 13 formal ones. The enormity of the “Universal Licensing System” noted above is also worth noting in more detail. The “ULS” is simply a complete change and redesign of the Wireless Bureau’s entire licensing theory and process. It will directly affect the literally millions of wireless licensees, applicants, and the public who need access to our wireless data. Under the ULS: 41 forms will be collapsed into 5; 800,000 person hours annually will be saved by licensees due to electronic filing of applications; 11 databases will be reduced into one, affecting over 2 million licensees; on line data access and computer mapping of service areas will be available to the public from anywhere in the world; and perhaps most significantly, the FCC will be able to delete over 200 wireless regulations from the Code of Federal Regulations.

*Streamlining and Deregulating: The “Biennial Review”*

In fact, the FCC has begun a comprehensive “biennial review” of all of its existing regulations, including telecommunications and broadcast ownership regulations, as directed by the 1996 Act. Section 11 of the Communications Act, as amended by the Telecommunications Act, requires the FCC, in every even-numbered year, to review all of its regulations applicable to providers of telecommunications services to determine whether they have become unnecessary to advance the public interest as the result of meaningful economic competition between providers of the services and whether such regulations should therefore be repealed or modified. Section 204(h) of the Telecommunications Act also requires the Commission to review its broadcast ownership rules biennially as part of the review conducted pursuant to Section 11. The Commission, however, determined that this first biennial regulatory review presented an excellent opportunity for a serious top-to-bottom examination of all the Commission’s regulations, not just those required to be reviewed under the statute.

Thus, on February 5, 1998, Commission staff released a list of 31 proposed proceedings to be initiated as part of the 1998 biennial regulatory review aimed at eliminating or modifying regulations that are overly burdensome or no longer in the public interest. The list, which is attached to my testimony, was compiled following a broad, comprehensive internal review of all existing FCC regulations and informal input from the industry and the public through various public forums such as brown bag lunches with the practice groups of the Federal Communications Bar Association. The Commission will continue to solicit public input as the process continues.

The list includes a review of all broadcast ownership rules that are not already the subject of a pending Commission proceeding and a wide array of common carrier rules, such as the Part 32 uniform system of accounts rules, Part 41 telegraph and telephone franks (or free service) rules, Part 43 reporting rules, Part 61 price cap rules, Part 62 interlocking directorate rules, Part 63 international certificate rules, Part 64 customer premises equipment bundling rules, and Part 68 equipment rules.

We have outlined here a very ambitious agenda for the Commission that should result in a substantial amount of further deregulation and streamlining. The Commission is in a position to ensure that its first biennial regulatory review will, consistent with congressional mandate, produce concrete results in many areas of the Commission’s operations.

I would also note that, in addition to those proceedings to be initiated as part of the 1998 biennial regulatory review, the Commission has numerous ongoing proceedings that are consistent with the deregulatory and streamlining policy embodied in Section 11 of the Communications Act. For example, the Commission has ongoing proceedings to review and possibly reconsider its rules governing jurisdictional separations procedures under Part 36, extensions of lines under Part 63, cost allocations under Part 64, and access charges under Part 69. The streamlining and simplification of the broadcast licensing process noted above is another example of the extensive deregulatory “housecleaning” now underway at the Commission.

*“Year 2000” Plans*

It is well known that computer systems throughout the world may well have difficulties transitioning from the year 1999 to the year 2000. The FCC has completed a thorough analysis of our institutional systems, end-user applications and database infrastructure. We have concluded that we must complete a major upgrade and replacement of many of our computer systems, including both hardware and supporting software, if the agency is to be Year 2000-compliant.

The FCC systems which have been identified as having significant Year 2000 compliance issues include our applications processing, fees collection, tariff tracking and public comment filing systems. For each of these systems, we have completed requirements studies to replace them with restructured and, in many cases, integrated, state-of-the-art electronic filing and relational database systems. The restructured Year 2000-compliant systems will offer the added benefit of allowing the

FCC's customers to view electronically and transmit data over the Internet. The fiscal year 1999 funding request of \$5,765,000 is required to ensure that all of our computer systems are fully tested and operational before December, 1999. In addition, we will need to use \$3.4 million in excess fiscal year 1997 regulatory fees carried over to fiscal year 1998 for this purpose.

While we replace our non-compliant systems, we must also replace our aging and obsolete desktop hardware and software systems. In fiscal year 1999, many of our personal computers will be over six years old, twice the age of their expected usage lives. Our current desktop configurations can neither accommodate the larger, faster computer applications available, nor are they, in many cases, Year 2000-compliant. Moreover, it is currently either impossible or exorbitantly expensive to maintain them and it is imperative, operationally and fiscally, to replace them.

With the requested resources, the FCC will be able to develop and implement Year 2000-compliant electronic filing systems and associated support technologies that will result in several benefits: continued system functionality beyond December 31, 1999; accurate calculations of date-dependent algorithms; enabling the public to transmit and view application, licensing and other needed data electronically over the Internet; and increased public availability and ease of obtaining and receiving docket, rulemaking, and tariff information.

#### *1998 Agenda*

For the rest of this year, our agenda will be dominated by our efforts to implement the 1996 Act's "pro-competitive, deregulatory national policy framework," to bring greater competition to all communications markets, and to ensure that universal service and other public interest provisions of the Act are fully implemented in a manner that, consistent with congressional intent, yield the best results for the American people. At the head of my priorities will be the effort to deliver choice in telecommunications, especially local telecommunications, to the American people. We must especially strive to see that choice among local telephone providers becomes a reality for more residential subscribers.

Giving consumers the opportunity to enjoy the lower prices and expanded choice that flow from competition requires that we continue to review carefully the applications by the Bell Operating Companies under Section 271 of the Communications Act requesting authorization to provide in-region long distance service. Our on-going dialogue with the BOC's and other interested parties is intended to expedite the opening of local markets, thus leading to competition not only for local phone service, but also BOC entry into the long distance market under Section 271. But it is crucial that a BOC satisfy the statutory checklist contained in Section 271 before it is permitted to enter the long distance market. For if a BOC is permitted to offer long distance service before it has opened its local market to competition, then merger and consolidation will be the only avenues into the local market available to the long distance carriers and other potential competitors. Giving the BOC's a free pass into long distance would thus produce fewer, not more, competitors, and be contrary to Congress' legislative intent in enacting Section 271, one of the most significant provisions of the Telecommunications Act of 1996.

We must continue to find ways to ensure that rates remain affordable, and to ensure that telecommunications services remain comparable in all areas of the country. This is a critical issue. Universal service has been a hallmark of our telecommunications system since the invention of the telephone. We must continue to preserve and enhance universal service as competition increases. We cannot allow rural America to become a "have not" zone in the telecommunications age. To help ensure this does not happen, and to help ensure universal service for all, in early January, 1998, I appointed an "ombudsman" for the Commission on rural issues. She will help us make sure that rural issues receive the focus and attention they deserve from the Commission. In addition, we will address universal service high cost issues for non-rural telcos in two steps, with an order on a mechanism for estimating forward looking costs in the very near term, and with an order on input for that mechanism and other implementation issues by the end of the third quarter.

We will also continue to work to deliver universal service to our nation's classrooms and libraries, and to connect these centers of learning to the Internet. We must also finish implementing ways to provide rural health care providers access to modern telecommunications facilities to allow better, faster diagnoses and treatments.

We will continue to seek ways to increase competition with cable television, and to assess the nature and causes of cable programming cost increases and whether they indicate a need to revise our cable rate regulation. As I noted on January 13, 1998, when we released our fourth annual cable competition report, I remain concerned that competition will not arrive in time to provide a true marketplace re-

straint on cable price increases by March 1999, when all cable rate regulation is scheduled to end pursuant to the Telecommunications Act of 1996.

We must also finish the implementation of digital television. This includes the establishment of not just the service rules and allotment plans, but also must-carry rules, public interest obligations, and fees for ancillary and supplemental services.

We will also continue to work closely with our Local and State Government Advisory Committee to address Federal-state-local issues such as preemption, placement of transmission towers for wireless and DTV services, public rights-of-way, and removal of state and local governmental barriers to telecommunications market entry.

We must also continue to streamline our licensing procedures and to act as expeditiously as possible to ensure that innovative new technologies using satellites can enter the marketplace quickly. For example, the first wave of new global satellite systems capable of providing high speed voice, video and data on-demand are scheduled to start providing service this fall.

Along with its appetite for ever-increasing computing power, our nation will have an ever more voracious appetite for data transmission capacity or "bandwidth." The key to satisfying this appetite will be to create real opportunities for companies to compete to deliver high bandwidth services over the "last mile" to consumers. Competition in our backbone networks today is driving backbone providers to keep increasing the capacity and speed of the backbones. We need to bring that competitive drive to expand capacity and improve service to the final links to consumers.

Finally, throughout all of our proceedings, we must seek to ensure that our booming communications markets are creating opportunities for participation by all Americans. We must move forward to ensure that we are providing opportunities for employment, access and ownership, especially for those who remain underrepresented in the ownership and employment ranks of communications businesses—minorities, women and the disabled. The communications and information industries represent the fastest growing sectors of our economy—over \$800 billion last year. We should seek to create and expand opportunities in every sector of the communications marketplace and do all we can to make sure that no one is left behind.

With regard to the disability community, for example, last August, the Commission adopted rules to increase the amount of closed captioned video programming available to the 22 million Americans with hearing disabilities, regardless of whether they receive their television signals from cable, DBS, wireless cable or through over-the-air broadcasting. This is a vitally important step in making sure that disabled Americans get access. I also intend to initiate soon a major rulemaking proceeding under Section 255 of the Communications Act to facilitate access to telecommunications equipment by disabled persons.

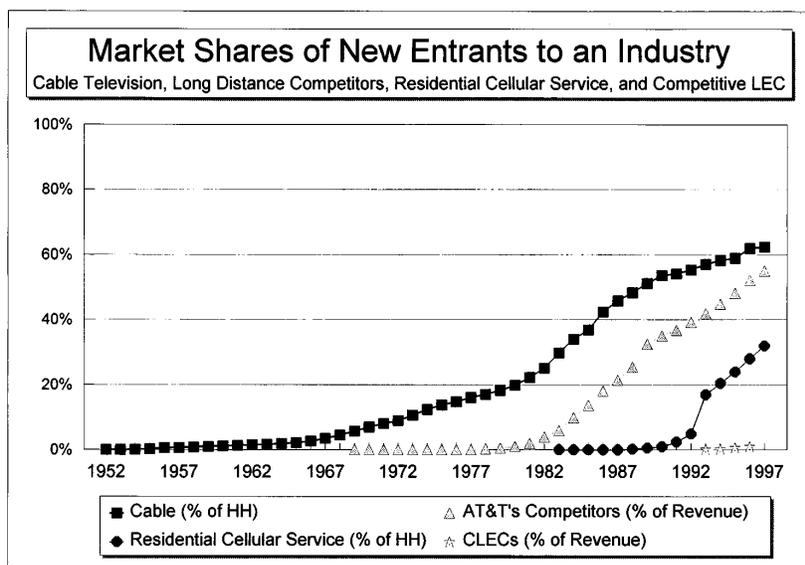
#### *Conclusion*

I'd like to conclude my testimony with these thoughts. It has been only two years since President Clinton went to the magnificent Reading Room of the Library of Congress and signed his name to the Telecommunications Act of 1996. It was a very appropriate location for such a signing ceremony. For here was a bill Congress had just passed that could eventually help make every book in the Library of Congress available to every American with a few clicks of a computer "mouse."

Not everyone was confident that the President was doing the right thing. Not everyone was confident that Congress had done the right thing. Not everyone was confident that the FCC could handle the job of implementing such ambitious legislation.

But now, after 25 months, I think it's clear that we should have been confident on all counts. For after these 25 months, the Telecommunications Act of 1996 has produced important, tangible results. Yes, there is much left to be done. But if we work together, we will accomplish it. We will succeed in fulfilling the promise of the Telecommunications Act to bring competition and choice to American consumers, to bring advanced services at affordable rates to all Americans, to bring new economic opportunity that can unite our Nation and narrow the gaps that divide us, and to improve our country in fundamental ways unimagined just two years ago. Your support of the Commission's fiscal year 1999 budget request will help this vision become a solid reality.

This concludes my testimony. I will be happy to answer your questions.



#### BIOGRAPHICAL SKETCH OF WILLIAM E. KENNARD

William Kennard was nominated to be Chairman of the FCC by President Clinton in August 1997. He was confirmed by the Senate on October 29, and sworn in by Vice President Gore on November 7, 1997. His term expires on June 30, 2001.

As Chairman, Kennard is committed to ensuring that competition will bring consumers in every sector of the communications marketplace more choice, better services, and faster innovation at the lowest prices.

A native of Los Angeles, Kennard graduated Phi Beta Kappa from Stanford University in 1978 and received his law degree from Yale Law School in 1981.

Kennard came to the Chairmanship after three-and-one-half years as the agency's General Counsel and a career as a practicing attorney involved in a broad range of communications issues.

As FCC General Counsel, Kennard served as the Commission's principal legal advisor and represented the Commission in court. He served as General Counsel during a particularly challenging time, as the FCC began its implementation of the Telecommunications Act of 1996.

Before joining the FCC, Kennard was a partner and member of the board of directors of the Washington, DC, law firm of Verner, Liipfert, Bernhard, McPherson and Hand. At Verner, Liipfert, he specialized in communications law, with an emphasis on regulatory and transactional matters for communications companies.

Before entering private law practice, Kennard served as Assistant General Counsel and as Legal Fellow for the National Association of Broadcasters. He has written several articles on communications law topics.

Throughout his career, Kennard has advocated creating and expanding opportunities for small businesses and minority-owned businesses to participate in the communications marketplace. In the 1980's he served on the FCC's Advisory Committee on Minority Ownership in Broadcasting. He is the first African-American to chair the FCC.

Kennard is a member of the District of Columbia and California Bars and has served as Treasurer, Secretary, and Assistant Secretary of the Federal Communications Bar Association.

He is married to Deborah Diane Kennedy of Greenville, South Carolina. She is Managing Counsel at Mobile Corporation. They live in the District of Columbia.

Senator GREGG. Thank you. Senator Hollings.

Senator HOLLINGS. 227,000 hits?

Mr. KENNARD. Yes; per day.

## FREE AIR TIME FOR POLITICAL CANDIDATES

Senator HOLLINGS. You are doing a good job, but let me ask you about this free time issue so we can clear the air.

With respect to us in the Congress, we set down the policy, and you administer it, isn't that right?

Mr. KENNARD. Yes, Senator.

Senator HOLLINGS. And until we give you that policy you do not administer it, you do not pick one out of the air like free time. Where did you get it? We have not passed anything. I have been up here 31, going on 32 years. I have heard about free time back in the early 1970's. But, the Congress has not set any policy relative to free time, and I understand you made a statement that if the Congress would not create such a policy, you would. Can you respond to that? I want to make it clear that we have to get back to ground rules here and fundamentals.

You have a big enough headache with digital. You have a big enough headache with the 1996 act without wandering afar and picking out desirables, but not policies, of the Congress.

Mr. KENNARD. Well, let me say this, Senator. The FCC was delegated responsibilities in this area—

Senator HOLLINGS. When? What? How?

Mr. KENNARD. Well, in the—

Senator HOLLINGS. For free time?

Mr. KENNARD. The FCC was given responsibility 25 years ago to administer the lowest unit charge provisions of the act.

Senator HOLLINGS. Yes; but that had to do with individuals. That did not have anything to do with candidates. That had to do with the charges made. And that has not been amended.

If you are going to give free time on every particular charge, say Senator Gregg and I run against each other, we charge each other, you will be giving us free time when there is not enough free time left with a particular station. You know that. It's a stretch, and you know it.

Mr. KENNARD. Well, Senator, the public interest mandate of the—

Senator HOLLINGS. No; the public interest is expressed by the Congress. And they have not expressed free time as a public interest. You might think so. I might think so, but the Congress has not said that is a matter of public interest.

Mr. KENNARD. Senator, there are some 80 Members of Congress who—

Senator HOLLINGS. Eighty Members can put in a bill and get it passed. Eighty Members are a minority. Eighty Members are not a majority. They know how to put in a bill. They know how to get three readings in the House and three readings in the Senate, as a policy. After they do that, you can administer it.

You are wandering afar, picking out policies you would like to see—you are not a popularity contest. You are not in the legislature. I'm in the Congress. I can put in a bill. But you are not in the position of putting in bills. You have enough laws to administer.

Where do you get the authority?

Mr. KENNARD. Well, Senator, it is my view that there is authority.

Senator HOLLINGS. Where?

Mr. KENNARD. Well, let me give you an example.

Senator HOLLINGS. Give me a law. Give me the policy that we set.

Mr. KENNARD. For example, there are rules on the FCC's books that have been upheld by the courts that have changed policies, adopted new policies in this area. The political editorializing, rule, for example. Personal attack rule.

Senator HOLLINGS. Yes; we have not set that as a policy. It has been debated, like you say. Eighty Members are vitally interested in it. The administration is. But they have not put in a bill.

Mr. KENNARD. That is true.

Senator HOLLINGS. In fact, the bills that have been put in have been defeated. You are stretching way afar, I can tell you that, and that is exactly where you get into trouble. You get into appeals, and lawyers, and costs and everything else like that.

So let's restrict yourself to trying to do the job we give you to do, not what you think.

Mr. KENNARD. Well, it is not just what I think, Senator. Many people——

Senator HOLLINGS. It is what the Congress thinks. It is not what I think, either. In fact, I actually refrain from calling you, because I was incidental to the 1996 act. Have I ever called you about the 1996 act?

Mr. KENNARD. No, Senator, but I have called you. [Laughter.]

Senator HOLLINGS. Yes; that is exactly right. I never have called you, because I get lawyers downtown thinking all they have to do is call a Member to call the Commission. Call a Member to call the Commission. And we would be driving you nuts down there, and I try my best to let you administer the law.

But then I see you wandering afar with a nonpolicy that you might think or I might think is good, so let us get that fixed right now.

#### PORTALS RELOCATION FUNDING

Now, to another point, you do not have enough money to move to the Portals, is that right?

Mr. KENNARD. That is right. We have requested money in our appropriations to resolve that issue, so that we have some clarity as to whether we should move or not.

Senator HOLLINGS. That is right. You are ready to move, if they give you the money.

Mr. KENNARD. If it is the wish of Congress that we move, as expressed through the appropriations process, we will move.

Senator HOLLINGS. And if you do not get the money, how are you going to move? You are going to have to eat into your regular administrative budget.

Mr. KENNARD. It would be imprudent for the FCC to move without having funds appropriated for the move.

## UNIVERSAL SERVICE FUND

Senator HOLLINGS. I agree with you. All right, with respect to the implementation of the universal service fund, and education, I think it is good for the committee and everyone to know that fundamental to universal service is serving the rural areas and the less settled areas.

You have the Senator from Alaska, who depends on the universal service entirely, for example, up there. The Midwest and some of the Western States also heavily rely on this. There was a grave misgiving in the debates, relative to universal service, when it came to education, the schools, and hospitals, that they do not eat into the funds used to keep rates low for rural areas.

I refereed that with what we called the farm team, over and over again we got it in. Now, right to the point, many think you went way too far, with too much money, to wire the Internet. And what we have to do is reconcile that to schools and hospitals, because the fundamental, of course, is a universal service fund to begin with.

Mr. KENNARD. Well, as I said in my opening statement, Senator, I have had many conversations with you and other Members here about that, about the implementation of that fund.

I think I understand your concerns. I have seen the amendment that was proffered with the supplemental appropriations bill the other day, and I think you asked some very good questions about trying to get a handle on the basic facts, of how much this is going to cost, and how this is going to be administered.

And I look forward to working with you and your staffs to make sure that we have a program that is consistent with congressional intent and works for the country.

Senator HOLLINGS. Very good. Thank you, Mr. Chairman.

## FREE AIR TIME FOR POLITICAL CANDIDATES

Senator GREGG. Thank you, Senator Hollings. I am going to ask my questions after Senator Campbell, but I do want to follow up on one point you made, and this is the free time issue, since you have raised this issue.

Senator CAMPBELL. Senator Hollings did not leave any room for the rest of us.

Senator GREGG. Yes, well, let me just say, though, that Senator Hollings in his very cordial southern ways has graciously told you to stay out of this issue until Congress acts. I will, in my understated New England way, deliver to you the same message.

This committee and this Congress has not acted on the issue of free time. You do not have the authority to pursue the issue of free time. If you pursue the issue of free time, you will be stepping on the prerogative of the Congress. And to do that would be, in my opinion, an extreme error for the Commission.

You have a lot of big issues. We want to support you. I think you are off to a good start in a lot of areas. But to pursue this activity will regrettably create great tension, undermine your capacity to do your job well, and undermine the Commission.

Senator Campbell.

## SLAMMING

Senator CAMPBELL. Mr. Chairman, I will not even address that, because westerners are not that subtle. Let me maybe just say something about slamming, since you did, Commissioner.

Senator Burns has moved some language forward, as you probably know, dealing with slamming. We did a couple of hearings—did one in Colorado. I was, frankly, amazed at the huge growth of this unethical practice of transferring your telephone service without your knowledge or permission between companies.

I just wanted to ask you a couple of questions. One is, where does that process stand now? Because that hearing we did in Colorado, I understand from people who testified on your behalf, that they were making some major rule changes.

Senator HOLLINGS. Would the Senator yield?

Senator CAMPBELL. Yes, sir.

Senator HOLLINGS. We unanimously reported out of the Commerce Committee a bill—are you familiar with that bill?

Senator CAMPBELL. Yes, I am. The bill I introduced was incorporated into that bill.

Senator HOLLINGS. Right.

Senator CAMPBELL. And Senator Burns' too. But I wanted to know, where is the regulatory process now, what specific initiatives has the Commission taken to try to curtail that practice?

Mr. KENNARD. Certainly. Well, Senator, first of all, let me say I share your concern about the slamming problem.

Senator CAMPBELL. And also, when are the rules going to be released?

Mr. KENNARD. Certainly. I share your concern about slamming. It has developed into a serious problem. There was a time in this country, as you know, when you only had a choice of one long distance carrier. Now that we have many more choices, some unscrupulous operators are trying to get business in inappropriate ways through slamming.

The FCC has taken some action in this area, and plans to take more action. In 1995, we issued rules that eliminated the practice of telephone companies sending out sweepstakes announcements or other inducements, and people inadvertently changing their long distance carrier through that way.

And that has helped, but we still get too many complaints. We get more complaints on slamming than any other consumer protection issue. So we are working on another set of rules which I am encouraged by, because if we can adopt these rules, I think it will take the financial incentive out of slamming.

What I would like to see is a rule that provides if a carrier slams a customer, that customer is not obligated to pay the long distance carrier for a period of time. I believe a rule like that would take the financial incentive out of slamming, and go a long way to solving the problem.

I will also say that we have been working with many State commissions who also have problems with slamming, and we are trying to share information and identify who the real bad actors are out there.

To answer your question about timing, we have put out a notice of proposed rulemaking on more stringent antislamming rules, and we hope to issue those in a report and order within the next 30 to 60 days.

Senator CAMPBELL. Does the bill that Senator Burns and Senator Hollings that passed by the committee, is that going to broaden your authority.

Mr. KENNARD. Yes; I am encouraged by that. It will give us more enforcement authority, a treble damages provision, pretty hefty fines. So I think that would be a help as well.

Senator CAMPBELL. Thank you, Mr. Chairman.

Senator GREGG. Senator Stevens.

Senator STEVENS. Yes, sir. Good morning, Mr. Chairman.

Senator GREGG. Good morning.

#### UNIVERSAL SERVICE FUND

Senator STEVENS. I would like to get a little philosophical with you, if I can. What is more important to the communications program of the FCC: Universal service, or the schools, libraries, and health care hook ups?

Mr. KENNARD. Well, Senator, I think I go back to the statute, because my job is to implement the law. Both provisions, both universal service for funding high cost in insular areas, and schools and libraries are in the statute.

And so we have a statutory obligation to implement both. Both are important.

Senator STEVENS. The universal service fund preceded the schools and libraries amendment, and was in being. Did the FCC do any studies to indicate what would be required to maintain the universal service concept, particularly for the high cost, low income universal service fund, before starting to take money out of it for schools, libraries, and health facilities hook ups?

Mr. KENNARD. Well, the—

Senator STEVENS. I want to know did you make a study.

Mr. KENNARD. Did we make a study of—

Senator STEVENS. The impact on the fund by the withdrawals that you proposed to make.

Mr. KENNARD. I cannot say that we did, no. I am hesitating, though, because the high cost funding mechanism, as you know, sir, has been in place for many years.

Senator STEVENS. Right.

Mr. KENNARD. And will continue in place without taking any money out of it.

Senator STEVENS. Well, sir, how do you know that if you do not know how much it needs to continue? This is an entirely new draw-down on the fund at an alarming rate. Do you know when the lines cross as to the availability of funds to meet the universal service fund obligations and the withdrawals for this new purpose?

Mr. KENNARD. Well, I do not think they are mutually exclusive. I think they are all part of universal service. And Congress directed that we have a mechanism to fund both high cost and schools and libraries.

Senator STEVENS. That is right.

Mr. KENNARD. Now, the obvious question that we have to grapple with is to ensure that we can do both without putting too much stress on the system, if you will.

Senator STEVENS. Congress did not put a time limit on it, and you did. Congress did not put a goal of the year 2000 and you did. That is an interesting year that you picked, but beyond that, without regard to political concepts, it does seem that there is enormous drawdown, and the impact of what is happening now is that the fund itself could well reach the point where it could not meet the basic purposes for which it was founded.

Congress did not tell you to destroy the universal service concept in order to hook up schools and libraries immediately. It just said put together a program to hook them up. We all supported that. But now we see real confusion in the system. Are you going to raise rates again in the next quarter in order to keep the fund solvent?

Mr. KENNARD. Well, let me be clear, Senator. The Commission has not raised rates to pay for universal service. The Commission has very carefully ensured that the universal service funding obligation for schools, libraries, and rural health care is not in excess of reductions in access charges.

So we can be confident that overall rates should continue to decline in the long distance marketplace. And I think that that is a really important concept, and I think, in fact, that that concept is a part of the amendment to the supplemental appropriations bill that you offered this week.

Senator STEVENS. We are going to have to see whether that gets through—and I hope it does—when we get the answers from the FCC.

But I would think that any concern that is initiating a new program that would take money from an existing fund that had existing obligations, and an ongoing drawdown from the fund along with ongoing income coming into the fund, would make an analysis of what this new program would require, and how the funds could be taken from that existing fund to meet that new obligation without destroying the old one. Apparently you made no such study. Right?

Mr. KENNARD. Well, let me be clear, Senator. The premise of your question seems to be that we are taking money from the high cost fund to fund the schools and libraries mechanism, and that is not the case.

We are not robbing from Peter to pay Paul here. It is a separate mechanism. The only question that could be asked is are we putting too much stress on the system overall? But overall, we are trying to ensure that rates continue to decline overall, and we are not taking money out of high-cost funding to pay for schools and libraries.

Senator STEVENS. Not at all?

Mr. KENNARD. No; that has never been the—

Senator STEVENS. I will be interested in the answers to the questions then, because unless you have some new, mythical pool that I do not understand, you have to be taking some money from that fund in order to meet the obligations that you have incurred. Are you going to wire the inside of these schools with money from the fund?

Mr. KENNARD. Well, the current FCC rules do permit funding for wiring of the schools, yes.

Senator STEVENS. That is part of universal service? To put the facilities inside a school to plug in a computer and to plug in the outside fiber optic to serve that computer?

Mr. KENNARD. Well, I think that a fair reading of the conference report for the 1996 act is that Congress intended that there be wiring of the classrooms, not just one Internet access point to the schools. I think that is a fair reading of the statute, so the Commission adopted rules that would make that—

Senator STEVENS. I think your fair reading of the conference report would be that it was not assumed we would just have one computer per classroom. But it did not contemplate we would be wiring schools.

If I were in the electrical business right now, I think I would head for the schools, but it's just an open season. What is the guideline for wiring them? How many rooms can you wire in a school? How much can you spend to replace existing wiring that may be defective and needs it, but certainly not an obligation to the universal service fund.

I am just appalled, really, at the way the program has been accelerated for political purposes, frankly. And I think you are going to end up by destroying the universal service fund if you are not careful. I hope the Congress will agree that we can ask you those questions and get them on the record.

I hope you are very serious about it, because I am very serious about it. I think if the FCC cannot learn to follow the law, and not try to see how far it can stretch the law, we ought to get a new mechanism for telecommunications in this country. The problems we are having with regard to the issues—I know Senator Hollings raised before I was here—with the FCC legislating on issues that we have debated at least 20 times since Senator Hollings and I have been in the Congress. The FCC apparently seems to think it can take a direction, an edict from a vice president, and start to legislate.

Now, once before we had trouble with the FCC, and two of us reduced it from five to three. If it continues, we will reduce it to zero, as far as this Senator is concerned, because I think you are going much beyond the concepts that are in existing laws.

I hope that the FCC will wake up. There are other mechanisms for carrying out our obligations to the telecommunications system, and many of my colleagues argued at the time we were handling the telecommunications bill for complete deregulation.

Some of us argued against that—that it was not timely—but your FCC is making the case for the people who wanted to just destroy it 2 years ago. I think the Senator from South Carolina and I may join them, and build a new system which will be responsive to the public need, not to the political will of whatever administration is in power.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Mr. Chairman. I would like to associate myself with your comments.

Following up on the universal service issue, GAO has issued a legal opinion that the FCC exceeded its authority in implementing this language. What is your response to the GAO position?

Mr. KENNARD. Senator, this issue is being litigated in the court, so I have to be somewhat careful about what I say here. I think that the Commission made a reasonable argument that the funding mechanisms that were set up are lawful under two key provisions of the act, section 254 and section 4(i).

That being said, though, we are obviously concerned about the GAO report, and I am committed to working with Members of the Congress to make sure that on a going forward basis we are not haunted by this issue, and that we come up with some way to resolve it. Because we do not want to set up a funding mechanism that has a legal cloud over it. And there are ways that we can fix that, and I am looking forward to working with you all to figure that out.

Senator GREGG. Well, if you get a report from your accounting office, if you were in the private sector, that said you had acted illegally—we could ask our next witness this question—if you were to file a report on your 10-K that said you acted illegally, and you were still acting illegally, I think you might have some serious problems, if your accounting agency said you were acting illegally and you were not responding to it.

Mr. KENNARD. Senator, I am not trying to minimize the problem, but I am saying we need to work this out. There are provisions in the supplemental appropriations amendment that addressed this. I do not think it would be prudent to act precipitously and just put the brakes on a program that is up and running and is underway. But obviously we have got to find ways to address these concerns and problems. And you have my commitment that we are going to work with you to try to do that.

#### SELECTION OF CORPORATION AND BOARD MEMBERS

Senator GREGG. How are the heads of these corporations chosen? How is the leadership for the Schools and Libraries Corp. chosen?

Mr. KENNARD. I believe they are chosen by the Board of Directors, with the approval of the Chairman of the FCC.

Senator GREGG. And who chooses the Board of Directors?

Mr. KENNARD. The Board of Directors are basically nominated by various stakeholders in this debate. So the Commission tried to come up with a balanced approach.

Senator GREGG. Who chooses them? These corporations were formed by the FCC.

Mr. KENNARD. Right.

Senator GREGG. And the Board of Directors were essentially created and appointed by the FCC.

Mr. KENNARD. Yes; they are nominated by the various stakeholders, and the authority—

Senator GREGG. It is determined by the FCC.

Mr. KENNARD. Yes; ultimately the Chairman of the FCC makes the appointments.

Senator GREGG. Can you tell me what sort of background the present president of the Schools and Libraries Corp. has that would qualify him for this position?

Mr. KENNARD. Yes; Mr. Fishman is an attorney who has practiced law for many years, and has been very involved in education issues. I believe he worked—I am not sure if I have his whole curriculum vitae correct, but I believe he worked at a law firm in Washington, and then worked in the White House for a period of time, and then came to the FCC. He then went back to law practice and was appointed head of the Schools and Libraries Corp.

Senator GREGG. He is really a political person.

Mr. KENNARD. I do not think it is fair to say he is a political person, Senator. Let me say this about this corporation. It was established in September, and they have worked very, very hard and done a tremendous job, in my view, to get this corporation up and running to the point where it is now.

They set up a website. They have accepted almost 40,000 applications. They have done outreach around the country. I cannot imagine this effort being done better by Government or by another enterprise. I think they have done a fantastic job.

Senator GREGG. Well, I hope they do, because obviously this corporation is going to have potentially \$2.3 billion or so under the terms of the documentation. That is a lot of money, and it has to be managed effectively. The management team that is over there cannot be lawyers and politicians; they should be business people and people who have some experience with technology especially.

Senator HOLLINGS. I wish you had considered me for that job. [Laughter.]

I am just reading here, he gets \$200,000 plus \$50,000; \$250,000. I am only getting \$136,000. I have to keep up two homes, run back home, organize a \$5 million corporation. We worked until 9:30 last night on the Budget Committee. And I have been in education a long time. [Laughter.]

\$250,000?

Senator GREGG. Sounds good to me, too. I do not think I qualify, but you do.

#### PORTALS

The Portals issue appears to be a building that you do not want to move into. I understand it now has problems with its wiring. Maybe we should have the Schools and Libraries Corp. go over and wire it. But I understand it has serious wiring problems. That it is potentially going to cost more than what your present landlord may offer to you. You did not create this problem. I do not lay it at your doorstep at all. All I want to know is what do you folks really want to do here? Tell us, one way or the other. Do you want to move over there or don't you want to move over there?

Mr. KENNARD. I have reviewed the chronology of this effort to consolidate the Commission in new headquarters, and it has been a 10-year-old effort. It is a long chronology. And at this point, I think that we have to resolve this situation. The Government is paying rent on a building that no one is in right now. I could spend hours talking about the problems in getting us to this point, and the difficulties we have had with GSA over time.

But at this point I think it is appropriate for us to just look forward. The FCC needs to consolidate its operations in one headquarters. This has been a need for over 10 years now. I think the

Portals building, although not perfect, does offer us the opportunity to move somewhere sooner rather than later.

That is why I sent you a letter, Mr. Chairman, asking that we get clarity from the Congress as to whether we are going to have funding to make this move. Because if the money is available, I think we should go ahead and move. I think it is frankly an embarrassment for the Government to be paying \$1.7 million in rent on an empty building. But if we decide we are not going to go, then the GSA is going to either have to break that lease, which is going to cost the Government lots of money, or they are going to have to find some other agency to move in there. And it will take years to get another agency in that building. So I think we are at a point where we have got to cut our losses, and just move ahead.

But that being said, I do not think it is appropriate for the FCC to move into a building unless it meets our minimal needs. That is, we must have funding to pay the rent, because it would not be appropriate for us to be laying off 100 people in order to pay our rent.

And, second, I think that we have to make sure that our security concerns are met in that building. I have not received assurances from GSA or the current landlord that our security needs will be met. This is a very, very important issue to me. Because the FCC is a fairly high profile agency, we get bomb threats. We had an employee who was murdered some years ago by a crazy person, and I do not want to leave this agency some years hence and lose sleep at night not knowing that I did everything I could to make sure that our employees are protected.

Senator GREGG. I think that is a pretty good answer, and we will try to give you our view.

Mr. KENNARD. I understand the issues.

#### PUBLIC SAFETY SPECTRUM APPLICATION

Senator GREGG. About 3 or 4 years ago, I think—I have lost track now, because I have asked it so many times—New Hampshire had a public safety spectrum application, and it is still somewhere in your agency. Are you familiar at all with this? Did your staff mention this to you?

Mr. KENNARD. I am familiar with it. Yes; I have been briefed on it. I cannot address the substance, because it is a restricted, contested proceeding, and under our rules I cannot talk about that publicly. But I will commit that we will resolve it. It has been pending too long. I have been told that it has been pending for 4 years or so. And we will bring it to a resolution.

Senator GREGG. What would be the date that we could expect a decision? Within 1 month?

Mr. KENNARD. I do not know what the pleading cycles are, but assuming the pleading cycles are all over, I will commit within 30 days we will get that resolved for you.

Senator GREGG. Any more questions?

#### UNIVERSAL SERVICE FUND

Senator HOLLINGS. No; Mr. Chairman, I would emphasize the concern of all of us. We have the best communications system in

the world, and with that as a starter, let us not mess it up by messing up universal service.

You are right. We can do both, but you cannot invade that universal service fund, and you cannot just overnight put in all of these charges and kill the gun crew, namely the Congressmen and Senators, with these charges appearing on these particular invoices.

What happens is we go from a monopoly situation, in the public interest, whereby the companies did not mind putting on these charges. Right to the point, my schools are all wired, already. Voluntarily. Because I take it they can take it out of the rates and go, because they can always apply for it.

But now you are moving over into the competitive environment, and in that environment they will try to pick every little advantage or disadvantage or listing or whatever it is, as you can well see. And that takes some time, too.

You just cannot get every school wired and every classroom wired by the year 2000. It would be my hope, of course, to get those classrooms wired. That is what this Senator had in mind, because the communications companies such as Bell South and other independent ones have all voluntarily joined together and all my schools are wired right now, but not every classroom.

So let us always keep our eye on the ball, namely maintaining the universal service, the wonderful telecommunications system that we have, and in our effort to try to extend Internet to all the users in the schools and hospitals and libraries in America, we should ensure we don't turn around and mess up the good system we have, or the gun crew.

They say in the artillery, no matter how well a gun is aimed, if the recoil is going to kill the gun crew, you do not fire it. Remember that.

Mr. KENNARD. I will, Senator.

Senator HOLLINGS. Yes, siree.

#### CABLE REGULATIONS

Senator GREGG. I have been asked by a Senator to ask you a question. It is clear that the Congress is not going to remove the March 1999 sunset on cable regulations. Rather than debating that point, what is the FCC doing to support competitive alternatives to cable?

Mr. KENNARD. We are doing a number of things, Senator. One key is to review program access. Programming is really the engine that drives the cable and multichannel and video business. So it is very important in my view that we make sure that competitors to cable get access to programming.

In the 1992 Cable Act, there were provisions on program access that literally spawned the competitive DBS industry. So one of the first things that I did as chairman, was to present a set of proposed rules to strengthen the program access requirements, and we will be bringing those to conclusion in the next few months.

But I do think that there is a role for Congress here to play, too. I think that in order to strengthen DBS as a potential competitor to cable, it would be really wonderful in my view if DBS could get legislation that would allow them to carry the local signals of

broadcast stations. Because then they would be a stronger competitor to cable. And DBS is really the best hope we have right now of quickly bringing new multichannel competition to the cable business.

Senator HOLLINGS. Thank you, sir.

Senator GREGG. We thank you for your time, and I do think there have been some fairly definitive statements made relative to where we hope the Commission would be proceeding, and certainly by the chairman of the committee and the ranking member, and my joining in those statements.

We have a big job. We want to support you.

Mr. KENNARD. Thank you, Mr. Chairman.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. We look forward to working with you.

Mr. KENNARD. Me, too. Thank you very much.

Senator HOLLINGS. Thank you, sir.

Senator GREGG. We will be briefly in recess.

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

#### ADDITIONAL COMMITTEE QUESTIONS

##### GOVERNMENT PERFORMANCE AND RESULTS ACT [GPRA]

*Question.* How are the agency's annual performance goals linked to the agency's mission, strategic goals and program activities in its budget request?

*Answer.* From their inception, both the FCC Strategic Plan and the Annual Performance Plan for fiscal year 1999 were based on our four budget activities—policy and rulemaking, authorization of service, enforcement and public information services. Linking strategic and annual performance to the program activity structure required some reformatting of our annual budget submission but did not require any modification to the activity structure itself.

*Question.* Could you describe the process used to link your performance goals to your budget activities?

*Answer.* We have viewed the performance goals and measurements required for the Annual Performance Plan as specific subsets of the generic Strategic Objectives and measurements contained in our Strategic Plan. These, in turn, are based on our four budget activities. To test the validity of this approach, we have modeled several performance goals for each strategic objective listed under each of our four budget activities. For example:

*Budget Activity.*—Enforcement.

*Strategic Objective.*—The FCC will privatize all technical enforcement functions that the private sector can perform more effectively.

*Performance Measurement.*—The number of enforcement functions successfully privatized (output).

*Annual Performance Goal.*—The Compliance and Information Bureau will complete a rulemaking on further privatization of interference complaint processing.

*Annual Performance Measurement.*—Whether the privatization of interference complaint handling rulemaking was completed and implemented (output) and the initial impact completion of the rulemaking had on targeted customer(s) (outcome).

*Question.* Does the agency's Performance Plan link performance measures to its budget?

Does each account have performance measures?

*Answer.* For the past few fiscal years, the FCC's budget has been reduced or straightlined by Congress (excluding funding for implementation of the Telecommunications Act). Our performance plan links measures to our budget and our goals are based on the assumption that we will not receive significant additional resources in fiscal year 1999. Every goal, except for the completion of expansion of the National Call Center and work on Year 2000 compliance initiatives—can be completed within the budgetary levels allocated by Congress. We are able to accom-

plish this through streamlining our organizational structure and processes and through a careful review and ranking of our major technology and policy initiatives.

*Question.* To what extent does your performance planning structure differ from the account and activity structure in your budget justification?

Do you propose any changes to your account structure for fiscal year 2000?

Will you propose any changes to the program activities described under that account structure?

*Answer.* As mentioned in our response to the first question, we have used our four budget activities as the framework for our Strategic and Annual Performance Plans. Using this approach as the basis of our strategic planning will enable us to adequately predict future workload and the resources required to meet this workload. We do not anticipate any changes in our account structure in fiscal year 2000.

*Question.* How were performance measures chosen?

How did the agency balance the cost of data collection and verification with the need for reliable and valid performance data?

Does your plan include performance measures for which reliable data are not likely to be available in time for your first performance report in March 2000?

*Answer.* In planning the means to measure performance, the FCC sought to build on existing reporting systems rather than construct new ones. Our quarterly Workload Reports and Planning Commitment Charts have been expanded to capture all GPRA-related goals. Reports required by the Telecommunications Act or other Congressional requests for information such as the Biennial Review of FCC Rules and Regulations and the "State of Competition" reports will be used both to report on our major deregulatory, streamlining initiatives and to assess the growth in competitive telecommunications services. Our Annual Report and periodic customer service surveys will evaluate our coordination efforts with state and local governments, private organizations and with telecommunications consumers. Finally, our automated systems, such as the Common Carrier Bureau's informal complaints processing system and the Compliance and Information Bureau's National Call Center are capable of complex reporting on enforcement and public information service initiatives on a monthly, quarterly and annual basis.

As we have stated elsewhere in this reply, several of our major policy and rulemaking performance goals—mainly those concerning competition in the local telephone markets and our efforts to provide advanced telecommunications services to schools, libraries and to rural areas—have either just been implemented or are still in litigation. Any attempt to assess the impacts or outcomes of these policy decisions in fiscal year 1999 would be rudimentary at best. We believe that it will be several years following the end of litigation and implementation of our final rules before any accurate determination can be made concerning the effects of our actions to either stimulate competition or ensure that communications capabilities are provided to all those who need access to them.

*Question.* What are the key performance goals from your fiscal year 1999 Annual Performance Plan which you recommend this subcommittee use to track program results?

For each key annual goal, indicate whether you consider it to be an output measure ("how much") or an outcome measure ("how well").

State the long-term (fiscal year 2003) general goal and objective from the agency Strategic Plan to which the annual plan is linked.

*Answer.* In our fiscal year 1999 Annual Performance Plan, the FCC has committed to 69 performance goals, spread over 13 strategic objectives which are divided equally over our four budget activities. Twenty-nine, or 42 percent of total number of goals, are in the policy and rulemaking activity and are required rulemakings mandated by the Telecommunications Act or other legislation. However, we believe that Congress could capture the "state of the FCC" by tracking the following key performance goals listed here by budget activity:

Activity	Strategic goals	Fiscal year 1999 performance goals
<p>Authorization of Service .....</p>	<p>We will meet our established customer Speed of Service processing goals. We will encourage competition in the telecommunications industry through efficient licensing and authorization of service to competitive services.</p>	<p>We will review our authorization of service rules and will simplify and streamline those authorization requirements where appropriate. (output and outcome) We will meet 90 percent of our customer Speed of Disposal processing goals. (output and outcome) We will provide electronic filing capabilities for Common Carrier Bureau, Mass Media Bureau, International Bureau, Wireless Telecommunications Bureau and Office of Engineering and Technology licensing systems. (output and outcome)</p>
<p>Policy and Rulemaking .....</p>	<p>We will restructure and streamline the FCC, eliminating outdated or redundant organizations and overlapping regulation.</p>	<p>We will review the FCC's functions and structure and eliminate obsolete or overlapping ones. (outcome) We will continue to hold public fora, meet with our state regulatory partners, and consumer groups to solicit input and feedback to ensure our rules are in the public interest and are the least burdensome to achieve our stated goals. (outcome)</p>

Activity	Strategic goals	Fiscal year 1999 performance goals
<p>We will encourage competition in the telecommunications industry through procompetitive, deregulatory rulemakings, reducing consumer costs and increasing the telecommunications choices available to consumers.</p>	<p>We will continue to implement the local competition provisions of the Telecommunications Act of 1996. (output)</p> <p>We will work to improve the connections of classrooms, libraries and rural health care facilities to the Internet by the end of fiscal year 1999 and to maintain affordable telecommunications services to rural America. (outcome)</p> <p>We will apply, and continue to refine, pricing rules which allow incumbent Local Exchange Carriers additional flexibility in pricing interstate access consistent with the development of competition. (outcome)</p> <p>We will ensure that public safety groups have adequate spectrum and advanced telecommunications equipment by completing "The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010". (outcome)</p> <p>We will continue to participate in global standard setting for telecommunications services. (outcome)</p>	<p>We will conduct a review of our rules and regulations in fiscal year 1998 to determine which can be eliminated or revised. In fiscal year 1999, we will initiate rulemakings to eliminate obsolete or overlapping regulatory and/or reporting requirements. (output/output/come)</p> <p>We will continue implementation of the World Trade Organization Basic Services Agreement which will allow WTO-member nations to apply for authorization to provide competitive telecommunications services to U.S. customers. (output)</p> <p>We will improve the Speed of Disposal for routine informal common carrier complaints by 20 percent. (outcome)</p> <p>We will review broadcast and cable enforcement processes and eliminate inefficient procedures and practices. (output/output/come)</p>
<p>We will reduce reporting requirements and eliminate unnecessary and burdensome rules.</p>	<p>We will streamline our complaints process and procedures to ensure timely and satisfactory resolution of consumer complaints.</p>	<p>Enforcement .....</p>

We will work as a partner with the private sector and with federal, state and local governments in the investigation and resolution of shared telecommunications problems focusing particularly on issues affecting the safety of life and property. This will ensure that problem resolution is achieved quickly at the least possible cost and with state and local interests duly considered.

We will identify industry and consumer issues through customer feedback on the impact of our rules, the levels of enforcement, the effects of nonenforcement and the need for revisions to our enforcement policies and procedures.

We will provide "one stop" information shopping through consolidation of our public reference rooms and other information services. We will design our information systems for Internet applications as well as other media to ensure rapid and efficient dissemination of information to our customers.

We will encourage public participation in all FCC proceedings to ensure all parties' views are heard and that there is speedy resolution of issues.

We will continue to work closely with other federal agencies, state commissions and the public to ensure the expeditious processing of Bell Operating Company Section 271 applications. (output)

We will continue to work with other federal agencies, state commissions, and state attorneys general to protect the public interest, especially in the area of consumer related complaints, including when it involves unlawful activity by foreign entities that affect American telecommunications users. (outcome)

We will continue to monitor potential anti-competitive behavior by carriers in providing information services. (outcome)

We will meet with industry and the public to discuss current telecommunications concerns and complaints. We will identify the main consumer complaints concerning telecommunications services and coordinate agency-wide actions to resolve them. (outcome)

We will complete the implementation of the National Call Center in Gettysburg, Pa. to provide "one stop shopping" for telephone inquiries. (output/outcome)

We will design and implement Internet-compatible licensing applications. (output/outcome)

We will routinely host public fora to discuss a broad range of legal, policy, and technical issues raised in various FCC rulemaking proceedings. (outcome)

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Public Information Services .....

*Question.* In developing your Annual Performance Plan, what efforts did your agency undertake to ensure that the goals in the plan include a significant number of outcome measures?

*Answer.* Whenever possible, we have formulated outcome performance measures that assess the impact of our actions on our customers and our stakeholders. However, we should emphasize that many of our fiscal year 1999 performance goals, particularly our policy initiatives, are related to the FCC's traditional rulemaking procedures which are governed by the statutory requirements of the Administrative Procedure Act and result from requirements of the Telecommunications Act of 1996 or agency-initiated proceedings to effectively continue implementation of the Act. Because these initiatives are prescribed by legal requirements, they are more output in nature—whether a rulemaking was completed or rules reviewed—although the long-term impact of these goals will ultimately be measurable outcomes. However, any attempt to assess impacts or outcomes of these activities at this time would be premature, since many of our deregulatory initiatives are currently in litigation. In addition, although we continue to monitor competition in the telecommunications industry, it will be several years following the end of litigation and implementation of final agency rules before any determination can be made of the effect of our actions on the industry. Finally, as both OMB and GAO have noted in their published guidelines, determining the effect of a regulatory agency's actions on a marketplace in an expanding industry where there are many factors contributing to its overall economic state can be challenging.

*Question.* Do you have the technological capability of measuring and reporting program performance throughout the year on a regular basis, so that the agency can be properly managed to achieve the desired results?

If so, who has access to the information—senior management only, or mid- and lower-level program managers, too?

Are you able to gain access easily to various performance-related data located throughout your various information systems?

*Answer.* The FCC has several monthly, quarterly, and annual reporting systems in place which will track and provide data on whether we are meeting our performance goals. Chief among these are our Quarterly Workload Reports and Quarterly Commitment Charts which track and measure many of our authorization of service, policy and rulemaking and enforcement initiatives.

Our Bureaus and Offices also conduct periodic consumer surveys to obtain feedback from their customers on how well they are doing in their efforts to improve performance in all four budget activities. Survey results are routinely published on each of the Bureaus/Offices' Home Pages on the Internet.

These and other management reports are prepared in the administrative offices of each of our Bureaus and Offices by mid-level management staff. They are reviewed and analyzed by senior management staff throughout the agency. There are no access restrictions to these reports within the FCC.

*Question.* The Government Performance and Results Act requires that your agency's Annual Performance Plan establish performance goals to define the level of performance achieved by each program activity set forth in your budget.

Many agencies have indicated that their present budget account structure makes it difficult to link dollars to results in a clear and meaningful way.

Have you faced such difficulty?

Would the linkages be clearer if your budget account structure were modified?

If so, how would you propose to modify it and why do you believe such modification would be more useful both to your agency and to this committee than the present structure?

How would such modification strengthen accountability for program performance in the use of budgeted dollars?

*Answer.* From the inception of GPRA implementation at the FCC, it was our intent to "marry" our Annual Performance Plan and our annual budget submission. We believe that this approach will facilitate not only the formulation and tracking of our goals and accomplishments but also the identification of any future resource requirements. We do not require any modification to our budget account structure at this time.

We should also add that the FCC is fully funded each year through the collection of regulatory fees. Every year we collect data on the number of licensees or subscriber units in each of our services and compare these to the costs of our doing business in each of the fee categories. The cost of regulation is adjusted each year as the workload increases or decreases for a specific service. This allows us not only to capture our regulatory costs but project future workload.

*Question.* Under one of the new accounting standards recommended by the Federal Accounting Standards Advisory Board (FASAB) and issued by OMB, this year

for the first time all federal agencies are required to have a system of Managerial Cost Accounting.

The clearly preferred methodology for such a system, as stated in that standard, is the one known as "activity-based costing," whereby the full cost is calculated for each of the activities of an agency.

What is the status of your agency's implementation of the Managerial Cost Accounting requirement, and are you using activity-based costing?

Answer. The Commission implemented a comprehensive cost accounting system on October 1, 1995. The Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, authorized a new user fee program for certain FCC regulatory programs. This law also required the Commission to develop a cost accounting system that would provide data to be used in annual modifications to the regulatory fee rate structure. The cost accounting system, which has been operational for about two years and six months, meets all of the recommended accounting standards developed by the Federal Accounting Standards Advisory Board (FASAB), except for the accumulation of outputs and performance measures. Some workload data is available elsewhere in the Commission but is not linked to the cost accounting system at this time.

Activity-based costing is being used by the Commission. The cost accounting system provides full cost reporting (direct and indirect) on all FCC costs. This data is further broken out by budget activity, project and cost organization by appropriation and/or account by fiscal year.

*Question.* Will you be able in the future to show to this committee the full and accurate cost of each activity of each program, including in those calculations such items as administration, employee benefits, and depreciation?

Answer. Yes, in fact that information is currently available. We accumulate costs monthly for both direct and indirect items. The indirect costs which include such items as administration, employee benefits, leave, rental of space, telecommunications, etc. are mechanically allocated monthly. The distribution is based on allocation models developed for each type of expense. We do not cost out depreciation but expense the actual cost of purchases. However, we do record depreciation at fiscal year end for balance sheet purposes.

*Question.* By doing so, would we then be able to see more precisely the relationship between the dollars spent on a program, the true costs of the activities conducted by the program, and the results of these activities?

Answer. Currently, full costs (direct and indirect) are available for all FCC programs. However, as stated previously, the cost data is not linked to "results" or performance measures at this time.

*Question.* Future funding decisions will take into consideration actual performance compared to expected or target performance. Given that:

To what extent are your performance measures sufficiently mature to allow for these kinds of uses?

Are there any factors, such as inexperience in making activities or lack of data, that might affect the accuracy of resource estimates?

Answer. The FCC is a small regulatory agency with a clearly defined mission and specific activities. It would not be difficult for us to adopt a results-based budget in the near future—with one caveat. Even our agency, with a defined mission and limited activities, experiences unpredictable workload fluctuations and changes. Some accommodation must be made in the GPRA-planning process to allow for these changes. For example, the FCC cannot predict the nature, scope and number of consumer complaints and inquiries that our deregulatory initiatives may engender in fiscal year 1999. Nor can we predict the number and types of new telecommunications services which will be introduced or which will experience unpredicted growth in the near-term. Long distance telephone service via the Internet, and set top boxes providing consumers with a wide range of telecommunications services are just two possibilities that appear on the current horizon. Finally, Congress frequently passes new legislation or imposes additional reporting requirements on us, expanding our regulatory responsibilities and workload. Often, these additional responsibilities are not accompanied with the requisite resources; instead, we are asked to assume the workload "within existing resources." Congress must provide agencies with the ability and flexibility to redirect resources, eliminate or amend specific performance goals, and refocus their activities if GPRA is to be a complete success.

*Question.* Based on your fiscal year 1999 performance plan, do you see any need for any substantive revisions to your strategic plan issued on September 30, 1997?

Answer. Although we believe that our current Strategic Plan reflects our fundamental mission and activities, we intend to review and, if necessary, revise and reformat the Strategic Plan within the next two years.

## QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

*Question.* Chairman Kennard, your testimony mentions the final rules and channel assignments the Commission made last month for the transition to digital TV. I understand that in that final decision, the Commission gave broadcasters an additional 30 megahertz of spectrum that had not been contemplated when the two sets of channel assignments were under consideration for most of the past year.

Could you please explain to me the rationale for expanding the amount for digital TV by 30 MHz beyond the FCC's or the industry's original plan?

*Answer.* The decision to expand the DTV core spectrum to include channels 2-51 was based on a number of considerations. The Commission's original plan to specify the core as either channels 2-46 or 7-51 (depending on which channels are better for DTV), was based on studies showing that after the transition is complete the DTV operations of all existing stations could be accommodated within 45 channels. Subsequent to that decision, new testing by the Advanced Television Technology Center (ATTC) indicated that the adjacent channel interference performance of the DTV system, particularly with respect to DTV-to-DTV interference, will be 100 times worse than originally planned for. This new data means that, except where adjacent channel DTV operations are co-located, DTV stations must be located farther apart to avoid interference than we originally planned. This reduces our ability to use some channels in the same or nearby markets, with the result that it will not be possible to locate the DTV operations of all the existing TV stations in only 45 channels as originally planned. Thus, in our recent Memorandum Opinion and Order on DTV allotments, we had to increase the size of the core spectrum in order to ensure that all existing DTV stations would be able to continue to operate after the transition. This change will also mean less interference to existing broadcasters in major markets during the transition.

The Commission also found that providing an additional five channels for DTV will promote additional competition and diversity in the provision of DTV services by increasing the availability of channels for new stations and networks. With the additional channels there will be opportunities for new stations in many markets after the transition. This change will also eliminate mandatory second moves into the core for about 120 broadcasters at the end of the transition.

Increasing the DTV core spectrum will also reduce the impact on low power television stations. In this regard, the Commission noted that channels 2-6 and 47-51 now support a significant number of low power and TV translators. The low VHF channels, for example, have some of the highest concentration of low power stations and translators. Expanding the core to include channels 2-6 will eliminate the eventual displacement of most of these stations. In addition, expanding the core will provide low power stations with more channels and opportunities for new stations and relocation of existing stations. This change, therefore, will provide for continued operation of some 500 additional low power TV and TV translator stations that provide service to many suburban and rural areas and that otherwise might have been required to cease operation.

Finally the Commission noted that expanding the DTV core spectrum will still permit recovery of 108 MHz of spectrum at the end of the transition period, which is more than one-fourth of the total spectrum used for broadcast television today. This amount of spectrum is significantly more than the Commission's original plan in 1992 to recover 72 MHz of spectrum. I also believe that from a budget stand point our decision regarding the core spectrum is comparable to our prior decision regarding core spectrum because the new DTV channels created by this action will be assigned through competitive bidding pursuant to the Budget Act of 1997. The Commission's analysis indicates that expanding the core will add approximately 175 additional channels for new stations, and that many of these new channels will be in top markets. For example, there potentially may be one or more new channels available in New York, Los Angeles, San Francisco, and Washington, D.C. Most of the new channels will be awarded through competitive bidding procedures as required under new Section 309(j)(14)(C) of the Communications Act.

## C BLOCK LICENSES

*Question.* Chairman Kennard, your staff advised me last week that the Commission would be issuing a decision this week that revises the options made available last fall to bidders who have not made payments on their bid for the Block C spectrum licenses.

Can you tell me whether that decision has been made and, if so, what the differences are from the options offered by the Commission last fall and what will be the response from the bidders?

Answer. On March 24, 1998, the Commission released an Order on Reconsideration ("Reconsideration Order") addressing installment payment financing issues for broadband Personal Communications Services ("PCS") C block licensees. Although, the Reconsideration Order generally affirms the framework of our September 1997 Second Report and Order and Further Notice of Proposed Rule Making ("Second Report and Order"), which provided limited debt relief as an alternative to continuing under the existing installment payment plan, it improves upon the previous Order by permitting elections of restructuring options on a Major Trading Area ("MTA") basis rather than requiring licensees to make one all-inclusive election, and increasing the amount of credit available for disaggregated spectrum.

The principal modification of the Reconsideration Order eliminates the requirement that a licensee elect the same restructuring option for all its licenses, providing instead that it must elect the same option for all the licenses it holds within a given MTA cancelled. This modification will permit licensees to develop regional business plans and investment strategies while ensuring that entire MTA markets are returned to the Commission for the reauction of C block licenses.

C block licensees not resuming original installment payments may elect amnesty, prepayment, or disaggregation. However, as part of the modifications adopted in the Reconsideration Order, the Commission will also permit licensees to disaggregate and prepay the remaining outstanding balance due on the disaggregated license. The terms for resumption of payments or the prepayment option remain unchanged from the Second Report and Order:

*Prepayment.*—A licensee may purchase any of its licenses, at the face value of the outstanding debt on those licenses. Subject to the affordability exception, a licensee must purchase all of the licenses it now owns within any single MTA. A licensee may use 70 percent of its down payment on licenses from other MTA's that it does not wish to retain as a credit towards prepaying those licenses that it wishes to keep. Licenses that are relinquished in accordance with this option must be surrendered to the Commission for reauction. A licensee electing this option (and its affiliates) may not bid at the reauction for any of the licenses that the licensee relinquishes, and may not otherwise acquire any such license in the secondary market for a period of two years.

However, the Commission has modified the amnesty and disaggregation options as follows:

*Amnesty.*—The licensee may return to the Commission any of its licenses so long as all licenses within an MTA are returned. The entire outstanding debt on returned licenses will be forgiven. For licenses that are returned, the licensee will have two choices: (1) the licensee may opt to re-bid on those licenses in the reauction; or (2) the licensee may opt to forgo the opportunity to re-acquire its returned licenses in exchange for a credit of 70 percent of the down payment already made on the returned licenses. The same choice must be made for all licenses within an MTA. The 70 percent credit must be used to prepay either a 30 MHz or 15 MHz disaggregated licenses retained by the licensee.

*Disaggregation.*—A licensee may disaggregate all of its 30 MHz licenses within an MTA and return 15 MHz to the Commission in exchange for forgiveness of 50 percent of the outstanding debt. For licensees who elect to disaggregate, there are two options, resume payments on the disaggregated license under the terms of the installment payment plan or prepay the outstanding loan balance on the disaggregated license. For a licensee who elects to continue installment payments for the disaggregated license, the licensee will receive a total credit equal to 70 percent of the original down payment made on the 30 MHz disaggregated license. 50 percent of the credit will be applied as a down payment on the outstanding debt and 40 percent of the downpayment associated with the disaggregated spectrum that is returned to the Commission may be used to prepay Suspension Interest or reduce principal at the licensee's option. For licensees who elect to prepay outstanding debt on the disaggregated license, the licensee will receive a credit equal to 85 percent of the original down payment made on the 30 MHz disaggregated license. Consistent with the prepayment option for 30 MHz licenses, this credit represents 70 percent of the down payment associated with the 15 MHz returned spectrum.

In addition, the Commission: (1) extended to 90 days, the 60-day non-delinquency period for payments not made by the payment resumption date, and imposed a 5 percent late payment fee for payments made within this 90-day non-delinquency period; (2) eliminated the build-out exception to the amnesty option because it is rendered moot by this modified approach; (3) clarified that a licensee can "afford" as many licenses within an MTA that it can prepay using only the amount of credit available to the licensee for prepayment, for purposes of the rule that a licensee electing prepayment that does not have sufficient funds to prepay all its licenses within an MTA may prepay only the licenses within the MTA that it can afford;

and (4) modified the payment schedules of all C block licensees so that all payments by all licensees will be due on the same date.

As stated in a February 24, 1998, Commission Order, C block licensees have until 60 days after publication of the Reconsideration Order in the Federal Register to select their payment options. The Reconsideration Order was published in the Federal Register on April 8, 1998.

By making these adjustments, the Commission will better enable C block licensees to remain participants in the wireless market and will provide for an orderly and efficient reauction of returned spectrum, which will promote competition and the delivery of services to the public. Our action places the future of the C-Block where it belongs: in the hands of the licensees and the markets. C-Block licensees will now have more flexibility in choosing among the options first established back in September 1997, and they should have greater access to capital as a result. The American public will benefit from the increased competition that will develop. The changes we make in this Order will allow licensees to scale back when they think it is appropriate, and pursue regional or local business strategies instead of being forced to make all-or-nothing choices.

Those who choose to stay in the C-Block will pay what they owe but will operate from more secure financial foundations. Those who decide to leave the market will do so under reasonable conditions, and will return valuable spectrum for reauction. I believe we have struck an equitable balance between providing limited relief to C-Block licensees experiencing financial distress and ensuring the integrity of our rules and auctions process. The wireless telephone industry, which is already the exemplar of fierce competition, will become even more vibrant as a result.

#### HIGH-SPEED INTERNET ACCESS FOR RURAL COMMUNITIES—706 PETITIONS

*Question.* One of my biggest telecommunications concerns is how to accelerate the process of providing access to high-speed Internet and other advanced data communications services to rural areas. I understand that the Regional Bell Operating Company (RBOC) which serves my home state of New Mexico has filed a petition with the Commission seeking the removal of certain regulatory barriers that make it impractical to provide high-speed Internet access in rural communities. As I am sure you are aware, the petition asks the Commission to use its authority under two sections of the Telecommunications Act: Section 706, which allows the FCC to refrain from applying rules which hinder the deployment of advanced telecommunications capacity, and section 11, which directs the FCC to cease regulating services which are competitive.

What steps is the Commission taking to remove the regulatory barriers to providing high-speed data transmission to rural areas?

*Answer.* I fully agree that a high priority for this Commission is to help promote the deployment of high bandwidth services, by incumbent LEC's and by other providers, including cable companies, wireless companies and CLEC's. I plan this year to undertake a thorough examination of the rapidly expanding marketplace of advanced technologies. We are committed to ensuring that our rules do not stand unreasonably as obstacles to the development of important new technologies. We are currently in the process of seeking comment on the US West petition, and we are committed to giving the petition our full consideration. As you may know, the Commission will also have the opportunity to examine related issues in a broader context, in connection with a Notice of Inquiry we intend to issue, within 30 months of passage of the Act, in satisfaction of our obligations under section 706(b).

The Commission has undertaken several other initiatives to ensure that the widest possible array of innovative new data technologies are available to customers in New Mexico and across the nation. For example, in the Computer III proceeding, the Commission is currently reevaluating our regulations that apply to provision of information services by Bell Operating Companies, like US West. We are examining our rules to ensure that they are appropriate in light of the rapid growth and development of the Internet and other technologies.

The Commission also intends to investigate possible revisions to its network protection regulations to facilitate the rapid development of high speed digital information transmission services that utilize the public switched telecommunications network. The Commission plans to examine the feasibility of increasing power limitations on devices that operate on the public switched network to allow products like 56 kbps modems to operate at the maximum speed that the network can safely accommodate.

In the context of universal service, the Commission has adopted discount mechanisms that will promote advanced telecommunications in rural areas. The section 254 universal service provisions were a bipartisan Congressional initiative to make

sure all of our nation's elementary and secondary schools, classrooms, and libraries, and rural health care providers have access to advanced telecommunications. The discount mechanism facilitates deployment of advanced technologies to schools, libraries and rural health care centers—and in so doing, brings those advanced technologies further into the communities and closer to the home. In addition, several parties to the universal service proceeding have requested that the Commission reconsider the definition of one supported service, voice grade access, in order to allow rural subscribers to receive the same level of service, such as Internet access, as urban subscribers. The Commission has these requests under consideration.

*Question.* If nothing is done to remove the barriers to allow the RBOC's to provide these services, how can you ensure the Committee that rural communities in New Mexico and other states will get high-speed Internet access as soon as possible?

*Answer.* The availability of high-speed Internet access to all Americans is of vital importance to the Commission. Towards that end, as outlined above, we have undertaken a number of initiatives to ensure that we are doing all we can to encourage the availability of such access in rural areas of the country. Both in connection with the 706 petitions filed by US West and several other RBOC's, and within the broader context of our notice of inquiry on advanced telecommunications capability, we will specifically examine ways to ensure that rural communities obtain access to high-speed data services as quickly as possible, and will take all necessary reasonable steps to make this objective a reality.

*Question.* Are there other Internet Service Providers who can deliver similar services in rural areas? If not, what are the potential benefits and pitfalls to providing the RBOC's with an exemption for purely interLATA data transmission?

*Answer.* In many areas, cable and wireless service providers have begun offering high-speed access to the Internet to subscribers. Although the Commission does not maintain statistics on the services offered by Internet Service Providers (ISP's), it is possible that cable and wireless providers may be delivering, or will deliver in the future, high-speed data services similar to those proposed by US West and the other RBOC's that have filed Section 706 forbearance petitions.

We are mindful of the importance of ensuring that rural communities have access to the Internet, and we are aware that it may be more difficult to obtain access to high-speed data services in rural communities than in urban areas. As described above, in several proceedings, the Commission will be examining how best to promote access to high-speed data services in rural communities.

Importantly, we will examine these issues in connection with our consideration of the section 706 petitions filed by US West and several other RBOC's. While we are encouraged that these petitions demonstrate the RBOC's' interest in providing new data services to rural markets, it would be premature to comment on the benefits and pitfalls of providing the RBOC's with an exemption to provide interLATA data transmission before the record on the petitions has been completed. We are currently in the process of soliciting comments from interested parties on these petitions, and the record will close on May 6, 1998. We look forward to having a complete record with which to commence a thorough examination of the issues.

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#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

##### 706 PETITIONS

*Question.* I understand that US West is seeking permission to offer broadband data services in smaller communities within Colorado and other western states. The basis of the petition is Section 706 of the Telecommunications Act of 1996, which requires the FCC to forbear from regulation in order to promote investment in advanced telecommunications services. US West claims that existing regulations make it impractical for the company to build digital data facilities in less urban areas. For example, several universities in Colorado, Utah, and New Mexico have asked US West to build a high-speed data network connecting them, and US West could not meet their requirements because of these regulations. I want all communities in Colorado to have access to high-speed data services as soon as possible, and I would appreciate your thoughts on US West's position.

Has the Commission undertaken any other initiatives to date to bring advanced telecommunications services to rural services? I want to make sure that the Commission will give serious consideration to US West's request.

*Answer.* A high priority for this Commission is to help promote the deployment of high bandwidth services, by incumbent LEC's and by other providers, including cable companies, wireless companies and CLEC's. I plan this year to undertake a thorough examination of the rapidly expanding marketplace of advanced tech-

nologies. We are committed to ensuring that our rules do not stand unreasonably as obstacles to the development of important new technologies. We are currently in the process of seeking comment on the US West petition, and we are committed to giving the petition our full consideration. As you may know, the Commission will also have the opportunity to examine related issues in a broader context, in connection with a Notice of Inquiry we intend to issue, within 30 months of passage of the Act, in satisfaction of our obligations under section 706(b).

The Commission has undertaken several other initiatives to ensure that the widest possible array of innovative new data technologies are available to customers in New Mexico and across the nation. For example, in the Computer III proceeding, the Commission is currently reevaluating our regulations that apply to provision of information services by Bell Operating Companies, like US West. We are examining our rules to ensure that they are appropriate in light of the rapid growth and development of the Internet and other technologies.

The Commission also intends to investigate possible revisions to its network protection regulations to facilitate the rapid development of high speed digital information transmission services that utilize the public switched telecommunications network. The Commission plans to examine the feasibility of increasing power limitations on devices that operate on the public switched network to allow products like 56 kbps modems to operate at the maximum speed that the network can safely accommodate.

In the context of universal service, the Commission has adopted discount mechanisms that will promote advanced telecommunications in rural areas. The Section 254 universal service provisions were a bipartisan Congressional initiative to make sure all of our nation's elementary and secondary schools, classrooms, and libraries, and rural health care providers have access to advanced telecommunications. The discount mechanism facilitates deployment of advanced technologies to schools, libraries and rural health care centers—and in so doing, brings those advanced technologies further into the communities and closer to the home. In addition, several parties to the universal service proceeding have requested that the Commission reconsider the definition of one supported service, voice grade access, in order to allow rural subscribers to receive the same level of service, such as Internet access, as urban subscribers. The Commission has these requests under consideration.

*Question.* Will you keep us fully informed of your progress on this matter? When do you expect to make a final decision on the petition?

*Answer.* We have sought comments from interested parties on the issues raised by the US West petition, and the record closes on May 6, 1998. As soon as we have received all of the comments, Commission staff will begin evaluating the important issues raised by the petition. We are committed to keeping Members of Congress fully informed of our progress on this matter.

#### SLAMMING

*Question.* Long-distance slamming is a growing consumer problem in my home state of Colorado and across the country. Slamming is a serious problem, especially for the elderly and small business. And it's getting worse. I also understand that the FCC has identified slamming as the leading, and fastest growing, category of phone-related complaints received by its Customer Bureau.

I had the pleasure of participating at a field hearing on the slamming issue in Denver last October. At that hearing, your colleague, Commissioner Ness, said that new and improved anti-slamming rules would be introduced by the end of 1997.

Consumers are looking to the FCC's leadership to develop strong, enforceable rules that target the unethical and criminal behavior of the long-distance companies responsible for this problem—without creating more regulatory hassles for consumers and honest companies. We hope the FCC will move quickly and forcefully on this issue.

Where does that process stand, and when can we expect these long-awaited rules to be released?

*Answer.* The Commission has proposed rules to modify and strengthen our existing slamming rules which predated the 1996 Act, and to implement Section 258 of the Communications Act. Section 258 of the Act makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." The section further provides that a telecommunications carrier that violates the Commission's verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber "shall be liable to the carrier pre-

viously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation.”

I anticipate that the Commission will adopt these rules within the next two months.

*Question.* What specific new initiatives does the Commission plan to adopt to curb slamming?

*Answer.* Because the rulemaking is pending, the Commission is not in a position to state with certainty what specific initiatives will be adopted. The Commission is considering several proposals to enhance our ability to protect consumers from slamming. Among other things, the Commission has proposed restricting the methods by which carriers must verify changes to their presubscribed carriers, because some currently authorized methods appear to be ineffective against slamming. Furthermore, the Commission is considering whether to absolve consumers of liability for charges incurred after being slammed, as well as other measures designed to eliminate carriers’ economic incentive to slam. The Commission is also considering expanding the scope of its rules to apply to changes to a consumer’s local service, as well as long distance service.

#### UNIVERSAL SERVICE

*Question.* As I have written to the Commission and the Joint Board, the current 75 percent state/25 percent federal funding formula for universal service is very troubling to me and my constituents in Colorado.

As former general counsel at the FCC, do you feel obligated to continue the policies of the past Commission?

*Answer.* As Chairman of the FCC, I approach issues facing the Commission, including the issue of federal and state responsibility for universal service, with an open mind. As set out in greater detail in the Commissioner’s Report to Congress on Universal Service, we are committed to ensuring “specific, sufficient” and predictable universal service support. We will be revisiting the issue of the amount of federal funding before the full implementation of the new universal service mechanism, which is set for January 1, 1999. I also should note that the funding formula does not apply to rural local telephone companies, only the major telephone companies. Rural local telephone companies will continue to receive the same levels of support as they have received historically.

In the May, 1997 Order, the Commission observed that, through the process of separations, approximately 25 percent of universal service support historically had been funded through federal support mechanisms. What the Commission did not state expressly, however, was that some areas of our country currently receive more than 25 percent federal universal service support. In these areas, it makes little sense to limit federal support to 25 percent. Even beyond these baseline levels, I believe we all recognize that in some instances the proportion of federal support will have to increase. It is my intention to see to it that such additional support is forthcoming.

During the time I have been Chairman, we have been engaged in an on-going dialogue with the states and others on these issues. I remain committed to working with the states and the affected industries, including proponents of every viewpoint, to determine along with my colleagues the appropriate amount of federal support needed to maintain the goals of universal service at reasonable and affordable rates in a competitive environment.

*Question.* Do you believe the federal portion of universal service support should be increased to ensure customers in rural, high-cost areas continue to have access to affordable phone service?

*Answer.* A paramount objective of the Commission’s implementation of universal service reform is to continue to ensure that rates remain affordable in rural areas. This objective, however, must now be achieved in a manner that can be sustained as telephone service competition begins, especially in urban areas. The Commission’s May 8, 1997 Universal Service Order was the first action in an ongoing effort to continue to ensure universal service, including adequate support for telephone service in rural America.

Universal service policy currently is advanced through intrastate and interstate support mechanisms. The intrastate mechanisms are built into state-regulated intrastate rates—such as through statewide rate averaging and the above-cost pricing of business rates, toll rates, intrastate access rates, and vertical features (e.g., call forwarding). The interstate mechanisms are built into rates for interstate services over which the FCC has jurisdiction, which are also averaged and have been structured to collect some of the cost of providing service to rural and low-volume customers through charges to urban and higher-volume customers. Although these

policies of implicit universal service support worked well in a monopoly environment, they are not sustainable in the competitive telecommunications market that the Act envisions. Thus, it is imperative for both the Commission and the state commissions carefully to examine the rates for services within their respective jurisdictions and to identify and quantify the amount of universal service subsidy currently being contributed implicitly through existing interstate and intrastate rates to support universal service.

With respect to large telephone companies, such as the Bell Operating Companies, the Commission has begun this process through its access charge reform and universal service decisions. These actions should enable us to quantify the implicit universal service support currently contained in the interstate access rates that are assessed by these companies. Pursuant to the requirements of the Communications Act, that support will then be made explicit, will be funded through contributions by all carriers and other providers of interstate telecommunications service, and will be removed from access charges so that large telephone companies do not recover their costs twice. As we move from implicit to explicit support, we see no reason to reduce interstate support for areas that currently receive interstate support. No state should receive less federal high cost assistance than it currently receives.

Some state commissions have undertaken, and I expect that many more states will undertake, the same process with respect to intrastate rates so that the existing levels of universal service support currently provided through intrastate rates can continue to be sustained in a competitive market. The Commission is currently consulting with the states and other parties about this issue, and will carefully consider input from the state members of the Joint Board and other state regulators in any decision. We also recognize that Congress assigned to this Commission, after consultation with the Joint Board, the ultimate responsibility for establishing policies that ensure that: (1) quality services are available at just, reasonable and affordable rates; (2) all consumers have "access to telecommunications and information services" at rates that are reasonably comparable to the rates charged for similar services in urban areas; and (3) there are "specific, predictable, and sufficient" federal and state mechanisms to preserve and advance universal service. We are committed to implementing section 254 consistent with these objectives.

Small, rural telephone companies will not be affected by these changes in universal service support mechanisms. The Commission, in its May 8, 1997 Order, maintained existing support levels for rural telephone companies.

*Question.* Will the FCC be able to meet its January 1, 1999 deadline for creating the high-cost fund for non-rural phone companies?

*Answer.* The Commission stated in the May 8, 1997 Order that non-rural carriers would begin receiving high cost support based on a forward-looking economic cost mechanism on January 1, 1999. To reach this goal, the Commission released a Further Notice of Proposed Rulemaking in July 1997, and has met extensively with the state Joint Board staff, members of industry, and other interested parties. Many actions need to be taken to complete the new mechanism that will take effect on January 1, 1999. The Commission intends to release an order in the near term that will select the fixed assumptions and algorithms for a mechanism to determine non-rural carriers' forward-looking costs. The Commission also stated in the May 8, 1997 Order that it would adopt a complete mechanism, including the prices of all components of the network and other inputs, by August 1998. The Commission is working actively to meet the timetable established in the May 8, 1997 Order, which calls for non-rural carriers to begin receiving support based on a forward-looking economic cost mechanism on January 1, 1999.

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#### QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

*Question.* INTELSAT and its Signatories have been working to privatize a portion of its operations in the form of a new company, "INC". Will INC's structure allow INC to be independent of INTELSAT and a pro-competitive participant in the marketplace?

*Answer.* The INTELSAT Assembly of Parties decided on March 31, 1998 to create a spin-off, temporarily called New Skies, N.V., to be incorporated in The Netherlands. The United States associated provisionally with the Assembly decision and in doing so expressed the hope that the decision would result in a structuring of New Skies that is consistent with the Commission's pro-competitive policy. Nonetheless, in the written statement of the United States appended to the decision of the Assembly of Parties, the United States noted continuing uncertainty as to whether true separation and independence between INTELSAT and New Skies would be achieved in a timely way so as to ensure that New Skies is not accorded preferential

market access and does not unfairly benefit from its unique INTELSAT heritage. The Commission will have to evaluate how New Skies' entry into the U.S. market will impact competition in the provision of satellite services. That evaluation will be based on statutory requirements, the public record, and Commission rules implementing the 1997 World Trade Organization Agreement on Basic Telecommunications Services as it applies to satellite services. As is stated in the written statement of the United States cited above, this review will involve consideration of competition policy criteria.

#### PAYPHONE CALLS

*Question.* What impact will the increased cost of making 800/888 access code and 0+ calls from payphones have on 800 subscribers and consumers and how can the FCC ensure that these rates remain affordable?

*Answer.* In the payphone order, the Commission sought to implement Section 276 of the Communications Act of 1934, which specifically directs the Commission to "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone \* \* \*." The Commission also sought to abide by the provisions of Section 228(c)(7)(A) which provides that common carriers shall prohibit "the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll free, in a manner that would result in the calling party being assessed, by virtue of completing the call, a charge for the call." In its proceeding to implement Section 276, the Commission concluded, after seeking comment from the public, that subscriber 800 and access code calls must be compensated and that the best way to ensure that the payphone providers received fair compensation was to allow the marketplace to determine compensation for such calls. The Commission, however, established a default rate of \$0.284 per call, absent a negotiated rate, for two years to enable carriers and payphone providers to transition to the deregulated marketplace. The \$0.284 default compensation rate for toll-free payphone calls is designed to give payphone owners fair compensation for the use of their payphones, as required by law. Before establishing the payphone compensation rate, the Commission asked for and received payphone cost data from several companies, and took this data into account when establishing the \$0.284 rate as fair compensation. This charge is not owed for 0+ calls, however, except in limited circumstances where the payphone provider does not have a contract which otherwise compensates the payphone provider for such calls.

The Commission's rules require this compensation to be paid by the interexchange carrier that receives the 800 or access code call because that carrier is the primary beneficiary of such calls on its network. Prior to the 1996 Act, carriers and their customers received the benefits of these calls without the payphone provider—which makes the call possible—receiving any compensation. Although IXC's may pass on these charges to their 800 and access code customers, the Act correctly requires that payphone providers receive fair compensation for the service they provide in order "to promote the widespread deployment of payphones."

Subscribers of 800 services have several options if they do not want to pay payphone providers for the use of their payphones. Once technology is fully in place to allow carriers to identify calls from payphones, 800 subscribers will have the option of blocking such calls. They are also able to negotiate contracts with long distance carriers, and change long distance carriers to obtain more favorable terms. Long distance companies also may negotiate with payphone owners to lower the payphone compensation price. The long distance company could then use that advantage to attract more customers.

While the Commission relied on market forces in establishing the compensation scheme mandated by the Act, our orders also focused on consumers by establishing safeguards to ensure their protection. The orders recognize that payphones serve an important role in allowing people to place calls when they are away from the home or office. The new rules require that all payphones must provide free access to dial tone, whereas many parties to the proceeding urged the Commission to require consumers to use coins to make toll-free and access code calls. They also establish guidelines by which states can provide public interest payphones in areas that may not be sufficiently profitable to support the placement of a payphone. Such public interest payphones will help to ensure the viability of payphones in areas where they serve important public interests in public health, safety and welfare.

Further, the rules require that payphone providers must prominently display the local coin rate they choose to charge at each payphone, so that consumers will have full information about the charges and can make an informed choice to use the payphones. The orders also require that every payphone provide free access to both

emergency services and to telecommunications relay service (TRS) calls for the hearing disabled. Ultimately, the compensation provisions are designed to achieve Congress' stated objective: "to promote the widespread deployment of payphones to the benefit of the general public." Finally, the orders specifically provide that the Commission retains discretion to review our deregulatory actions and evaluate whether marketplace dysfunctions in certain locational monopolies exist and should be addressed. Indeed, our orders ask the states to report to us any instances of such market failure and allow the states to request Commission action to prevent payphone abuses.

*Question.* An 800/888 call is free to the calling party. This may provide an incentive for individuals to make such calls in an attempt to obtain greater revenues from their payphones. What is the potential for this type of fraud to occur and what can be done to minimize that potential?

*Answer.* In the Commission's payphone orders, the Commission recognized the potential for such fraud. The Commission stated that, pursuant to authority under the Act and its rules, it would aggressively take civil enforcement action against a payphone provider who deliberately violates the Commission's compensation rules by placing toll free calls simply to obtain compensation from carriers. Moreover, such an act may be fraud by wire and subject to criminal penalties under 18 U.S.C. § 1343. The Commission stated that if it received information that a payphone provider was using its payphone for this purpose, or allowing someone else to use its payphone for this purpose, the Commission will refer the matter to the appropriate law enforcement agencies for criminal prosecution. The Commission also stated that it would continue to monitor developments in this area and respond to specific requests from carriers and payphone service providers.

#### QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

*Question.* In light of the reality that Hawaii currently does not have DBS service, what is the FCC doing to ensure that DBS service becomes a permanent reality for the State of Hawaii?

*Answer.* The FCC believes it is of great importance that DBS service be provided to Hawaii so that residents of Hawaii can enjoy the unique digital services offered by DBS and benefit from the competitive pressure DBS puts on cable. In order to promote DBS service to Hawaii and Alaska, the Commission issued an order in December 1995 that requires all DBS licensees to provide service to those states from orbital locations where it is technically feasible to do so. Revision of the Rules and Policies for the Direct Broadcast Satellite Service, 11 FCC Rcd 9712 (1995).

In response to the rules we established in this Order, three of our DBS licensees (EchoStar, MCI, and Tempo, who all have orbital locations from which it is technically feasible to provide service to Hawaii) have indicated to us recently that they intend to provide service to Hawaii as soon as they initiate their DBS service. EchoStar has recently stated that it intends to provide service to Hawaii in the summer of 1998. In our recently issued Notice of Proposed Rulemaking on our service rules for DBS, Policies and Rules for the Direct Broadcast Satellite Service, FCC 98-26 (released February 26, 1998), we asked whether there was anything further the Commission should do to promote service to Hawaii and we will closely examine any comments made in that proceeding.

#### RATE INTEGRATION AND GEOGRAPHIC RATE AVERAGING

*Question.* What is the status of pending FCC proceedings with respect to the issues of rate integration and geographic rate averaging?

*Answer.* The following proceedings are pending concerning rate integration and geographic rate averaging:

*American Samoa Rate Integration Plan.*—In the July, 1997 Rate Integration Implementation Order, the Common Carrier Bureau deferred implementation of rate integration for services provided to American Samoa pending consideration of a rate integration plan to be filed by the American Samoa government (ASG). ASG subsequently filed a rate integration plan. The formal comment period on the plan closed on November 26, 1997. The Common Carrier Bureau is currently evaluating the plan.

*Rate Integration for Commercial Mobile Radio Service (CMRS) Providers Reconsideration.*—CMRS providers filed petitions for reconsideration of the July 1997 Rate Integration Reconsideration Order in which the Commission determined, inter alia, that rate integration requirements are applicable to CMRS providers. In October, 1997 the Commission stayed application of some aspects of rate integration requirements to CMRS providers pending review of the petitions for reconsideration.

The Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, is evaluating issues concerning rate integration of services provided by CMRS providers.

*Application of Rate Integration to American Mobile Satellite Corporation (AMSC).*—AMSC has requested an extension of time to comply with rate integration requirements. In August 1996, the Common Carrier Bureau granted AMSC a waiver of rate integration requirements pending further consideration of its request. This matter remains pending.

*Petitions for Reconsideration of Geographic Rate Averaging Rules.*—Several parties requested reconsideration of the August 1996 Rate Averaging and Rate Integration Order to permit regional deaveraging of long distance rates in response to provision of long distance service by regional carriers. The record closed on these petitions in October, 1996.

*Question.* INTELSAT and its Signatories have been working to privatize a portion of its operations in the form of a new company, "INC". Will INC's structure allow INC to be independent of INTELSAT and a pro-competitive participant in the marketplace?

*Answer.* The INTELSAT Assembly of Parties decided on March 31, 1998 to create a spin-off, temporarily called New Skies, N.V., to be incorporated in The Netherlands. The United States associated provisionally with the Assembly decision and in doing so expressed the hope that the decision would result in a structuring of New Skies that is consistent with the Commission's pro-competitive policy. Nonetheless, in the written statement of the United States appended to the decision of the Assembly of Parties, the United States noted continuing uncertainty as to whether true separation and independence between INTELSAT and New Skies would be achieved in a timely way so as to ensure that New Skies is not accorded preferential market access and does not unfairly benefit from its unique INTELSAT heritage. The Commission will have to evaluate how New Skies' entry into the U.S. market will impact competition in the provision of satellite services. That evaluation will be based on statutory requirements, the public record, and Commission rules implementing the 1997 World Trade Organization Agreement on Basic Telecommunications Services as it applies to satellite services.<sup>1</sup> As is stated in the written statement of the United States cited above, this review will involve consideration of competition policy criteria.

*Question.* In light of the release of its digital plan, what is the FCC doing to ensure that low power television ("LPTV") stations such as Honolulu LPTV channel 60 are able to provide service?

*Answer.* The Commission has long recognized the importance of low power TV stations ("LPTV"). These stations provide valued service in hundreds of urban and rural communities throughout the country. Significantly, in many communities, they offer the only source of local TV programming. Since the service began in 1982, more than 2,000 LPTV stations have been authorized, all on a secondary, noninterfering basis with respect to full service TV stations. Due to an insufficient supply of TV spectrum, it was not possible to include LPTV stations in the FCC's digital TV ("DTV") allotment plan, or protect LPTV stations against interference from DTV stations.

In the DTV proceeding, the Commission adopted several administrative and technical measures to intended to minimize disruption to LPTV service by DTV stations and by the reallocation of channels 60 to 69 to other services. First and foremost, LPTV stations may continue to operate on their current channels, provided they do not interfere with DTV stations. With respect to the channel 60 LPTV station in Honolulu, I am advised that there are no DTV channel allotments anywhere in Hawaii that would conflict with channel 60. Thus, as long as the station does not interfere with any future primary services on channel 60 to 69, it may operate on channel 60 until the end of the DTV transition period in the year 2006. Note that the Balanced Budget Act of 1997 requires all broadcast stations, including LPTV stations, to vacate use of channels 60 to 69 by that time.

The Commission has provided that LPTV stations authorized on channels 60 to 69 or those stations having an interference conflict with a DTV station or an allotment in the DTV allotment table may: (1) on a first-come first-served basis, request authorization for a replacement channel without being subject to competing applications, (2) take into account the signal blocking effects of mountainous terrain in considering the potential of their stations to cause interference, (3) negotiate interference agreements with each other, and (4) operate with substantially increased

<sup>1</sup> See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to provide Domestic and International Service in the United States (DISCO II Order)—FCC 97-399, 62 Rcd. Reg. 64.167 (released December 4, 1997).

power, if necessary to overcome interference to the reception of their stations. Finally, wherever possible, the Commission eliminated or relaxed several interference standards to help displaced LPTV stations to secure replacement channels.

*Question.* What is the FCC doing to ensure that consolidation in the radio broadcast marketplace does not result in a loss of diverse and local programming?

*Answer.* I am very concerned that consolidation in the radio broadcasting marketplace is leading to a loss of diverse local programming. There has been a good deal of consolidation in the radio industry as a result of the Telecommunications Act of 1996, which eliminated the national radio ownership limits and significantly relaxed the local radio ownership rules. The Commission has monitored the impact of these legislatively mandated changes, and, as provided by the 1996 Act, has recently issued a Notice of Inquiry that, among other things, seeks to review these changes. The Notice of Inquiry seeks comment from the public on the impact of these changes on diversity and local programming and on whether the FCC should modify the local radio ownership rules in any respect. The consolidation in the radio industry will also be a factor in the FCC's pending review of the radio-television cross-ownership rule. In reviewing this rule, as well as the local radio ownership limits, the Commission will be guided by its longstanding goal of promoting competition and diversity in broadcasting.

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QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

SECTION 271

*Question.* There have been four separate applications filed with the FCC by Regional Bell Operating Companies (RBOC) to get into the long distance business, none of which have been approved. Have you provided any RBOC, formally or informally, a complete and final list of all the things they must do to gain approval to enter the long distance business?

If so, could you share the specifics with us?

If not, why not?

*Answer.* Last December, I decided to initiate a dialogue between the Commission and the BOC's, competitive local exchange providers, interexchange carriers, and other interested participants. This effort reflects my desire to provide additional guidance to all participants in the 271 application process on issues that have not yet been addressed in the Commission's decisions on previous applications. It is also intended to increase the predictability of the section 271 process for all involved.

I have directed the Bureau staff to be as open and responsive as possible to all the participants when discussing the factors the staff considers important in evaluating whether a BOC has fully implemented the competitive checklist. In order to respond to your request for views on each checklist item, I have attached summaries, prepared by Common Carrier Bureau staff, addressing each item of the competitive checklist in further detail. The information included in these summaries reflects the discussions that Bureau staff have had since the dialogue began in January. Because the dialogue is an on-going process, additional issues may arise as discussions progress. These Bureau staff views are not binding on the Commissioners. Commission action on individual section 271 applications will be decided on the basis of the record filed in each proceeding.

ATTACHMENT A

OVERVIEW OF COMMON CARRIER BUREAU STAFF SUMMARIES

The following paragraphs present a brief outline of the fourteen checklist items. An important aspect of section 271 is that local markets remain open after BOC entry into long distance. Ongoing performance monitoring once a BOC receives section 271 authorization is critical. Under the statute, the Commission can exercise its enforcement powers under section 271(d)(6) if a BOC has ceased to meet the conditions required for approval.

*Interconnection.*—This checklist item requires a BOC to allow requesting carriers to link their networks to the BOC's network for the mutual exchange of traffic. To fulfill the nondiscrimination obligation under checklist item (i), a BOC must show that it provides interconnection at a level of quality that is indistinguishable from that which the BOC provides itself, a subsidiary, or any other party. Interconnection is necessary so that local exchange customers served by one company are able to call customers served by a different company. 47 U.S.C. §271(c)(2)(B)(i).

*Unbundled Network Elements.*—Network elements are the specific segments of the telephone network. "Access" to an unbundled network element means that the

BOC must provide a connection to the network element at any technically feasible point under rates, terms, and conditions that are just, reasonable, and nondiscriminatory. To fulfill the nondiscrimination obligation under checklist item (ii), the BOC must provide access to the BOC's OSS, meaning the information, systems, and personnel necessary to support the elements and services. This is important because access to the BOC's OSS provides new entrants with the ability to order service for their new customers and allows new entrants to communicate effectively with the BOC regarding such basic activities as placing orders and providing repair and maintenance service for customers. 47 U.S.C. § 271(c)(2)(B)(ii).

In addition, a BOC must provide nondiscriminatory access to network elements in a manner that allows requesting carriers to combine such elements. The use of network elements in conjunction with a competing carrier's network is an important entry strategy for new entrants as new entrants will most likely not have deployed fully redundant networks when they initially enter the local market. 47 U.S.C. § 271(c)(2)(B)(ii).

*Poles, Ducts, Conduits, and Rights-of-Way.*—Telephone company wires must be attached to, or pass through, poles, ducts, conduits, and rights-of-way. In order to fulfill the nondiscrimination obligation under checklist item (iii), a BOC must show that competing providers can obtain access to its poles, ducts, conduits, and rights-of-way within reasonable time frames and on reasonable terms and conditions, with a minimum of administrative costs, and consistent with fair and efficient practices. Failure by the BOC to provide such access may prevent competing carriers from serving certain customers. 47 U.S.C. § 271(c)(2)(B)(iii).

*Loops.*—Local loops are the wires, poles, and conduit that connect the telephone company end office to the customer's home or business. To satisfy the nondiscrimination requirement under checklist item (iv), a BOC must demonstrate that it can efficiently furnish unbundled loops to competing carriers within a reasonable timeframe, with a minimum level of service disruption, and at the same level of service quality. Nondiscriminatory access to unbundled local loops ensures that new entrants can provide quality telephone service promptly to new customers without constructing new loops to each customer's home or business. 47 U.S.C. § 271(c)(2)(B)(iv).

*Transport.*—Transport facilities are the trunks that connect different switches within the BOC's network or those switches with long distance carriers' facilities. This checklist item requires a BOC to provide requesting carriers with transmission links that are dedicated to the use of the requesting carrier as well as links that are shared with other carriers, including the BOC. Nondiscriminatory access to transport ensures that consumer calls travelling over competing carrier lines are completed properly. 47 U.S.C. § 271(c)(2)(B)(v).

*Switching.*—A switch connects end user lines to other end user lines, and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with "vertical features" such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier's operator services. To meet this checklist item, the BOC must demonstrate that it provides nondiscriminatory access to all of the features, functions, and capabilities of the unbundled local switch. This checklist item is important because it allows the new entrant to make use of the BOC's switch, and it enables customers of the new entrant to have access to the same features a BOC provides, such as call waiting. 47 U.S.C. § 271(c)(2)(B)(vi).

*911 and E911, Directory Assistance, and Operator Services.*—911 and E911 services transmit calls from end users to emergency personnel. Customers use directory assistance and operator services to obtain listing information and other call completion services. Checklist item (vii) requires the BOC to provide competing providers with nondiscriminatory access to 911/E911, operator services, and directory assistance, i.e., access that is the same as the access the BOC provides to itself. It is critical that BOC's provide new entrants with accurate and nondiscriminatory access to 911/E911 services so that customers subscribing to services provided by new entrants are able to reach emergency assistance. 47 U.S.C. § 271(c)(2)(B)(vii).

*White Pages.*—White pages are the directory listings of telephone numbers of residences and businesses in a particular area. This checklist item ensures that white pages listings for customers of different carriers are comparable, in terms of accuracy and reliability, notwithstanding the identity of the customer's telephone service provider. 47 U.S.C. § 271(c)(2)(B)(viii).

*Numbering Administration.*—Telephone numbers are presently assigned to telecommunications carriers based on the first three digits of the local number known as "NXX" codes. To fulfill the nondiscrimination obligation in checklist item (ix), a BOC must provide competing carriers with the same access to new NXX codes within an area code that the BOC enjoys. This checklist item ensures that competing

providers have the same access to new telephone numbers as the BOC does. 47 U.S.C. § 271(c)(2)(B)(ix).

*Databases and Signaling.*—Databases and associated signaling refer to the call-related databases and signaling systems that are used for billing and collection or the transmission, routing, or other provision of a telecommunications service. To fulfill the nondiscrimination obligation in checklist item (x), a BOC must demonstrate that it provides new entrants with the same access to these call-related databases and associated signaling that it provides itself. This checklist item ensures that competing providers have the same ability to transmit, route, complete and bill for telephone calls as the BOC. 47 U.S.C. § 271(c)(2)(B)(x).

*Number Portability.*—Number portability enables consumers to take their phone number with them when they change local telephone companies. To fulfill checklist item (xi), the BOC must provide number portability in a nondiscriminatory manner as soon as reasonably possible following a request from a competitor. This checklist item is important because it permits consumers to change service providers without having to change their telephone number. 47 U.S.C. § 271(c)(2)(B)(xi).

*Dialing Parity.*—Local dialing parity permits customers to make local calls in the same manner regardless of who their service provider is. To fulfill the nondiscrimination obligation in checklist item (xii), a BOC must establish that customers of a competing provider are able to dial the same number of digits to make a local telephone call, notwithstanding the identity of the customer's, or the called party's, local telephone service provider. In addition, the dialing delay experienced by the customers of a competing provider should not be greater than that experienced by customers of the BOC. This checklist item ensures that consumers are not inconvenienced in how they make calls simply because they subscribe to a competing provider for local telephone service. 47 U.S.C. § 271(c)(2)(B)(xii).

*Reciprocal Compensation.*—Reciprocal compensation requires the BOC's to compensate new entrants and wireless carriers for the cost of transporting and terminating a local call from the BOC, and requires the new entrants and wireless carriers to compensate the BOC for the cost of transporting and terminating a local call from the new entrant or wireless carrier. Alternatively, the BOC and the new entrant or wireless carrier may enter into an arrangement whereby neither of the two carriers charges the other for terminating local traffic that originates on the other carrier's network. This checklist item is important to ensuring that all carriers that originate calls bear the cost of terminating such calls. 47 U.S.C. § 271(c)(2)(B)(xiii).

*Resale.*—This checklist item requires the BOC to offer to telecommunications carriers at wholesale rates all of the retail telecommunications services it provides to subscribers that are not telecommunications carriers. The BOC is required to make its telecommunications services available for resale without unreasonable or discriminatory conditions or limitations. This checklist item is important because it establishes a mode of entry into the local market for carriers that have not deployed their own facilities. 47 U.S.C. § 271(c)(2)(B)(xiv).

Another important aspect of section 271 is the pricing of unbundled network elements. The United States Court of Appeals for the Eighth Circuit recently held that the FCC should “confine its pricing role under section 271(d)(3)(A) to determining whether applicant BOC's have complied with the pricing methodology and rules adopted by the state commissions and in effect in the respective states in which such BOC's seek to provide in-region, interLATA services.” *Iowa Utilities Board v. FCC*, Order on Motions for Enforcement of the Mandate, No. 96-3321 (Jan. 22, 1998), petition for cert. filed. Accordingly, these staff summaries do not focus on pricing issues.

#### CHECKLIST ITEM (I): INTERCONNECTION

##### *Background*

Section 271(c)(2)(B)(i) of the Act requires a section 271 applicant to provide or offer to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).”

Section 251(c)(2) imposes upon incumbent LEC's “the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network \* \* \* for the transmission and routing of telephone exchange service and exchange access.”

Pursuant to section 251(c)(2), such interconnection must be: (1) provided “at any technically feasible point within the carrier's network;” (2) “at least equal in quality to that provided by the local exchange carrier to itself or \* \* \* [to] any other party to which the carrier provides interconnection;” and (3) provided on rates, terms, and conditions that are “just, reasonable, and nondiscriminatory, in accordance with the

terms and conditions of the agreement and the requirements of [section 251] \* \* \* and section 252.”

Section 251(c)(6) requires incumbent LEC’s to provide physical collocation of equipment necessary for interconnection unless the LEC can demonstrate that physical collocation is not practical for technical reasons or because of space limitations. In that event, the incumbent LEC is still obligated to provide virtual collocation of interconnection equipment.

Section 252(d)(1) of the Act states that “[d]eterminations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of [section 251(c)(2)] \* \* \* (A) shall be (i) based on the cost \* \* \* of providing the interconnection \* \* \* and (ii) nondiscriminatory, and (B) may include a reasonable profit.”

#### *Checklist Discussion*

##### *Any Technically Feasible Point*

Competing carriers have the right to deliver traffic terminating on an incumbent LEC’s network at any technically feasible point on that network. 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a)(2); Local Competition First Report and Order at ¶ 209.

##### *Methods of Interconnection*

Competing carriers may choose any technically feasible method of interconnection at a particular point. Local Competition First Report and Order at ¶ 549. Technically feasible methods of interconnection include, but are not limited to: physical collocation and virtual collocation at the premises of an incumbent LEC and meet point interconnection arrangements. 47 C.F.R. § 51.321; Local Competition First Report and Order at ¶ 553.

The incumbent LEC must submit to the state commission detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. 47 C.F.R. § 51.321(f); Local Competition First Report and Order at ¶ 602.

Bureau staff believes that a BOC must have processes and procedures in place to ensure that physical and virtual collocation arrangements are available on terms and conditions that are “just, reasonable, and nondiscriminatory” in accordance with section 251(c)(6). Useful information to determine compliance with this checklist item is the length of time required for an applicant to process and implement requests for both physical and virtual collocation. See BellSouth South Carolina Section 271 Order at ¶¶ 200–02.

##### *Interconnection that is Equal in Quality*

“[T]he equal in quality standard of section 251(c)(2)(C) requires an incumbent LEC to provide interconnection between its network and that of a requesting carrier at a level of quality that is at least indistinguishable from that which the incumbent provides itself, a subsidiary, an affiliate or any other party.” Local Competition First Report and Order at ¶ 224.

An incumbent LEC must design its “interconnection facilities to meet the same technical criteria and service standards, such as probability of blocking in peak hours and transmission standards, that are used [for the interoffice trunks] within [its] \* \* \* own network[.]” 47 C.F.R. § 51.305(a)(3); Local Competition First Report and Order at ¶ 224; see also Ameritech Michigan Section 271 Order at ¶ 255.

The equal in quality obligation is not limited to service quality perceived by end users, and includes, but is not limited to, service quality as perceived by the requesting telecommunications carrier. 47 C.F.R. § 51.305(a)(3); Local Competition First Report and Order at ¶ 224.

Useful information to determine compliance with this checklist item is the call completion rate for calls originating on the BOC’s network that terminate with BOC customers and the completion rate for calls originating on the BOC’s network that terminate with competing LEC’s’ customers. See Ameritech Michigan Section 271 Order at ¶ 235.

##### *Just and Reasonable Rates, Terms, and Conditions of Interconnection*

By providing interconnection to a competitor in a manner less efficient than the incumbent LEC provides itself, the incumbent LEC violates the duty to be “just” and “reasonable” under section 251(c)(2)(D). Local Competition First Report and Order at ¶ 218.

*Nondiscriminatory Rates, Terms, and Conditions of Interconnection*

An incumbent LEC must accommodate a competitor's request for two-way trunking where technically feasible. 47 C.F.R. § 51.305(f); Local Competition First Report and Order at ¶ 219.

Bureau staff believes that a BOC must engineer, repair, and maintain its interconnection trunks to the competing carrier in the same manner that the BOC performs these functions on its own interoffice transmission facilities.

Useful information to determine compliance with this checklist item is the time required for a BOC to identify and repair outages on interconnection trunks connecting BOC and competing carrier facilities and the time required for a BOC to identify and repair outages that disrupt service on its own interoffice transmission trunks; and a BOC's establishment of standardized procedures for the ordering and provision of interconnection trunks.

The BOC must ensure that a competing carrier has sufficient information about its network to remedy network blockage that occurs within the BOC's network, but affects both the BOC's customers and the competing carrier's customers. Ameritech Michigan Section 271 Order at ¶ 246.

Useful information to determine compliance with this requirement includes BOC traffic forecasts and data indicating the percentage of calls originating on the BOC network and terminating on the BOC's and CLEC's network, respectively.

Establishing appropriate trunking architecture and proper interconnection arrangements is the responsibility of both the BOC and competing carriers. Ameritech Michigan Section 271 Order at ¶ 246.

Bureau staff believes that possible measures that the BOC and competing carriers can take to remedy trunk blockage problems include: installing two-way trunking arrangements where appropriate, allowing direct end office trunking, augmenting capacity on existing trunk groups, ordering reciprocal inbound trunk groups in tandem with competing carriers' ordering of outbound trunk groups, having the necessary equipment and facilities available to handle trunk augmentation, and establishing alternate routing for traffic designated for a competing carrier switch.

Bureau staff believes that a BOC can demonstrate that it is meeting its statutory obligations with respect to interconnection by submitting performance measurements regarding its provision of interconnection trunks (installation of new trunks and augmentations to existing trunk groups) and collocation arrangements (physical and virtual). Such performance measurements will enable the Commission to determine whether this checklist item is being provided in accordance with the applicable statutory standard in terms of timeliness, quality, and accuracy. Ongoing performance monitoring will assist in ensuring that the BOC continues to meet its statutory obligations after receiving section 271 authorization.

## CHECKLIST ITEM (II): ACCESS TO UNBUNDLED NETWORK ELEMENTS

Because specific network elements are also addressed in other checklist items, this discussion only addresses the requirements for access to all network elements. In particular, this section addresses (1) the operations support systems ("OSS") that are necessary to provide access to other network elements as well as resold services; and (2) the provision of network elements in a manner that allows competing carriers to combine such elements.

## 1. ACCESS TO OPERATIONS SUPPORT SYSTEMS

*Background*

Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to offer "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."

Section 251(c)(3) of the Act requires BOC's to provide access to network elements pursuant to "conditions that are just, reasonable, and nondiscriminatory \* \* \* ."

Section 252(d)(1) of the Act states that "[d]eterminations by a State commission of the just and reasonable rate for \* \* \* network elements for purposes of [section 251(c)(3)] \* \* \* (A) shall be (i) based on the cbs\* \* \* of providing the \* \* \* network element \* \* \* and (ii) nondiscriminatory, and (B) may include a reasonable profit."

*Checklist Discussion*

The Commission identified the following network elements, which must be provided on a nondiscriminatory basis pursuant to section 251(c)(3): local loops; network interface devices; local switching; interoffice transmission facilities; signaling

networks and call-related databases; operations support systems; and operator services and directory assistance. See 47 C.F.R. § 51.319; Local Competition First Report and Order at ¶ 516. The Eighth Circuit Court of Appeals upheld this finding. Iowa Utils. Bd., 120 F.3d at 808–09.

The Commission has set forth specific requirements for access to network elements, including, among other things, that timeliness, quality, and accuracy be substantially the same as the BOC provides to itself. See generally 47 C.F.R. § 51.311 and 51.313.

The term “operations support systems,” or OSS, refers to the computer systems, databases, and personnel that incumbent carriers rely upon to discharge many internal functions necessary to provide service to their customers. A competing carrier must obtain access to the same OSS functions (that is, functions provided by the relevant databases, computer systems, and personnel) in order to sign up customers, place an order for services or facilities with the incumbent, track the progress of that order to completion, receive relevant billing information from the incumbent, and obtain prompt repair and maintenance services for its customers.

As outlined in the Ameritech Michigan Section 271 Order and the BellSouth South Carolina Section 271 Order, the Commission undertakes a two part inquiry in evaluating whether a BOC is meeting its statutory obligation to provide competing carriers with nondiscriminatory access to OSS functions.

First, the BOC must demonstrate that it has deployed the necessary systems and personnel to provide competing carriers with access to each of the necessary OSS functions, and that the BOC has adequately assisted competing carriers in understanding how to implement and use all of the OSS functions available to them. Ameritech Michigan Section 271 Order at ¶ 136; BellSouth South Carolina Section 271 Order at ¶ 96.

A BOC must demonstrate that it has developed electronic and manual interfaces that allow competing carriers to access all of the OSS functions identified in the Local Competition First Report and Order. Ameritech Michigan Section 271 Order at ¶¶ 137–138; BellSouth South Carolina Section 271 Order at ¶ 96.

A BOC must also demonstrate that the interfaces used to access its OSS functions allow competing carriers to transfer the information received from the BOC to their own back office systems (e.g., a competing carrier’s billing system) and among the various interfaces provided by the BOC (e.g., pre-ordering and ordering interfaces). BellSouth South Carolina Section 271 Order at ¶ 158–161.

The Commission has not specified particular systems or interfaces a BOC must use to demonstrate compliance with the statutory nondiscrimination requirements.

Second, the BOC must demonstrate that the OSS functions and interfaces are operationally ready. Ameritech Michigan Section 271 Order at ¶ 136; BellSouth South Carolina Section 271 Order at ¶ 96. In addition, the BOC’s deployment of OSS functions to competing carriers must be able to handle current demand as well as reasonably foreseeable demand. Ameritech Michigan Section 271 Order at ¶ 138; BellSouth South Carolina Section 271 Order at ¶ 97.

For those OSS functions a BOC provides to a competing carrier that are analogous to OSS functions that the BOC provides to itself, the BOC must provide access to competing carriers that is equivalent to the level of access that the BOC provides to itself in terms of quality, accuracy and timeliness (i.e., it provides OSS functions in substantially the same time and manner as it provides to itself). Local Competition First Report and Order, 11 FCC Rcd at ¶ 517; Ameritech Michigan Section 271 Order at ¶ 139; BellSouth South Carolina Section 271 Order at ¶ 98.

For OSS functions without a retail analog, the BOC must demonstrate that the access it provides competing carriers offers an efficient competitor a meaningful opportunity to compete. Ameritech Michigan Section 271 Order at ¶ 139; BellSouth South Carolina Section 271 Order at ¶ 98. The Commission’s orders emphasize results, not the process used to achieve those results.

While actual commercial usage is the most probative evidence that the BOC’s OSS functions are operationally ready, the Commission will also consider, carrier-to-carrier testing, independent third-party testing, and internal testing. Ameritech Michigan Section 271 Order at ¶ 138.

Information that compares how the BOC provides access to OSS functions to itself and to competing carriers is critical in assessing whether the BOC is providing nondiscriminatory access to such functions as required by

the statute. Ameritech Michigan Section 271 Order at ¶¶204–213. Bureau staff, therefore, believes that a BOC can demonstrate compliance with the statutory requirements in checklist item (ii) by submitting comparative performance data, such as the period required to install a network element, how often the promised installation dates are met, how well the competing carrier is informed of the status of its order, and how responsive the BOC is in providing access to needed support functions. Ongoing reporting of these measurements will assist in ensuring that the BOC continues to meet its statutory obligations after receiving section 271 authorization.

## 2. ACCESS TO COMBINATIONS OF NETWORK ELEMENTS

### *Background*

Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to show that it offers “[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).”

Section 251(c)(3) provides that an incumbent LEC “shall provide such unbundled elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.”

Section 251(c)(6) provides that an incumbent LEC has the “duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier.” Section 251(c)(6) further provides that an incumbent LEC “may provide virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.”

### *Checklist Discussion*

New entrants may provide telecommunications service wholly through the use of unbundled network elements purchased from incumbent LEC’s. 47 C.F.R. §51.315(a); Local Competition First Report and Order at ¶328–341; see also *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 814 (8th Cir. 1997).

A “requesting carrier may choose any particular method of technically feasible \* \* \* access to unbundled network elements,” including physical or virtual collocation. Local Competition First Report and Order at ¶549. Incumbent LEC’s must provide technically feasible methods of obtaining interconnection or access to unbundled network elements that include, but are not limited to, physical and virtual collocation at the premises of an incumbent LEC. 47 C.F.R. §51.321.

A requesting carrier “may achieve the capability to provide telecommunications services completely through access to the unbundled elements of an incumbent LEC’s network.” *Iowa Utils. Bd.*, 120 F.3d at 814. Incumbent LEC’s must offer network elements in a manner that allows new entrants to combine them to provide a finished telecommunications service. *Iowa Utils. Bd.*, 120 F.3d at 814.

A BOC must offer nondiscriminatory access to network elements in a manner that allows competing carriers to combine such elements in order to satisfy section 271(c)(2)(B)(ii). 47 U.S.C. §251(c)(3).

While it is unclear from *Iowa Utils. Bd.* whether the Act requires unbundled elements to be provided on a physically separated basis, or whether the Act allows competing carriers to have physical access to the BOC’s networks in order to combine network elements without the use of physical collocation, at a minimum, Bureau staff believes that the BOC must demonstrate that at least one of the methods it offers satisfies the statutory nondiscrimination requirement. Bureau staff believes that a BOC may satisfy this requirement by, for example, providing physical or virtual collocation, direct access, mediated access, logical or electronic methods for combining network elements, or combining the elements on behalf of competing carriers for a separate charge.

The following information would be useful in determining whether the BOC’s method for allowing competing carriers to combine network elements meets the statutory nondiscrimination requirement:

- Length of time for new entrants to obtain and combine network elements, e.g., time required to build collocation cages; loop cutover times, etc.

- Practical availability of the BOC’s selected method for providing access to network elements, including whether the BOC can meet current and reasonably foreseeable demand and has identified the specific terms and conditions for obtaining such access.

## CHECKLIST ITEM (III): NONDISCRIMINATORY ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

*Background*

Section 271(c)(2)(B)(iii) of the Act requires a section 271 applicant to provide or offer to provide “[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224.”

Section 224(b) grants the Commission its general authority to carry out the provisions of section 224. Notwithstanding this general grant of authority, section 224(c)(1) states that the Commission shall not regulate rates, terms, and conditions for, or access to, pole attachments where such matters are regulated by the state.

*Checklist Discussion*

Bureau staff believes that, if a state has exercised its preemptive authority under section 224(c)(1), a BOC satisfies its duty under checklist item (iii) if it complies with the state’s, rather than the Commission’s, regulations. See Local Competition First Report and Order at ¶ 1239.

There is a preference for negotiations in the pole attachment context. See Pole Attachment Telecommunications Rate Order at ¶¶ 10–21. Nonetheless, where the parties do not arrive at mutually satisfactory pole attachment arrangements, and if the state has not exercised its preemptive authority under section 224(c), Bureau staff believes that the BOC must comply with the statutory requirements of section 224 and the Commission’s implementing regulations to satisfy the requirement in checklist item (iii) that the BOC provide nondiscriminatory access to poles, ducts, conduits, and rights-of-way at just and reasonable rates. See Local Competition First Report and Order at ¶ 1239.

*Nondiscriminatory Access:*

Bureau staff believes that, in determining whether a BOC provides “nondiscriminatory access” in accordance with the requirements of section 224, the Commission should consider whether the BOC complies with the regulations established by the Commission in the Local Competition First Report and Order, implementing the nondiscriminatory access provisions of section 224(f) for purposes of section 251(b)(4).

The reasonableness of particular conditions of access imposed by a utility should be resolved on a case-specific basis. Local Competition First Report and Order at ¶ 1143.

The Commission also adopted five specific rules regarding the circumstances under which utilities, including LEC’s, may be permitted to impose conditions on access to their poles, ducts, and conduits, and rights-of-way. Local Competition First Report and Order at ¶¶ 1151–58.

In evaluating a request for access, a utility should continue to rely on widely-accepted codes, such as the National Electric Safety Code (NESC), to prescribe standards with respect to capacity, safety, reliability, and general engineering principles. Local Competition First Report and Order at ¶ 1151.

Federal requirements, such as those imposed by the Federal Energy Regulatory Commission (FERC) and the Occupational Safety and Health Administration (OSHA), should continue to apply to utilities to the extent such requirements affect requests for access pursuant to section 224(f). Local Competition First Report and Order at ¶ 1152.

State and local requirements affecting pole attachments are presumed to be reasonable, even if the state has not sought to preempt federal regulations under section 224(c). Local Competition First Report and Order at ¶ 1153.

Where access is mandated, the rates, terms, and conditions of access should be uniformly applied to all telecommunications carriers and cable operators that have or seek access pursuant to section 224(f). Local Competition First Report and Order at ¶ 1156.

A utility should not favor itself over other parties with respect to the provision of telecommunications or video programming services. Local Competition First Report and Order at ¶ 1151.

The Commission also adopted certain guidelines, pursuant to section 224, to facilitate negotiation of pole attachment arrangements. Because checklist item (iii) expressly cross-references section 224, Bureau staff believes that the Commission should consider whether the BOC has complied with these guidelines pertaining to reservation of space by the telecommunications carrier, qualifications for workers in-

stalling lines, procedures for modifying facilities, and procedures for denying requests for access. Local Competition First Report and Order at ¶¶ 1164, 1165–70, 1182, 1209, 1211, 1224.

*Just and Reasonable Rates:*

Bureau staff believes that, in order to satisfy the requirement in checklist item (iii) that access be provided at “just and reasonable” rates, a BOC must comply with the statutory requirements of section 224 and the Commission’s implementing regulations.

Currently, a BOC satisfies its duty to provide access to its poles, ducts, conduits, and rights-of-way at “just and reasonable” rates if the rate for such pole attachments complies with the rate methodology set forth in section 224(d)(1) of the Act. 47 U.S.C. § 224(d).

After February 8, 2001, the rate for pole attachments used to provide telecommunications service is “just and reasonable” if the rate for such attachments complies with the Commission’s regulations implementing the requirements of section 224(e). 47 U.S.C. §§ 224(e); Pole Attachment Telecommunications Rate Order ¶¶ 20–21, 125.

CHECKLIST ITEM (IV): UNBUNDLED LOCAL LOOPS

*Background*

Section 271(c)(2)(B)(iv) of the Act requires a section 271 applicant to provide or offer to provide access to “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”

Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to show that it offers “[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).”

Section 251(c)(3) establishes an incumbent LEC’s “duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] \* \* \* and section 252.”

*Checklist Discussion*

The local loop is an unbundled network element that must be provided on a non-discriminatory basis pursuant to section 251(c)(3). See 47 U.S.C. § 271(c)(2)(B)(ii) and (iv).

Bureau staff believes that a BOC seeking to satisfy checklist item (iv) must provide nondiscriminatory access to the various types of unbundled loops identified by the Commission in the Local Competition First Report and Order, e.g., 2-wire voice-grade analog loops, 4-wire voice-grade analog loops, and 2-wire and 4-wire loops conditioned to allow the competing carrier to attach requisite equipment to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, and DS1-level signals. Local Competition First Report and Order at ¶ 380.

The BOC must deliver the unbundled loop to the competing carrier within a reasonable timeframe, with a minimum of service disruption, and of the same quality as the loop that the BOC used to provide service to its own customer. 47 C.F.R. § 51.313(b); 47 C.F.R. § 51.311(b); Local Competition First Report and Order at ¶¶ 312–316.

A BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. Local Competition First Report and Order at ¶ 382. For example, if it is technically feasible to unbundle a loop to allow the CLEC to provide greater bandwidth than that previously provided by the BOC over that loop, the BOC must show that it provides such functionality.

A BOC must provide cross-connect facilities, for example, between an unbundled loop and a requesting carrier’s collocated equipment. Local Competition First Report and Order at ¶ 386.

At the request of participants in the 271 dialogue, Bureau staff is currently discussing how a BOC can meet the statutory nondiscrimination requirement when a requested loop is integrated with other loops through Integrated Digital Loop Carrier (IDLC) technology or similar remote concentration devices. IDLC allows a carrier to aggregate and multiplex loop traffic at a remote concentration point and to deliver that multiplexed traffic directly into the switch without first demultiplexing the individual loops.

As described in the discussion of checklist item (ii), competing carriers must have nondiscriminatory access to the various functions of the BOC’s operations support

systems in order to obtain unbundled loops in a timely and efficient manner. Bureau staff believes that a BOC can demonstrate compliance with this checklist item by submitting comparative performance data. Useful information includes how long it takes to install a loop, how often the promised installation dates are met, how well the competing carrier is informed of the status of its order, and how responsive the BOC is in providing access to needed support functions.

CHECKLIST ITEM (V): UNBUNDLED LOCAL TRANSPORT

*Background*

Section 271(c)(2)(B)(v) of the Act requires a section 271 applicant to provide or offer to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”

Section 271(c)(2)(B)(ii) requires a section 271 applicant to provide [n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).”

Section 251(c)(3) establishes an incumbent LEC’s “duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] \* \* \* and section 252.”

*Checklist Discussion*

Transport is an unbundled network element that must be provided on a non-discriminatory basis pursuant to section 251(c)(3). See 47 U.S.C. § 271(c)(2)(B)(ii) and (v). Transport can either be dedicated to a particular carrier or shared by multiple carriers including the incumbent LEC.

The BOC must provide transport to a competing carrier under terms and conditions that are equal to the terms and conditions under which the incumbent LEC provisions such elements to itself. Local Competition First Report and Order at ¶ 315; see also 47 C.F.R. § 51.313(b).

As described in the discussion of checklist item (ii), competing carriers must have nondiscriminatory access to the various functions of the BOC’s operations support systems in order to obtain unbundled local transport. Bureau staff believes that a BOC can demonstrate compliance with this checklist item by submitting comparative performance data. Useful information include data indicating how long it takes to provision transport, how often the promised installation dates are met, how well the competing carrier is informed of the status of its order, and how responsive the BOC is in providing access to needed support functions.

At the request of participants in the 271 dialogue, Bureau staff is discussing whether the transport link between a BOC’s switch and a third party’s switch must be shared, dedicated, or subject to a transiting arrangement when a new entrant purchases shared transport.

*Dedicated Transport:*

To comply with the statutory requirement of section 251(c)(3), an incumbent LEC must: provide unbundled access to dedicated transmission facilities between LEC central offices or between such offices and those of competing carriers, including at a minimum, interoffice facilities between end offices and service wire centers (SWC’s), SWC’s and interexchange carriers’ (IXC’s) points of presence (POP), tandem switches and SWC’s, end offices or tandems of the incumbent LEC, and the wire centers of incumbent LEC’s and requesting carriers. Local Competition First Report and Order at ¶ 440.

- provide all technically feasible transmission capabilities, such as DS1, DS3, and Optical Carrier levels (e.g., OC-3/12/48/96) that the competing provider could use to provide telecommunications services. Local Competition First Report and Order at ¶ 440.
- not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnection is technically feasible, or restrict the use of unbundled transport facilities. Local Competition First Report and Order at ¶ 440; see also 47 C.F.R. § 51.309.
- to the extent technically feasible, provide requesting carriers with access to digital cross-connect system (DCS) functionality in the same manner that incumbent LEC’s offer such capabilities to IXC’s that purchase transport services. A DCS aggregates and disaggregates high-speed traffic carried between competing LEC switches and incumbent LEC switches, thereby facilitating the use of cost-efficient, high-speed interoffice facilities. 47 C.F.R. § 51.319(d)(2)(iv); Local Competition First Report and Order at ¶ 444.

*Shared Transport*

To comply with the statutory requirement of section 251(c)(3), an incumbent LEC must:

- provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that an incumbent LEC uses for its own traffic. Local Competition Third Reconsideration Order at ¶ 22.
- provide shared transmission facilities between end offices switches, between end office and tandem switches, and between tandem switches, in its network. Local Competition Third Reconsideration Order at ¶ 25.
- permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the incumbent LEC's switch. Local Competition Third Reconsideration Order at ¶ 45.
- permit requesting carriers to use shared transport as an unbundled element to carry originating access traffic from, and terminating access traffic to, customers to whom the requesting carrier is also providing local exchange service. Local Competition Third Reconsideration Order at ¶¶ 38–39.

## CHECKLIST ITEM (VI): UNBUNDLED LOCAL SWITCHING

*Background*

Section 271(c)(2)(B)(vi) of the Act requires a section 271 applicant to provide or offer to provide “[l]ocal switching unbundled from transport, local loop transmission, or other services.”

Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to show that it offers “[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).”

Section 251(c)(3) establishes an incumbent LEC's “duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] \* \* \* and section 252.”

*Checklist Discussion*

Local switching is an unbundled network element that must be provided on a non-discriminatory basis pursuant to section 251(c)(3). See 47 U.S.C. § 271(c)(2)(B)(ii) and (iv).

This requires the BOC to show that it provides nondiscriminatory access to:

- line-side and trunk-side facilities plus the features, functions, and capabilities of the switch. 47 C.F.R. § 51.319(c)(1)(i); Local Competition First Report and Order at ¶ 412.
- line-side facilities include the connection between a loop termination at, for example, a main distribution frame, and a switch line card. 47 C.F.R. § 51.319(c)(1)(i)(A); Local Competition First Report and Order at ¶ 412.
- trunk-side facilities include the connection between, for example, trunk termination at a trunk-side cross-connect panel and a trunk card. 47 C.F.R. § 51.319(c)(1)(i)(B); Local Competition First Report and Order at ¶ 412.
- features, functions, and capabilities of the switch. 47 C.F.R. § 51.319(c)(1)(i)(C); Local Competition First Report and Order at ¶ 412. These include:
  - basic switching function of connecting lines to lines, lines to trunks, trunks to lines, trunks to trunks, as well as the same basic capabilities that are available to the BOC's customers, such as a telephone number, directory listing, dial tone, signaling, and access to 911, operator services, and directory assistance. 47 C.F.R. § 51.319(c)(1)(i)(C)(1); Local Competition First Report and Order at ¶ 412.
  - basic switching function of connecting lines to lines, lines to trunks, trunks to lines, trunks to trunks, as well as the same basic capabilities that are available to the BOC's customers, such as a telephone number, directory listing, dial tone, signaling, and access to 911, operator services, and directory assistance. 47 C.F.R. § 51.319(c)(1)(i)(C)(1); Local Competition First Report and Order at ¶ 412.
  - vertical features that the switch is capable of providing, including custom calling, CLASS features, and Centrex. 47 C.F.R. § 51.319(c)(1)(i)(C)(2); Local Competition First Report and Order at ¶ 412.
  - technically feasible customized routing functions. 47 C.F.R. § 51.319(c)(1)(i)(C)(2); Local Competition First Report and Order at ¶ 412.

- trunk ports on a shared basis, and routing tables resident in the BOC's switch, as necessary to provide nondiscriminatory access to shared transport facilities. Local Competition Third Reconsideration Order at ¶¶ 25–29; Ameritech Michigan Section 271 Order at ¶¶ 327–328; and
- unbundled tandem switching, which includes the facilities connecting trunk distribution frames to the tandem switch and all functions of switch itself, including those that establish temporary transmission path between two other switches. 47 C.F.R. § 51.319(c)(2); Local Competition First Report and Order at ¶¶ 425, 426.

Section 251(c)(3) permits competing carriers to purchase unbundled network elements for the purpose of offering exchange access services. Local Competition First Report and Order at ¶ 356.

As described in the discussion of checklist item (ii), competing carriers must have nondiscriminatory access to the various functions of the BOC's operations support systems in order to obtain unbundled local switching in a timely and efficient manner. At the request of participants in the 271 dialogue, Bureau staff is discussing various methods a BOC may employ to offer nondiscriminatory access to its operations support systems with respect to switching.

Bureau staff believes that a BOC can demonstrate compliance with this checklist item by submitting comparative performance data. Useful information include how long it takes to provision switching, how often the promised installation dates are met, how well the competing carrier is informed of the status of its order, and how responsive the BOC is in providing access to needed support functions.

The BOC must be able to transfer a customer's local service to a competing carrier using unbundled local switching—where such a transfer requires only a change in the BOC's software—within a time period no greater than the interval within which the BOC transfers end users between interexchange carriers. 47 C.F.R. § 51.319(c)(1)(ii); Local Competition First Report and Order at ¶ 421). Where, however, provisioning of unbundled local switching will require the incumbent LEC to make physical modifications to its network, the BOC must demonstrate that it provisions this element under terms and conditions that are no less favorable to the requesting carrier than the terms and conditions under which the incumbent LEC provides such elements to itself. 47 C.F.R. § 51.313(b); Local Competition First Report and Order at ¶¶ 315, 421.

#### CHECKLIST ITEM (VII): 911/E911, DIRECTORY ASSISTANCE, AND OPERATOR SERVICES

##### *Background*

Section 271(c)(2)(B)(vii) of the Act requires a section 271 applicant to provide or offer to provide: “[n]ondiscriminatory access to—(I) 911 and E911 services; (II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and (III) operator call completion services.”

##### *Checklist Discussion for 911/E911 Services*

To comply with the statutory nondiscrimination requirement, the BOC must:

- provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, i.e., at parity. Ameritech Michigan Section 271 Order at ¶ 256.
- maintain the E911 database entries for competing LEC's with the same accuracy and reliability that it maintains the database entries for its own customers. This duty includes, among other things, populating the E911 database with competitors' end user data and perform error correction for competitors on a nondiscriminatory basis. Ameritech Michigan Section 271 Order at ¶ 256.
- A BOC can demonstrate that it is providing nondiscriminatory access to 911/E911 services by submitting data demonstrating that the 911 database is populated as accurately, and that errors are detected and remedied as quickly, for entries submitted by competing carriers as it is for its own entries. Ameritech Michigan Order at ¶ 278. Useful information include the percentage of errors found in competing LEC end user information and BOC end user information, respectively, the percentage of accurate updates, the timeliness of updates for the E911 database, and the mean time to update the E911 database.
- provide facilities-based competitors with interconnection through the use of dedicated trunks from the requesting carrier's switching facilities to the applicable 911 control office, at parity with what the BOC provides to itself. Ameritech Michigan Section 271 Order at ¶ 256.

—provide facilities-based competitors unbundled access to its 911 database at parity with what the BOC provides to itself. Ameritech Michigan Section 271 Order at ¶¶ 256, 270.

*Checklist Discussion for OS/DA*

Operator services and directory assistance (OS/DA) are network elements that must be unbundled on a nondiscriminatory basis at any technically feasible point. 47 C.F.R. § 51.319(g); Local Competition First Report and Order at ¶¶ 534; see 47 U.S.C. § 271(c)(2)(B)(ii) and (vii).

To comply with the statutory nondiscrimination requirement, the BOC must:

- permit competing providers to have access to operator services and directory assistance that is equal in quality to the access that the BOC provides to itself. See Local Competition Second Report and Order at ¶ 101.
- allow competing carriers to download all the information in the BOC’s directory assistance database and to access specific listings on a “per dip” inquiry basis. Local Competition Second Report and Order at ¶¶ 141, 143; Local Competition First Report and Order at ¶ 538.

Where technically feasible, a BOC must make available unbranded or rebranded OS/DA services to competing carriers through its OS/DA platform. See Local Competition First Report and Order at ¶¶ 537, 971.

At the request of participants in the 271 dialogue, Bureau staff is discussing whether a BOC requirement that competitors establish separate trunk groups to obtain unbranded/rebranded OS/DA services from the BOC is consistent with the statutory obligation to provide nondiscriminatory access to OS/DA.

An additional issue under discussion is whether the BOC must provide unbranded or rebranded OS/DA through its own OS/DA platform in those states where the state commission has determined it is not “technically feasible” for a BOC to provide unbranded/rebranded OS/DA to competing carriers using the BOC’s OS/DA platform.

As described in the discussion of checklist item (ii), a BOC must provide competing carriers the necessary OSS functions to obtain access to OS/DA in a timely and efficient manner. Bureau staff believes that a BOC can demonstrate compliance with this checklist item by submitting comparative performance data. An example of such data would be a measurement of the speed of answer provided by the BOC.

CHECKLIST ITEM (VIII): WHITE PAGES LISTINGS

*Background*

Section 271(c)(2)(B)(viii) states that access or interconnection provided or generally offered by a BOC must include “White [P]ages directory listings for customers of the other carrier’s telephone exchange service.”

*Checklist Discussion*

Bureau staff believes that the term “directory listing,” as used in checklist item (viii), should include, at a minimum, the subscriber’s name, address, telephone number, or any combination thereof. See 47 U.S.C. § 222(f)(3)(A). Bureau staff believes that the term “White Pages” refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange providers.

Bureau staff believes that checklist item (viii) requires the BOC to include the names, addresses, and telephone numbers, or combinations thereof, of the customers of a competing carrier in the local White Pages directory.

To compete effectively in the local exchange market, new entrants must be able to provide service to their customers at a level that is comparable to the service provided by the BOC. Bureau staff believes that checklist item (viii) requires the BOC to provide a White Pages listing for the customers of a competing carrier in a non-discriminatory manner.

Bureau staff believes that, in determining whether a BOC satisfies the requirements of checklist item (viii), the Commission should consider the following:

- whether the listing the BOC provides to a competitor’s customers is identical to, and fully integrated with, the BOC’s customers’ listings.
- whether the BOC provides a White Pages listing for a competitor’s customers with the same accuracy and reliability that it provides to its own customers.
- whether the BOC has procedures in place that are intended to ensure that the listings provided to a competing carrier are comparable, in terms of accuracy and reliability, to the listings provided to the BOC’s customers.

## CHECKLIST ITEM (IX): NUMBERING ADMINISTRATION

*Background*

Section 271(c)(2)(B)(ix) of the Act requires a section 271 applicant to provide non-discriminatory access to telephone numbers for assignment to competing carriers' telephone exchange service customers, "[u]ntil the date by which telecommunications numbering administration guidelines, plan, or rules are established." After that date, the BOC is required to comply with such guidelines, plan, or rules.

*Checklist Discussion*

When "consider[ing] each BOC's application to enter in-region interLATA services pursuant to section 271(c)(2)(B) on a case by case basis," the Commission "will look specifically at the circumstances and business practices governing CO [Central Office] code administration in each applicant's state to determine whether the BOC has complied with section 271(c)(2)(B)(ix)." Local Competition Second Report and Order at ¶ 345.

BOC functions as numbering administrator will be transferred over the next 18 months to the neutral North American Numbering Plan Administrator (NANPA), which will be governed both by industry guidelines and by rules the Commission codified in its October 9, 1997 order naming the new NANPA, Lockheed Martin IMS. Once that transition is complete, the guidelines, plan, and rules will have been established (subject to further revision by the industry and/or the Commission), and the BOC's will no longer serve as CO code administrators.

Bureau staff believes that the Commission, in determining whether a BOC has complied with section 271(c)(2)(B)(ix), should consider whether the BOC has provided nondiscriminatory access to numbers that the BOC assigns in its role as CO administrator. Examples of the kind of information that would be instructive include adherence to industry guidelines, such as the Central Office Code Administration Guidelines (Central Office Code (NXX) Assignment Guidelines (INC 95-0407-008) (April 1997)) and the NPA Code Relief Planning and Notification Guidelines (NPA Code Relief Planning and Notification Guidelines (INC 97-0404-016) (April 1997)), where applicable.

Checklist item (ix) is similar to the requirement in section 251(b)(3) that LEC's provide nondiscriminatory access to telephone numbers to competing providers by permitting competing providers access to telephone numbers that is identical to the access that the LEC provides itself. 47 C.F.R. § 51.217(c)(1); Local Competition Second Report and Order at ¶ 106. Bureau staff believes that providing nondiscriminatory access to telephone numbers, for purposes of section 271(c)(2)(b)(ix), necessitates compliance with the rules implementing section 251(b)(3). Specifically:

- incumbent LEC's providing telephone numbers may only charge other telecommunications carriers fees for the assignment of CO codes if they charge one uniform fee for all carriers, including themselves and their affiliates. Local Competition Second Report and Order at ¶¶ 328, 332-33;
- incumbent LEC's are not allowed to "assess[] unjust, discriminatory, or unreasonable charges for activating CO codes on any carrier or group of carriers." Local Competition Second Report and Order at ¶ 333;
- any attempt by an incumbent LEC "to delay or deny CO code assignments for competing providers of telephone exchange service would violate section 251(b)(3), where applicable, section 202(a), and the Commission's numbering administration guidelines." *Id.* ¶ 334. Incumbent LEC's must "apply identical standards and procedures for processing all numbering requests, regardless of the identity of the party making the request." Local Competition Second Report and Order at ¶ 333.

## CHECKLIST ITEM (X): DATABASES AND ASSOCIATED SIGNALING

*Background*

Section 271(c)(2)(B)(x) of the Act requires a section 271 applicant to provide or offer to provide "[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion."

Section 271(c)(2)(B)(ii) of the Act requires a section 271 applicant to demonstrate that it offers "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)."

Section 251(c)(3) in turn establishes an incumbent LEC's "duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of [section 251] \* \* \* and section 252."

*Checklist Discussion*

Databases and signaling are unbundled network elements that must be provided on a nondiscriminatory basis pursuant to section 251(c)(3). See 47 U.S.C. § 271(c)(2)(B)(ii) and (x).

The BOC must demonstrate that it provides or offers to provide competitors access to databases and associated signaling necessary for call routing and completion in the same manner as it provides such access to itself. Specifically, the BOC must demonstrate that it provides or offers to provide nondiscriminatory access to the following components:

- signaling networks, including signaling links and signaling transfer points, which give the requesting carrier the ability to send signals between its switches (including unbundled switching elements), between its switches and the BOC's switches, and between its switches and those third party networks with which the BOC's signaling network is connected. 47 C.F.R. § 51.319(e)(1); Local Competition First Report and Order at ¶¶ 479–483.
- call-related databases that are necessary for call routing and completion, including the following: (1) line-information databases (e.g., for calling cards); (2) toll-free databases (i.e., 800, 888); (3) downstream number portability databases (i.e., the BOC's own database containing number portability routing information); (4) Advanced Intelligent Network (AIN) databases. 47 C.F.R. § 51.319(e)(2); Local Competition First Report and Order at ¶¶ 484–492.
- Service Management Systems, which are used to create, modify, or update information in call-related databases that are necessary for call routing and completion. 47 C.F.R. § 51.319(e)(3); Local Competition First Report and Order at ¶¶ 493–500.

The BOC should provide a requesting telecommunications carrier with access to call-related databases and service management systems in a manner that complies with section 222 of the Act. 47 C.F.R. § 51.319(e)(2)(vi) and (3)(v).

Useful information to determine compliance with this checklist item includes:

- a comparison of the manner in which a BOC obtains access to its databases and signaling network and the manner in which it provides, or would provide, if requested, such access to competing providers;
- an explanation of any differences in the manner in which a BOC obtains access to a database or signaling system, and the manner in which such access is provided to a competing provider, the need for such differences, and the basis for the Commission to find that such access satisfies the nondiscrimination requirement;

As described in the discussion of checklist item (ii), competing carriers must have nondiscriminatory access to the various functions of the BOC's operations support systems in order to obtain access to databases and signaling in a timely and efficient manner.

## CHECKLIST ITEM (XI): NUMBER PORTABILITY

*Background*

Section 271(c)(2)(B)(xi) of the Act states that “[u]ntil the date by which the Commission issues regulations pursuant to section 251 to require number portability,” a section 271 applicant must provide “interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible.”

Section 271(c)(2)(B)(xi) further provides that, after the Commission issues such number portability regulations, a section 271 applicant must be in “full compliance with such regulations.”

*Checklist Discussion*

In determining whether a BOC has satisfied the number portability requirement of the competitive checklist, the Commission must determine whether the BOC provides number portability in accordance with section 251 and the Commission's number portability rules implementing section 251. Consistent with existing rules and orders, the Commission shall consider the following:

With respect to interim number portability:

Whether the BOC is providing number portability through remote call forwarding, direct inward dialing, or other comparable and technically feasible interim number portability methods as soon as reasonably possible following a specific request from a competitor in those areas where it has received a request from a competitor and where the BOC is not yet obligated

to deploy long-term number portability. 47 C.F.R. § 52.27; Telephone Number Portability First Report and Order at ¶¶ 110–116.

Bureau staff believes that a BOC should be required to furnish the specific method of interim number portability that a competing carrier requests, if such method is technically feasible and not unduly burdensome. Bureau staff further believes that in deciding whether a particular method is unduly burdensome, relevant factors are the extent of network upgrades needed to provide that particular method, the cost of such upgrades, the business needs of the requesting carrier, and the timetable for deployment of a long-term number portability method in that particular geographic location.

Whether the BOC's rates for interim number portability comply with the Commission's criteria for competitive neutrality. 47 C.F.R. § 52.29.

With respect to long-term number portability:

Whether long-term number portability will be, or has been, deployed in the state in accordance with the implementation schedule established by the Commission. 47 C.F.R. § 52.23; Telephone Number Portability First Reconsideration Order at ¶¶ 48–126 and App. B; Ameritech Michigan Section 271 Order at ¶ 342. For those Metropolitan Statistical Areas in the BOC's state that are part of the Commission's phased implementation schedule, relevant information would include:

- the BOC's schedule for intra- and inter-company testing of a long-term number portability method;
- the current status of the switch request process, including identification of the particular switches for which the BOC is obligated to deploy number portability and the status of deployment in requested switches; and
- the schedule under which the BOC plans to provide commercial roll-out of a long-term number portability method in specified central offices in the relevant state. Ameritech Michigan Section 271 Order at ¶ 342.

Bureau staff believes that a timely filed request for extension of the Commission's implementation schedule tolls the obligation to comply with the Commission's rules for purposes of checklist compliance. If, however, the Commission denies such a request for an extension of the implementation schedule, Bureau staff believes such denial would be grounds for concluding checklist item (xi) has not been met.

With respect to both long-term and interim number portability:

Whether the BOC is providing number portability in a nondiscriminatory manner consistent with the definition of number portability set forth in 47 U.S.C. § 153(30). 47 C.F.R. § 52.23; Telephone Number Portability First Report and Order at ¶¶ 46–63, 110–116; Telephone Number Portability First Reconsideration Order at ¶¶ 11–47.

As described in the discussion of checklist item (ii), competing carriers must have nondiscriminatory access to the various functions of the BOC's operations support systems in order to request and obtain number portability in a timely and efficient manner. Ameritech Michigan Section 271 Order at ¶ 342.

Bureau staff believes that, to provide nondiscriminatory access to loops, the Commission should consider whether provision of number portability is coordinated with loop cutovers so that the competitive LEC's customers do not experience prolonged service disruptions between transfer of service from the BOC to the competitive LEC.

#### CHECKLIST ITEM (XII): LOCAL DIALING PARITY

##### *Background*

Section 271(c)(2)(B)(xii) of the Act requires a section 271 applicant to provide “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).”

Section 251(b)(3) imposes upon all LEC's the duty to provide dialing parity to providers of telephone exchange service and telephone toll service with “nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”

The Act defines “dialing parity” to mean that: a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of

any access code, their telecommunications to the telecommunications service provider of the customer's designation from among 2 or more telecommunications service providers (including such local exchange carrier). 47 U.S.C. § 153(15).

*Checklist Discussion*

The Eighth Circuit vacated the Commission's dialing parity rules, "but only to the extent that they apply to intraLATA telecommunications." See *People of the State of Cal. v. FCC*, 124 F.3d 934, 943 (8th Cir. 1997).

Consistent with the statutory definition of dialing parity and section 251(b)(3), Bureau staff believes that a BOC, to comply with checklist item (xii), must establish that customers of competing carriers are able to dial the same number of digits that the BOC's customer dials to complete a telephone call and that they do not experience unreasonable dialing delays.

CHECKLIST ITEM (XIII): RECIPROCAL COMPENSATION

*Background*

Section 271(c)(2)(B)(xiii) of the Act requires that a section 271 applicant's access and interconnection include "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)." "Reciprocal compensation arrangements" refer to agreements between interconnecting carriers about charges for the transport and termination of local telecommunications traffic over their respective networks.

Section 252(d)(2) states that "[f]or purposes of compliance by an [incumbent ILEC] with section 251(b)(5)'s requirement that LEC's 'establish reciprocal compensation arrangements for the transport and termination of telecommunications,' a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls." Section 252(d)(2)(B) further states that "[t]his paragraph shall not be construed (i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements) or (ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls."

*Checklist Discussion*

Bureau staff believes that in analyzing compliance with checklist item (xiii), the Commission should consider whether reciprocal compensation arrangements in accordance with section 252(d)(2) are in place.

Bureau staff believes that if the BOC offers in its SGAT or provides in its interconnection agreement reciprocal compensation arrangements, it must demonstrate compliance with the SGAT or interconnection agreement by making all required payments in a timely fashion. At the request of participants in the 271 dialogue, Bureau staff is discussing whether a BOC meets this checklist item when there are disputes between the BOC and competing carriers over whether the BOC is obligated to pay reciprocal compensation for certain types of traffic, or over measurement of traffic eligible for reciprocal compensation.

CHECKLIST ITEM (XIV): RESALE

*Background*

Section 271(c)(2)(B)(xiv) of the Act requires a section 271 applicant to make "telecommunications services \* \* \* available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3)."

Section 251(c)(4)(A) requires incumbent LEC's "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."

Section 251(c)(4)(B) prohibits "unreasonable or discriminatory conditions or limitations" on resale, with the exception that "a State may, consistent with FCC regulations under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers."

Section 252(d)(3) sets forth the basis for determining “wholesale rates” as the “retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.”

*Checklist Discussion*

The Commission has issued several non-pricing regulations relevant to resale that were affirmed by the Eighth Circuit. A BOC must establish that it complies with these regulations to satisfy checklist item (xiv). These regulations provide:

Resale restrictions, with limited specified exceptions, are presumptively unreasonable. Local Competition First Report and Order at ¶ 939.

The limited exceptions are: (1) a state commission may permit an incumbent LEC to prohibit a competing carrier that purchases at wholesale rates for resale, telecommunications services that the incumbent LEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the incumbent LEC, see 47 C.F.R. § 51.613(a)(1); and (2) short-term (90 days or less) promotional prices do not constitute retail rates for the underlying services, and, therefore, are not subject to the wholesale obligation. 47 C.F.R. § 51.613(a)(1) and (2).

Offerings under section 251(c)(4) apply to volume-based discounts; however, the avoidable costs for a service with volume-based discounts may be different than without volume contracts. Local Competition First Report and Order at ¶ 951.

With respect to volume discount offerings, it is presumptively unreasonable for incumbent LEC’s to require individual customers of a reseller to comply with incumbent LEC high-volume discount minimum usage requirements, so long as the reseller, in aggregate, under the relevant tariff, meets the minimal level of demand. Local Competition First Report and Order at ¶ 953.

Other than the two exceptions from the resale requirement in 47 C.F.R. § 51.613(a), an incumbent LEC may impose a resale restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory. 47 C.F.R. § 51.613(b).

A BOC’s refusal to offer Contract Service Arrangements (CSA’s) at a wholesale discount constitutes non-compliance with checklist item (xiv), as it is not a “reasonable and nondiscriminatory” resale restriction. BellSouth South Carolina Section 271 Order at ¶ 215. There is no statutory basis for creating a general exemption from the wholesale requirement for CSA’s. BellSouth South Carolina Section 271 Order at ¶¶ 216–18. 47 C.F.R. § 51.613(b) was intended only to grant state commissions the authority to approve “narrowly-tailored” resale restrictions that an incumbent LEC proves to a state commission are reasonable and nondiscriminatory. BellSouth South Carolina Section 271 Order at ¶ 218.

The Commission has not addressed whether cancellation penalties when a new entrant seeks to resell a CSA contract are an unreasonable condition or limitation on resale. It has recognized, however, that these fees, depending upon their nature, may create additional costs for a CSA customer that seeks service from a reseller, which could insulate portions of the market from competition through resale. BellSouth South Carolina Section 271 Order at ¶ 222.

A BOC may not refuse to offer for resale at a wholesale discount CSA’s that the BOC entered into after the effective date of a state commission’s arbitration order rendered its section 271 application deficient. BellSouth Louisiana Section 271 Order at ¶ 63. The Commission has not addressed the issue whether CSA’s entered into before the effective date of a state commission’s arbitration order should be offered for resale at a wholesale discount.

Bureau staff believes that the Commission should also require a BOC to offer pre-arbitration CSA’s for resale at the wholesale discount rate, consistent with the position the Commission’s General Counsel has asserted in certain *amicus curiae* briefs filed in federal district court.

In addition, a BOC must provide nondiscriminatory access to its OSS functions to competing carriers that resell BOC services. (For a discussion of OSS, see checklist item (ii).) Bureau staff believes that a BOC can demonstrate that it is providing non-discriminatory access to its OSS functions for resale by submitting performance data. Useful information include whether there is nondiscriminatory access to OSS for resale are information on the status of resale orders, the time it takes to fulfill a service request for a resale order, and the number of resale orders completed on time. Ongoing performance and monitoring will assist in ensuring that the BOC continues to meet its statutory obligations after receiving section 271 authorization.



## SECURITIES AND EXCHANGE COMMISSION

### STATEMENT OF HON. ARTHUR LEVITT, CHAIRMAN

#### SUMMARY STATEMENT

Senator GREGG. We will reconvene the hearing on Commerce, Justice, and State, and we are honored to have the Chairman of the SEC with us. Senator Hollings, do you have an opening statement?

Senator HOLLINGS. No, sir. Thank you very much.

Senator GREGG. Proceed.

Mr. LEVITT. Chairman Gregg, and members of the subcommittee, I appreciate the opportunity of testifying here today in support of the Securities and Exchange Commission's budget proposal for 1999.

We are grateful for the strong commitment the subcommittee has always given to the Commission and its work. The Commission's mission of protecting investors and promoting the integrity of our markets has never been more crucial. Consider the growth in our markets since 1980. Then, 1 out of every 17 American households was invested in our markets. Today it is one household out of three.

With that growth in mind, the Commission is seeking appropriations of \$341.1 million for 1999. This figure represents an increase of \$26.1 million and 30 staff years over last year's level.

I have always tried to run the Commission like a business. We have exercised strong fiscal restraint for the past 4 years, keeping our staffing essentially flat. We have fulfilled our broad legal mandate to protect investors without overburdening the taxpayers.

When I testified before this subcommittee last year, we talked about the likelihood that the Commission might need to seek a modest budget increase this year. I am here to ask for your support as I make that request today.

Our capital markets are experiencing phenomenal growth in just about every area. The number of investors in our markets has grown to the highest level in history, largely through record investment in mutual funds. The value of mutual fund assets is now greater than the total value of deposits in all of America's commercial banks. The value of securities registrations is higher than ever before, and the volume of initial public offerings is at a near record level.

The additional resources we are requesting today will help the Commission keep up with these trends. They will help our Enforcement Division to step up its campaign to prosecute securities fraud—stopping abuses in the microcap sector; cracking down on Internet fraud; pursuing complex litigation; and investigating a record number of insider trading cases.

They will help our Division of Market Regulation assert effective oversight over the exchanges, and over new technologies for trading. They will help our Division of Corporation Finance review companies' financial information, IPO's, and merger and acquisition filings. And they will help our Division of Investment Management and our Office of Investor Education and Assistance keep Americans better informed and protected—able to protect themselves as they invest, many of them for the first time.

The year ahead presents the Commission with many market challenges. Our major management challenge is retaining experienced staff members to carry out our mission. The staff turnover at the SEC has increased dramatically, especially among attorneys, accountants, and securities compliance examiners. With such competitive markets, Government salaries simply cannot compete with private sector offerings. So we have requested \$7 million for retention allowances to help us keep highly skilled employees who would otherwise leave the Commission for private sector jobs. This is a pivotal step in ensuring consistency and experience in staff who bring important cases and oversee complex regulatory policies.

Our markets are the strongest and deepest and most liquid in the world. They are fair to investors. They are efficient for business, and they are vital to our Nation's economy.

#### PREPARED STATEMENT

I know that you share our commitment to ensuring that they remain so, and I look forward to continuing to work with you.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF ARTHUR LEVITT

Chairman Gregg and Members of the Subcommittee: I appreciate this opportunity to testify in support of the Securities and Exchange Commission's (SEC or Commission) fiscal 1999 budget. During the past year, we have seen phenomenal growth in our markets. The Dow reached an all-time high, more investors are investing in our markets than ever, and technological advances have made our markets more accessible to more people.

In this time of record-breaking growth and technological innovation, we also see an increase in innovative schemes to defraud American investors. The Commission has been creative and diligent in trying to protect investors and promote the integrity and efficiency of our markets. It is abundantly clear that if we are to keep pace with market changes, the Commission needs additional staff and funding.

Accordingly, the President's appropriation request for the SEC includes \$341.1 million and 2,827 staff years in fiscal 1999, an increase of \$26.1 million and 30 staff years from the Commission's fiscal 1998 appropriation. If approved, this will be the first increase in appropriated staffing and funding (except primarily for mandatory expenses) that the agency will have had since 1995.

#### ROLE OF THE SEC

The SEC performs an essential function: overseeing one of the largest sectors of our national economy—the U.S. capital markets. The trillions of dollars invested in our markets fuel the U.S. economy. Since its creation in 1934, the Commission has been charged with protecting investors and maintaining fair and orderly markets.

Since 1991, our markets have enjoyed the longest and most vigorous bull market in history. Accordingly, to put the SEC's requested appropriation in perspective, it has to be viewed against the backdrop of exponential growth and rapid changes in our markets.

## CURRENT CHALLENGES FACING THE SEC

*Extraordinary Market Growth.*—Many Americans now invest their retirement savings in the securities markets, often through mutual funds. Americans now have an unprecedented stake in our markets. Our children's futures, our retirement money, and our future financial well-being are increasingly dependent on the success of our markets. More than ever before, Americans are investing in America. Consider the following statistics.

- As recently as 1980, only one in 17 households invested in mutual funds; today that number has risen to more than one in three.
- Assets in mutual funds have reached record levels of \$4.5 trillion—a figure that greatly surpasses the more than \$2.7 trillion Americans have on deposit at commercial banks—and continue to grow monthly.
- The number of first-time small investors participating in the U.S. securities markets continues to grow.
- A recent survey (conducted by a private concern) indicated that 24 percent of those responding were very much dependent on the market for their retirement and 46 percent were somewhat dependent.

The U.S. markets are widely regarded as the deepest, most liquid, and fairest markets in the world. We have seen tremendous expansion in our capital markets, and this exponential growth continues.

- Within the past two years, the Dow broke 6,000, then 7,000, and then 8,000.
- Within the past six months, the New York Stock Exchange and the Nasdaq Stock Market each have seen stock trading volume hit record highs.
- In 1997, total dollar volume traded on the exchanges and the Nasdaq Stock Market exceeded 1996 dollar volume by 41 percent.
- After three years of rapidly rising stock prices, American households have more of their assets invested in the stock market than at any time in history.
- In 1997, the number of investment company portfolios increased 8 percent from 24,265 in 1996 to 26,231.
- A record \$1.44 trillion in securities were registered with the Commission during 1997, a 20 percent increase over the \$1.2 trillion registered in 1996.
- Over \$100 billion in securities was registered in 1997 by foreign companies, setting a record for foreign company offerings in a single year.

Market participation is at an all-time high. The influx of less sophisticated investors into our markets, however, has emboldened some to prey upon the unwary. In addition, new securities products and new technology have created new opportunities for fraud and abuse.

*Combatting Fraud.*—Commission staff investigate and prosecute violations of the federal securities laws. These violations include fraudulent offerings of securities, market manipulation, insider trading, and violative conduct by regulated entities. The Commission has been vigilant in pursuing its law enforcement responsibilities, while trying to adapt its programs to changing market conditions.

*Internet Fraud.*—Much of the remarkable expansion and momentum of the markets is a reflection of the current, ongoing technological revolution. The Internet now allows securities to be marketed directly to, and traded directly by, individuals around the world. We have seen fraudulent offerings of securities, manipulations, and other violative action conducted over the Internet.

These developments, in combination, present extraordinary challenges to the SEC's law enforcement program. The Commission has been active in addressing these challenges.

- The Commission stepped up its efforts to combat fraud committed over the Internet, forming a "cyberforce" to monitor Internet activity through surveillance.
- The Commission focused its efforts on investor education. The Commission's website provides information to investors about fraudulent schemes.
- The Commission is actively investigating fraud on the Internet and brought approximately 20 enforcement actions to curb the use of the Internet to perpetrate securities fraud.

*Microcap Fraud.*—The market shows signs of an increase in abuses in the market for low-priced stocks or "microcap" stocks. Microcap stocks are issued by companies with lower capitalizations and are usually quoted on the National Association of Securities Dealers Over-the-Counter Bulletin Board, the pink sheets operated by the National Quotation Bureau, and the Nasdaq SmallCap Market. This part of the market provides legitimate opportunities for small and new businesses to raise capital, but also provides opportunity for criminals to prey on innocent investors. Microcap fraud often is accomplished through the use of sales practices such as abusive high-pressure cold calling, unauthorized trading in a customer's account, and

stock manipulation schemes that enable the manipulator to reap profits while investors suffer losses after the manipulation stops.

Addressing microcap stock fraud presents the difficult challenge of controlling the fraud without damaging the market for securities issued by legitimate small businesses. The Commission has begun a far-reaching campaign against microcap fraud. The Commission's initiatives include examinations and inspections, investor education, enforcement, and regulatory oversight.

—Through Investor Alerts, the Commission's website, and town meetings, the Commission educated investors about practical tips on how to spot securities fraud.

—Our examination staff intensified its examinations of broker-dealers and performed a "sweep" of brokers trading in microcap securities.

—We increased our coordination of enforcement efforts with criminal authorities, the states, and self-regulatory organizations.

—The Commission implemented a number of ten-day trading suspensions in stocks for which there was suspicious activity.

—The Commission recently proposed amendments to strengthen its disclosure and broker-dealer regulations to reduce opportunities for microcap fraud.

*Municipal Securities Markets.*—The Commission continues to work to eliminate pay-to-play practices, improve transparency, and improve disclosures made to investors. We brought a number of significant enforcement cases in the municipal securities area. In 1997, we brought 14 cases, as compared to 8 cases in 1996.

*Inspections and Examinations.*—The Commission's inspections and examinations provide compliance oversight of self-regulatory organizations, broker-dealers, transfer agents, and investment companies and advisers. In recent years, a number of developments in the securities industry have required significant staff attention and resources. These include: development of highly sophisticated products, increasing dependence on complex technology, a dramatic increase in assets under management by investment advisers, and growing popularity of microcap securities. Despite the demands placed on its resources, the Commission has remained vigilant in overseeing regulated entities. Recent initiatives include: a heightened emphasis on coordinating examinations with other regulators; using sweep examinations to obtain a more systematic view of industry problems and practices; and developing risk-based examination techniques that allow the more effective use of resources. Of course, our examination program continues to emphasize fundamental investor protection issues such as broker-dealer sales practices.

*International Agreements.*—We now live in a global marketplace. The growing internationalization of the securities markets increasingly affects U.S. markets. While this trend provides new opportunities for investment and capital formation, it also creates new challenges for securities regulators. The Commission negotiates information-sharing agreements with foreign regulators to minimize the extent to which borders are used to escape detection and prosecution of fraudulent securities activities. During the past year, the Commission entered into formal information sharing agreements with the Bank of England, with Germany's securities regulator, and, just last week, with India's securities regulator, among others.

*Improving Disclosure and Educating Investors.*—The Commission recognizes that the increase in less sophisticated investors presents new challenges for the Commission in carrying out its responsibility to protect investors.

The Commission has tried to develop programs to promote more informed investment decisions. The Commission implemented a number of initiatives to improve disclosure and educate investors about investing and their investments. For example, the SEC:

—began a series of national and community initiatives that will culminate at the end of this month in an unprecedented national public awareness campaign, "The Facts on Saving and Investing Campaign," and will include a town meeting broadcast nationwide and to 21 countries participating in a hemispheric conference;

—held town meetings in local communities to educate investors about investing;

—required issuers to use plain English principles in drafting prospectuses and developed a plain English writing guide for issuers;

—adopted rules to improve the disclosure of information about mutual funds to investors, including rules to improve fund prospectuses and a rule permitting funds to use a summary "profile" document;

—issued staff guidance to the public and industry on disclosure obligations arising from year 2000 conversion;

—transmitted its billionth page of text and data on the SEC's World Wide Web site, which now has an average of 3 million "hits" per week and downloads an average of approximately 35 million pages of financial information per week—

making it, we believe, consistently to be the most active federal website in operation; and

—created a Task Force on Investment Adviser Regulation to implement the National Securities Markets Improvement Act of 1996 (NSMIA), to review and modernize Commission regulations, and to develop a means by which investors can easily obtain information about investment advisers.

*Promoting Fair and Successful Markets.*—During the past year, we also have seen increasingly complex financial instruments in our markets that have presented new and demanding challenges to the SEC. The SEC seeks to be flexible in adapting its regulations to encourage innovative products and services, consistent with investor protection. The Commission has undertaken several initiatives designed to promote improvements in market structures and operations and to encourage innovation in capital-raising activities.

—The Commission issued a concept release that reexamines the regulation of the U.S. securities markets in light of technological developments, particularly with respect to alternatives to traditional exchange trading and electronic links to foreign markets.

—The Commission implemented the new order handling rules to assure that markets are fair and open to investors and are based on competition.

—The Commission published for comment rules for a class of registered dealers active in OTC derivatives markets. The proposal is designed to allow U.S. securities firms to establish dealer affiliates—called OTC derivatives dealers—that would be able to compete more effectively in global OTC derivatives markets by tailoring capital and other regulatory requirements for the OTC derivatives business.

—The Commission held a series of town meetings with small businesses to educate them on capital raising strategies.

To date, we believe that the Commission has been successful in carrying out its mandate, and investor confidence in our markets is high. Investor confidence must remain high if our markets are to continue to grow. Limited resources, however, may pose a threat to investor protection and market integrity. In recent years, the Commission has targeted its existing resources carefully to maintain effective performance levels. The Commission's request for additional funds is necessary for it to continue to fulfill its mandate to protect investors and support its efforts to promote market integrity and fairness.

#### PRIORITIES AND ALLOCATION OF ADDITIONAL RESOURCES

The SEC currently carries out its broad mandate with 2,797 staff years. The agency is able to accomplish its objectives by regulating, to a large extent, through a public-private partnership. This system of shared regulation between the SEC, self-regulatory organizations, and the industry is markedly different from the approach taken by other federal regulators. It enables us to leverage our resources with the efforts of the private sector. Even so, additional resources are urgently needed.

Between 1980 and 1994, the number of SEC authorized positions increased 35 percent. To put that in perspective, for the same period assets under management of investment companies and investment advisers increased 964 percent and 2,082 percent, respectively.

However, since 1995, authorized positions have been flat. We have been able to maintain a vigorous program at the SEC with flat staffing through fiscal restraint, conservative management, and the reallocation of existing resources. Of course, the Commission is mindful of the need to be fiscally responsible. However, if we fail to increase our staffing levels to keep pace with market expansion, we may risk failing to fulfill our mandated responsibilities. Expanding our human resources will allow us to further existing priorities and pursue new initiatives.

#### *Law Enforcement*

*Combatting Fraud.*—As discussed above, changing markets present new challenges for the Commission. The recent resurgence of microcap fraud and the use of the Internet to accomplish securities fraud are but two examples of the challenges. Thus, the Commission intends to allocate 15 additional staff years for the Prevention and Suppression of Fraud program. Staff in the program will monitor potential fraudulent securities activity on the Internet and other on-line information services and will respond to continued growth and change in electronic forms of communication.

While existing resources were devoted in 1998 to combatting microcap fraud, with the new staff, the SEC will be better able to coordinate its nationwide effort to address microcap issues, including: intervening in microcap frauds at the earliest point

possible to minimize investor harm; enhancing surveillance; and coordinating with other federal, state, and industry regulators.

*Inspections and Examinations.*—Although Commission staffing levels have remained constant since 1995, we reallocated resources to enhance inspection and examination activities. As a result of those additional examiners and new legislation that divided the regulatory responsibility over investment advisers between the Commission and the states, the SEC expects to meet its inspection goals in 1999. These goals include inspecting each of the large investment advisers qualified for federal registration and investment company complex at least once every five years. In addition, throughout the inspection program, the staff will continue development of risk-based examination techniques and maximize opportunities to coordinate with other regulators.

While no additional inspection staff is being requested for 1999, additional funding is being requested to initiate a multi-year effort to develop and implement important new automated tools, including applications to track and monitor the examinations of self-regulatory organizations, broker-dealers, and investment companies and advisers, and applications to target examinations for broker-dealers and investment advisers.

#### *Disclosure and Promoting Honest and Efficient Markets*

The review of financial statements and registrations filed with the SEC is a fundamental element of the Commission's full disclosure program, which is designed to provide investors with material information, foster investor confidence, and facilitate capital formation. Our goal is to encourage and enhance compliance with federal securities disclosure and accounting requirements.

We intend to allocate six additional staff years to corporate disclosure review. These additional staff members will enable the agency to increase review of issuer reports 7 percent from 1998 levels. This review will focus particular attention on compliance with plain English requirements and will monitor how companies are addressing the consequences of year 2000 conversion. The review levels achieved with the additional staff will help provide investors with access to important information on emerging and novel issues and provide deterrents to fraud in public securities transactions. Simplification of disclosure initiatives, including projects designed to assist small businesses, also will remain a priority for 1999.

With respect to accounting policy, as more foreign registrants access U.S. markets, two additional staff years are needed to keep pace with major developments in international accounting and auditing. The International Accounting Standards Committee is working to complete a comprehensive core set of international accounting standards. After this is completed, the staff will assess the standards and make a recommendation to the Commission regarding the acceptability of those standards for use by foreign registrants in cross-border offerings and listings.

Additionally, eight additional staff years are requested in 1999 for the Supervision and Regulation of Securities Markets program to continue the re-evaluation of our approach to regulating markets, particularly the oversight of alternative trading systems, registered exchanges, and foreign market activities in the United States.

#### *Investment Company Disclosure*

Eight additional staff years are requested for investment company disclosure activity. The Commission recently adopted sweeping reforms to investment company prospectus disclosure requirements. In 1999, the staff will work with mutual funds as they revise their prospectus disclosures to comply with the new form requirements; review the new "profiles" filed by mutual funds; and monitor compliance with the new rules, increasing the number of investment company filings reviewed by the staff. The review process enhances investor protection by seeking to ensure that an entity's policies, procedures, and risks are disclosed fully and fairly and that proposed activities are consistent with the new rules.

The staff will continue to respond to the rapid changes in the investment management industry, addressing issues such as investment company advertising rules, periodic reporting requirements, financial statements, and the electronic delivery of information to investors.

#### *Improved Technology*

The fast pace of technology and the pressure to deliver quickly computer products and services has resulted in an increased reliance on contractors with technical expertise. Outsourcing allows the Commission to leverage private sector expertise and shift the technology staff's focus from day-to-day operations to contract and project management and oversight and strategic planning. In 1997, the Commission hired an outside consultant to study how the operational efficiency of our information

technology services could be improved. The study recommended the use of contractors for operations, maintenance, and application development.

The shift in focus of the information technology staff from operations to strategic planning will result in a decrease of 15 staff years and also in the need for different skill sets with an emphasis on project management, contract administration, technology engineering, customer service, and network security skills.

Additional funding (\$5.7 million) also is requested to support the SEC's automation efforts to improve efficiency and productivity through the use of automated PC-based computer applications. The funding will enable the SEC to: complete the necessary conversion and testing for year 2000; initiate the multi-year effort to develop and implement important new tools for the inspections and examinations activity; establish an infrastructure replacement program; improve data delivery to the regions; further enhance document and correspondence management systems; develop software to access on-line trading information; implement user-friendly text search tools; and improve imaging, storage, and retrieval capabilities. Additionally, the staff will continue to work with various industry components to address year 2000 conversion and testing.

We appreciate the work and support of your staff on the reprogramming of funds for the modernization of EDGAR—the SEC's Electronic Data Gathering, Analysis, and Retrieval system. While EDGAR is one of the government's most successful large information system initiatives, the dramatic changes in technology over the past few years necessitate its modernization. This modernization, to be done over a three-year period, will greatly benefit issuers, investors, SEC staff, and other data users.

#### *Economic Analysis*

Three additional staff years are requested to provide conceptual and quantitative economic analysis focusing on issues such as investor protection, trading practices, market structure, and costs and benefits of rule changes.

#### *Administrative Law Judges*

Three additional staff years are requested to enable the administrative law judges to file initial decisions within ten months of issuance of the order for proceedings, as stipulated in the SEC's "Guidelines for the Timely Completion of Proceedings." As a result, the number of proceedings pending disposition will start to decrease rather than continue on an upward trend.

#### ADDITIONAL FUNDING FOR RETENTION OF STAFF

Our ability to retain our existing staff members is critically important to our ability to get our job done. In fiscal 1997, turnover at the SEC increased dramatically, especially in our three major program occupations (attorneys, accountants, and securities compliance examiners). For example, the SEC's overall turnover rate in fiscal 1997 was 11.9 percent compared to 9.5 percent in fiscal 1996. The 1997 turnover rate for attorneys was 16 percent compared to 11.3 percent in 1996. The 1997 turnover rate for accountants the rate was 12.1 percent compared to 9 percent, and for examiners the rate was 10.8 percent compared to 10.3 percent. By comparison, government-wide white collar turnover has been in the range of 7–8 percent a year for the last couple of fiscal years.

The SEC's ability to retain experienced professional staff is critical to our ability to respond quickly to changing market events and enforcement activities. The securities industry is constantly seeking to hire lawyers, accountants, and securities compliance examiners with highly-valued SEC experience. Market growth will continue to increase demand for our seasoned securities professionals.

To combat this growing high attrition rate, we have requested \$7 million for retention allowances. This retention initiative will utilize more fully the existing authorities available to federal agencies by expanding the use of retention allowances to retain, for one or more additional years, critically needed employees who might otherwise leave the Commission for higher-paying private sector jobs. While realizing that the agency cannot compete directly with private sector salary rates, we anticipate that this initiative will extend the tenure of key professional employees. The Office of Personnel Management and the Office of Management and Budget have reviewed the proposal and support the strategy as a reasonable way to use limited payroll dollars efficiently in order to try to retain key employees.

#### FUNDING STRUCTURE

The President has proposed in his 1999 budget total funding for the SEC of \$341.1 million, using several funding sources: \$118.1 million in new budget authority, \$205 million in current year offsetting collections, and \$18 million in carryover

from 1998 fees. The funding mix reflects the Administration's government-wide fee initiative that would, among other things, discontinue the practice of providing agencies whose budgets are primarily financed by fees with an upfront guarantee of budget authority which is later reduced as actual collections are received.

The \$84.6 million increase in budget authority over 1998 would permit us to carry into fiscal 2000 fees that are collected late in 1999, allowing the SEC to be funded almost exclusively from fees. The proposed budget is consistent with the declining fee rates established in NSMIA. However, this approach continues the SEC's reliance on a combination of excess fee collections from prior years and new collections, thereby postponing the shift to a full appropriation.

#### CONCLUSION

The Commission plays a vital role in protecting U.S. securities markets from fraud, manipulation, and other practices that continually threaten to undermine the integrity of our markets. In presenting today's budget request, the Commission has been mindful that government resources are limited. The Commission has requested a modest increase of staffing and retention authority that will enable us to continue targeting areas of market growth where our money can have the greatest impact. It also reflects the market realities—the loss of trained staff. Finally, our request recognizes that important work lies ahead of us. Among the challenges we will face over the coming year are: issues posed by the increasing number of small investors who invest their retirement savings in mutual funds through retirement plans; aggressively combatting fraud and maintaining public confidence in the markets; and maintaining vigilant oversight of markets as those markets grow increasingly complex and volatile.

As the year 2000 approaches, the U.S. must be ready to meet the challenges presented by a changing marketplace in order to maintain the leadership of its markets. To take on new challenges, to continue the Commission's excellent record of effective investor protection, law enforcement, and market oversight, and to continue to fulfill its mission of protecting the millions of U.S. investors who have invested nearly \$13 trillion in the U.S. securities markets, the Commission needs the increased resources requested today.

The Commission looks forward to working with the Subcommittee in its continuing efforts to ensure the effectiveness of the SEC and the viability of our markets.

#### RETENTION ALLOWANCE

Senator GREGG. Thank you, Mr. Chairman. First let me say how much we respect your agency and the work you do as Chairman. The fact is that we are the premiere market in the world, and we are there because of the SEC's discipline of that market as a place that has high integrity and financial statements.

The public can have confidence in statements put out by our corporations, who are seeking public support through offerings, as a result of SEC oversight. And so your agency is critical. It does not take a lot of money compared to what we do around here, but it is sort of the point that holds everything else up from the standpoint of integrity of the markets.

This committee strongly supports your efforts, and from my viewpoint, your request for this \$7 million for retention allowances is very reasonable, and something we will certainly support.

I wonder if you need any legal authority to assist you in this area. Are you all set as far as compensation legal authority?

Mr. LEVITT. I do not believe that we do need any special legal authority. We have set up a program that provides the maximum leverage for this, and maximum protections. We have set up a committee of senior executive staff personnel to screen each of the suggestions for any of this compensation.

I cannot say to you in candor that this program or any program will guarantee that we will be able to stem the tide. I know of six people who are working for around \$100,000 a year and who have

offers of over \$1 million in the private sector. I hope that a retention allowance will be a gesture to show people that we are able to fight for them and get them some recognition. But is that a guarantee? No; it is not. But I think we would be derelict if we did not try to keep them.

They are patriots, as far as I am concerned. That is the only motivation for their being at the Commission. But there comes a point when the spread is just too wide.

Senator GREGG. I understand that. We understand it as a committee. We are willing to support you. We have other agencies, probably not as dramatic as yours, that have this same type of problem. But your agency is unique.

We all know that the people who work for you can go out and make a lot more in many instances, and maintaining professionalism in your agency is critical.

So we will support you in whatever way we can in that area.

#### INTERNET FRAUD

You mentioned that you are looking at the Internet fraud issues. Maybe you could bring us up to speed as to what is happening.

Mr. LEVITT. Well, the Internet is a blessing and it is a danger. It is a danger in that it is a vast new opportunity for fraudsters to prey on the American public. And if either of you surf through the web, you will see all kinds of offerings—guaranteed 300 percent, buy an olive grove in Alaska and make your fortune.

We brought a case not too long ago against a scamster who raised millions of dollars from 1,000 investors for the purchase of a nonexistent eel farm. No eels and no farm.

On the other hand, because it is so open, we are able to see a lot of this stuff, and get at it, and we are bringing cases. We are developing a technology that makes it easier for us to interdict some of this stuff, as it happens.

We have a program of investor education, which I think is an unusual one for Government, where we have town meetings all over America. We have had 24 of them so far, to teach investors how to protect themselves. We started in Camden, NJ, about 4 years ago, where we had about 30 people come out. In Los Angeles 1 month ago we had nearly 6,000 people come out to ask us questions about how to protect themselves. And we are going to have a hemispheric town meeting, part of it in Spanish, in about 2 weeks. So education is part of it.

Litigation is part of it. We bring cases against scamsters, wherever it is appropriate, so they know they cannot get away with fraud scot-free.

These are our efforts. I think you know that no Government agency can protect people against their own bad judgment.

Senator GREGG. And it should not.

Mr. LEVITT. It should not. But this is the general thrust of what we are doing, and how we are approaching it.

Senator GREGG. Are you working with the FTC at all, which also is into this issue rather aggressively. Do you have any overlap there?

Mr. LEVITT. We are working with the FTC on this issue.

Senator GREGG. Senator Hollings.

Senator HOLLINGS. I join in Chairman Gregg's comments about the outstanding nature in which you are performing. We are lucky to have you.

Mr. LEVITT. Thank you.

#### REGISTRATION AND TRANSACTION FEES

Senator HOLLINGS. And I am glad to see Mr. McConnell, because his father Guy McConnell, started with this Appropriations Committee when I first got up here.

What happens now is a rhubarb relative to the fees. We are doing well, not with you, but with the discipline down town here. Because I well remember the fact that before the 1996 agreement there was an appeal by the Securities and Exchange Commission that they had to do away and try to phase out this 6(b) registration fees, which we are doing.

But to supplant it, we got together with the Banking Committee on the Senate side, and the Commerce Committee on the House side, and the White House and worked out an arrangement whereby we would have the transaction fee of Nasdaq, New York Stock Exchange, and the American Stock Exchange that you headed. So we put them into Nasdaq. And that is working well now, is it not?

Mr. LEVITT. Yes; the specifics of the agreement were that we were going to reduce the 6(b) fees from one thirty-third of 1 percent in 1997 to their previous rate of one fiftieth of 1 percent in 2006, and to one one hundred fiftieth of 1 percent in 2007. At that time the total amount of fees collected was expected to equal what our requirement was. We also phased in Nasdaq, to keep them on the same level as the exchange transaction fees.

There is some question as to whether Nasdaq double counts fees, which they do, and I think that the NASD may work out some adjustment in that, which will reduce the fees. But that is the process that is in place at this time.

#### CLOSING REMARKS

Senator HOLLINGS. Well, OMB is giving us a problem by saying that the appropriations should come from discretionary appropriations, and not fees, which would automatically make us have to increase the SEC appropriations some \$85 million.

But I just wanted to have those observations on the record here, because I agree with Chairman Gregg also on the retaining of personnel. We have that. Now the Government is underpaid. I remember being up in New Hampshire with an executive of Wheelabrator-Frye, Mr. Murray Dingman.

Senator GREGG. Mike Dingman.

Senator HOLLINGS. Mike Dingman. He was appointed by the Federal Government to try to reorganize it, and find out its worthiness. And I will never forget him saying at the end of the study that the top Government grade would be doubled and tripled in private industry and that they were lucky to have them in Government.

We have that with the FBI. If you want to try to get rid of an FBI man, old Hoover used to say send them to Alaska. But you have to send them to New York now. And many want to get out. Because the wife, the family, the schools and everything else, they

are going to lose their family and everything else unless they make a higher salary.

They are just not paid enough. They cannot find a place to live. So the committee has a real problem there, and your request is minimal, and you are paying for it. I support it and support you in anyway we can. We are lucky to have you.

Mr. LEVITT. Thank you so much, Senator.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. I cannot think of what it was I was going to ask. Well, in any event it must not have been important, obviously.

We thank you for taking the time to come by. We appreciate it. We will be funding your agency at your requested levels, and we will try to help you out in anything else that comes along that you need.

Mr. LEVITT. Thank you.

#### CONCLUSION OF HEARINGS

Senator GREGG. This subcommittee stands in recess until March 31, 1998, when it will hear testimony from the Attorney General on counterterrorism.

[Whereupon, at 11:02 a.m., Thursday, March 19, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]



**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 1999**

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

NONDEPARTMENTAL WITNESSES

The following testimonies were received by the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 1999 budget request for programs within the subcommittee's jurisdiction.

DEPARTMENT OF JUSTICE

PREPARED STATEMENT OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to present our views in writing.

*Bureau of Prisons Concerns*

The AFGE Council of Prison Locals represents 26,000 federal prison workers nationwide. Our main concerns are issues that have faced Congress and correctional officers for the past three fiscal years.

The first concern is the continued emphasis on privatizing federal prisons. An August 1996 GAO report found no conclusive evidence that prison privatization leads to significant cost savings or improvements in quality. The Bureau of Prisons is an agency that has operated effectively for more than 60 years. The employees of the prison system take pride in their work and operate correctional facilities in a safe, humane, secure environment under the supervision of the Attorney General.

In 1996 Congress took steps to privatize one federal prison in Taft, California. This was supposed to be a five-year pilot project to give Congress data on the potential savings from contracting out the operation of additional federal prisons.

The problem is that BOP is skewing the data by allowing the contractor at Taft—Wackenhut Corrections—to operate a Federal Prison Industries program at the facility. This amounts to a subsidy to Wackenhut because it relieves the contractor of paying for alternative inmate activities.

The AFGE Council of Prison Locals believes that attempts such as this to assist Wackenhut could result in misleading cost comparisons that might be used as invalid justifications for further privatization of BOP operations.

The need for a valid analysis of the true cost of contractor operations is especially important in light of plans to privatize operations of the District of Columbia correctional system (including the Lorton Prison Complex) now under federal supervision.

Congress has annually funded the Bureau of Prisons at a higher rate than requested by the President. That is because the federal prison system and its loyal employees operate the prisons in a manner that is professional and responsible. If this high level of performance is to continue, we need targeted funds to help pay for overtime costs. Given the staffing shortage at many facilities, overtime is the only way to be sure that the proper level of supervision exists in our prisons. Insuffi-

cient funds for overtime pay means that facilities often do not have a sufficient number of correctional officers on duty to ensure safety and security.

Our last point on BOP is the problem of excessive managerial positions in the agency. Currently, there is a ratio of 1 supervisor to 5 line employees. This is a far cry from the 1:15 target in the National Performance Review. This heavy layer of management increases the BOP's cost per inmate. Elimination of this situation would make it even clearer that BOP personnel can do the job more economically than contractors.

*Immigration and Naturalization Service Concerns*

The AFGE National Border Patrol Council has a number of concerns with regard to the Administration's authorization and budget request. First, we believe the concept of contracting the enforcement of immigration laws to state and local law enforcement agencies is ill-advised, as employees of such agencies do not receive adequate training in such laws, nor are they required to speak Spanish. This latter factor alone could result in any number of situations in which persons could be falsely arrested, medical emergencies of detainees could be neglected, or officers could be injured.

The provision directing the Attorney General to subject INS employees to the disciplinary policies applicable to the Federal Bureau of Investigation cannot be applied to bargaining unit employees, as they are already covered under the Civil Service Reform Act of 1978.

As noted in a recent GAO report, there is no evidence that the INS "prevention through deterrence" border control strategy is working. In fact, it appears that aliens are flooding across our borders in record numbers. The growth of the Border Patrol has been more than offset by the problems caused by the foolish tactic of stationing agents in fixed positions instead of allowing them to patrol the border. With fewer than 7,000 agents to monitor 6,000 miles of land border on a 24-hour basis, it is obvious that this strategy is not feasible. Since the Administration appears unwilling to voluntarily abandon this senseless plan, Congress should direct INS to do so.

The \$34.3 million proposed for construction, repair, and renovation of Border Patrol facilities is inadequate, as many of the existing facilities were designed to accommodate only a fraction of the employees currently assigned to them. The language concerning the San Clemente and Temecula traffic checkpoints should be deleted. The continued operation of these vital facilities should not be held hostage to unreasonable directives.

Although the Federal Law Enforcement Pay Reform Act of 1990 authorized agencies to offer a foreign language differential of up to 5 percent of basic pay to any law enforcement officer who possesses and makes substantial use of one or more foreign languages in the performance of official duties, INS refuses to do so. It should therefore be compelled to include such payments in its budget. Such payments should be directed to be included with regular salary payments on a bi-weekly basis in order to ensure that the money is not diverted to other programs.

INS continues to ignore the recommendation of the National Performance Review to reduce by half the percentage of its employees who are supervisors, and now INS wants even more supervisors. Congress should reject this proposal and direct INS to comply with the NPR recommendation.

Language needs to be included specifically earmarking funds for the Border Patrol program. Otherwise, the Immigration and Naturalization Service will once again take funding away from the Border Patrol for other programs, frustrating the intent of Congress.

The AFGE National Border Control Council and the Council of Prison Locals appreciate the opportunity to offer these comments.

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DEPARTMENT OF COMMERCE

PREPARED STATEMENT OF HON. BRUCE L. DELANEY, MAYOR-COMMISSIONER,  
GAINESVILLE, FL

Mr. Chairman: On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking federal funds in the fiscal year 1999 Commerce, Justice, State and Judiciary Appropriations bill for the following innovative projects the City is undertaking: (1) a Communications Enhancement Initiative to improve public safety; and (2) a Business Incubator Project to promote economic development in East Gainesville.

*Communications Enhancement Initiative*

The City of Gainesville is seeking \$10,000,000 for a computer-assisted dispatch and radio communications project to enhance public safety. The City and Alachua County are planning the creation of a joint communications system for the future. The impact for the entire region is considerable, since this county serves as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services.

The need for this system is partially driven by the Federal Government's "re-farming" of radio frequencies through the Federal Communications Commission. The requirement to replace more than 20 different radio systems presents an opportunity to create a single telecommunications infrastructure to serve all the emergency, transportation, utility, support and administrative agencies in the area.

The project consists of: Building and equipping a dispatch and communications facility (\$4 million); Providing a trunked telecommunications system (\$2 million); Purchasing and installing advanced software to manage multiple agency operations and records (\$2 million); and Purchasing the individual user devices for connecting to the system (\$2 million).

The agencies involved in this project are: Alachua County Government (14 internal user agencies), Alachua County Sheriff (includes Corrections Facility and Civil Division); Cities of Gainesville (8 internal user agencies), Archer, Newberry, High Springs, Alachua, LaCrosse, Waldo, Melrose, Hawthorne, and Micanopy; School Board of Alachua County, Santa Fe Community College, University of Florida, Gainesville-Alachua County Airport Authority, Gainesville Regional Transit and Gainesville Regional Utilities (electric, gas, water, wastewater, telecommunications).

Currently, the City of Gainesville operates its own emergency dispatch facilities for police and fire rescue. Alachua County provides similar service for urban and rural areas, along with smaller cities, in a site operated by the Alachua County Sheriff. Current technologies in the two centers are incompatible. In addition, numerous other agencies of both governments are operating separate small dispatch operations on other radio systems. The total number of governmental users of radio systems, including utility workers, is over 1,500. The emergency control centers record, control, and track events with computer-aided dispatching systems (CAD) which are incompatible with each other and which are becoming obsolete.

There is an opportunity to consolidate all of these communications functions into one telecommunications infrastructure, which will provide cheaper operating costs, better services, with significant improvement to emergency and non-emergency governmental and utility services. The area is over 900 square miles with a population of more than 200,000. Providing advanced technologies (voice, data, telephone interconnect, resource management, records, billing, etc.) requires extraordinary coordination with the numbers of agencies involved. Funding such an effort is beyond the current capability of the entities, either individually or together. Yet, under the standards for radio frequency allocation by the Federal government, this reorganization into a combined system provides the most rational response to the changing telecommunications environment.

The expected result of this project will be the ability for all agencies to communicate internally and across all agencies when the need arises to coordinate joint operations. The addition of a digital data system allows for field entry and research of records along with text communication. This use of wireless networking will permit person-to-person as well as computer-to-computer communication, thus providing access to all forms of information at mobile and fixed sites on the network. Geographic Information Systems, Dispatching Systems, Work-Order Systems and Work-Management Systems will all be linked to a common communications backbone. There are 5 law enforcement agencies, 11 fire rescue services, an ambulance service, 3 hospitals, 31 schools and colleges, a transit system, 9 municipalities and multiple county government agencies which will join the system as "subscribers"—paying annual usage fees based upon the number of devices they have on the system.

The infrastructure is proposed to be operated by the municipal utility as a part of a communications subsidiary. Fees to the system will cover the cost of operation and maintenance along with future upgrades. The system will also be linked to an existing and expanding fiber-optic network which links many government and health care institutions.

The Federal government's reallocation of radio spectrum is the triggering event causing the need for a new telecommunications system. The advantages of combining all of the systems into a single infrastructure are beneficial to law enforcement, fire rescue, public works, and the entire spectrum of other municipal and rural services. Funding the program will reduce future operating costs, but the high initial cost is the obstacle to its inception. Most of the technology is existing and well-proven in other applications, although it is not yet in use in such a widespread and

cross-dimensional form. The challenge in this application is the ability to use a single architecture to provide a non-duplicative information infrastructure which significantly reduces future costs. The financial need is the same that all governments face when presented a new technology—that the existing systems consume the resources needed to migrate to the more efficient systems. The FCC mandates regarding frequency reallocation will result in high investment costs in new telecommunications infrastructure, but local governments will be hard-pressed to meet the mandate without additional assistance.

This project, because it provides the linkage between all entities in the region to meet the future information infrastructure needs, is appropriate for one-time Federal funding. It is an opportunity to demonstrate the feasibility of a joint, multi-agency, multi-jurisdiction, and multiple technology telecommunications system.

#### *Business Incubator Project*

Finally, the City of Gainesville is seeking federal funds for a business incubator project to promote economic development in East Gainesville. Key components of the Gainesville Enterprise Assistance Center are:

- Real Estate Acquisition: The City of Gainesville expects to receive the donation of a 75,000 square foot office warehouse facility with a market value of about \$1.2 million.

- The City requires \$1,000,000 to renovate the facility as a business incubator.

The City of Gainesville's Economic Development Department is working in collaboration with the University of Florida, the North Florida Technology Innovation Corporation, Santa Fe Community College, the Small Business Development Center, the Gainesville Area Chamber of Commerce, the Council for Economic Outreach, the Southern Technology Application Center and other local organizations on this project. Together, these organizations possess the staff and expertise to provide services and administer, implement and market the project. If the property and funding are obtained, project implementation will begin on or before October 1, 1998. Gainesville needs to create greater opportunities to support small business startups that can fuel job creation and expand the tax base in our local area.

- It has been documented that the majority of new jobs in America are generated by small companies.

- A survey has been done of local start up companies which indicates that 60 percent of the respondents would have used and benefited from a business incubator had one been available.

- Gainesville is a community rich in intellectual capital due to the diversity of colleges and programs at the University of Florida. Research at UF has resulted in an abundance of technology that can be licensed by private entrepreneurs. In addition, new business startups unrelated to the university are emerging continuously in the north central Florida region.

- Much of UF's available technology leaves the community and is developed in cities where programs exist to help new business owners succeed. Many of the non-UF business ventures that start in the area fail due to a lack of business assistance.

There will be direct and indirect economic development impacts from this project.

- The incubator will be located in the City of Gainesville Enterprise Zone. The area's residents live in some of the census tracts with the City's highest unemployment and poverty rates. According to the 1990 Census, census tract four where the project is located has a 20.4 percent poverty rate and a 10 percent unemployment rate. Surrounding tracts (five, six and seven) range from 36.6 percent to 46.82 percent poverty rate and 4.1 percent to 15.8 percent unemployment rate. The building targeted for use as the incubator is a former hardware and lumber store which once employed 100 workers but closed two years ago and is still vacant.

- One of the main goals of the City is the creation of jobs for the unemployed and the welfare recipients that will be forced off welfare as part of the President's welfare reform initiative.

- The proposed incubator will function to help grow companies that can create needed jobs in the enterprise zone, add to the city's tax revenue stream, and help diversify the employment base. The incubator will provide valuable business development services to client companies so as to maximize their chance for survival. In addition, the City, in collaboration with other organizations, will seek to identify entrepreneurs and small business start-ups within the target area to create more business and employment opportunities for residents.

- A recent study published in August 1997 entitled "Business Incubation Works", funded by a grant from the U.S. Economic Development Administration, gave the following findings on the impacts of business incubators: (1) In 1996 incuba-

tor firms created 468 direct and 702 total jobs, (2) Estimated public subsidy: \$1,109 per job, (3) 97 percent of graduating firms are still in business, (4) 84 percent of graduating firms stay in their community, (5) Incubation programs contribute to their client companies' success, and (6) EDA funded incubators performed better than or equal to non EDA funded incubators.

In closing, federal support is critical for the success of both of these initiatives. It is our hope that the Subcommittee will give our requests every consideration throughout the fiscal year 1999 appropriations process.

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#### DEPARTMENT OF JUSTICE

PREPARED STATEMENT OF HON. BRUCE L. DELANEY, MAYOR-COMMISSIONER,  
GAINESVILLE, FL

Mr. Chairman: On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking federal funds in the fiscal year 1999 Commerce, Justice, State and Judiciary Appropriations bill for the following innovative projects the City is undertaking: (1) a Communications Enhancement Initiative to improve public safety; and (2) a Comprehensive Juvenile Justice Crime Prevention/Intervention Initiative and Regional Juvenile Assessment Center to assist our efforts in providing an all-encompassing community-based approach to juvenile crime and prevention.

##### *Communications Enhancement Initiative*

The City of Gainesville is seeking \$10,000,000 for a computer-assisted dispatch and radio communications project to enhance public safety. The City and Alachua County are planning the creation of a joint communications system for the future. The impact for the entire region is considerable, since this county serves as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services.

The need for this system is partially driven by the Federal Government's "re-farming" of radio frequencies through the Federal Communications Commission. The requirement to replace more than 20 different radio systems presents an opportunity to create a single telecommunications infrastructure to serve all the emergency, transportation, utility, support and administrative agencies in the area.

The project consists of: Building and equipping a dispatch and communications facility (\$4 million); Providing a trunked telecommunications system (\$2 million); Purchasing and installing advanced software to manage multiple agency operations and records (\$2 million); and Purchasing the individual user devices for connecting to the system (\$2 million).

The agencies involved in this project are: Alachua County Government (14 internal user agencies), Alachua County Sheriff (includes Corrections Facility and Civil Division); Cities of Gainesville (8 internal user agencies), Archer, Newberry, High Springs, Alachua, LaCrosse, Waldo, Melrose, Hawthorne, and Micanopy; School Board of Alachua County, Santa Fe Community College, University of Florida, Gainesville-Alachua County Airport Authority, Gainesville Regional Transit and Gainesville Regional Utilities (electric, gas, water, wastewater, telecommunications).

Currently, the City of Gainesville operates its own emergency dispatch facilities for police and fire rescue. Alachua County provides similar service for urban and rural areas, along with smaller cities, in a site operated by the Alachua County Sheriff. Current technologies in the two centers are incompatible. In addition, numerous other agencies of both governments are operating separate small dispatch operations on other radio systems. The total number of governmental users of radio systems, including utility workers, is over 1,500. The emergency control centers record, control, and track events with computer-aided dispatching systems (CAD) which are incompatible with each other and which are becoming obsolete.

There is an opportunity to consolidate all of these communications functions into one telecommunications infrastructure, which will provide cheaper operating costs, better services, with significant improvement to emergency and non-emergency governmental and utility services. The area is over 900 square miles with a population of more than 200,000. Providing advanced technologies (voice, data, telephone interconnect, resource management, records, billing, etc.) requires extraordinary coordination with the numbers of agencies involved. Funding such an effort is beyond the current capability of the entities, either individually or together. Yet, under the standards for radio frequency allocation by the Federal government, this reorganization into a combined system provides the most rational response to the changing telecommunications environment.

The expected result of this project will be the ability for all agencies to communicate internally and across all agencies when the need arises to coordinate joint operations. The addition of a digital data system allows for field entry and research of records along with text communication. This use of wireless networking will permit person-to-person as well as computer-to-computer communication, thus providing access to all forms of information at mobile and fixed sites on the network. Geographic Information Systems, Dispatching Systems, Work-Order Systems and Work-Management Systems will all be linked to a common communications backbone. There are 5 law enforcement agencies, 11 fire rescue services, an ambulance service, 3 hospitals, 31 schools and colleges, a transit system, 9 municipalities and multiple county government agencies which will join the system as “subscribers”—paying annual usage fees based upon the number of devices they have on the system.

The infrastructure is proposed to be operated by the municipal utility as a part of a communications subsidiary. Fees to the system will cover the cost of operation and maintenance along with future upgrades. The system will also be linked to an existing and expanding fiber-optic network which links many government and health care institutions.

The Federal government’s reallocation of radio spectrum is the triggering event causing the need for a new telecommunications system. The advantages of combining all of the systems into a single infrastructure are beneficial to law enforcement, fire rescue, public works, and the entire spectrum of other municipal and rural services. Funding the program will reduce future operating costs, but the high initial cost is the obstacle to its inception. Most of the technology is existing and well-proven in other applications, although it is not yet in use in such a widespread and cross-dimensional form. The challenge in this application is the ability to use a single architecture to provide a non-duplicative information infrastructure which significantly reduces future costs. The financial need is the same that all governments face when presented a new technology—that the existing systems consume the resources needed to migrate to the more efficient systems. The FCC mandates regarding frequency reallocation will result in high investment costs in new telecommunications infrastructure, but local governments will be hard-pressed to meet the mandate without additional assistance.

This project, because it provides the linkage between all entities in the region to meet the future information infrastructure needs, is appropriate for one-time Federal funding. It is an opportunity to demonstrate the feasibility of a joint, multi-agency, multi-jurisdiction, and multiple technology telecommunications system.

*Comprehensive Juvenile Justice Crime Prevention/Intervention Initiative and Regional Juvenile Assessment Center*

The City of Gainesville is also seeking federal funds to assist our efforts in providing an all-encompassing community-based approach to juvenile crime and juvenile crime prevention via our Comprehensive Regional Juvenile Justice Crime Prevention/Intervention Initiative and Regional Juvenile Assessment Center Project. In particular, we are hopeful that the Subcommittee will provide the City with \$1.5 million as a direct federal appropriation for this project. The Initiative has two main components, which are interrelated:

*A demonstration model Regional Juvenile Assessment Center (JAC).*—The Regional JAC is planned to serve an eleven-county area of north central Florida. The JAC will be the keystone of this project, and will be co-located on a single campus with other agencies serving juveniles to provide a coordinated Juvenile Justice Crime Prevention/Intervention Continuum of Services.

*A demonstration model Continuum of Outreach Facilities.*—In addition, the Initiative has a critical need for funding a Continuum of Outreach Facilities, located throughout the community and surrounding area, so that all the community’s at-risk youth can be provided with coordinated and appropriate intervention and prevention services in or close to their own neighborhoods. The focus of the Continuum is to enable the community to assist in the development of youth prepared to meet the challenges of being contributing citizens of the 21st Century. This Continuum will emphasize the community’s role in the raising of its own juveniles, and will foster volunteerism and involvement of the parents and interested adults. We will encourage the youth to excel in school so as to have the educational background to be gainfully and productively employed. The Continuum’s components will encourage the child to remain active in positive activities, given the well-documented connection between a lack of structured activities and crime. Through programming, youth will be encouraged to develop positive problem solving life skills which are intended to strengthen youth to resist engaging in violent criminal activities, as well as illegal activities in general. In preparing for the 21st Century, these youth need to be assisted in identifying career opportunities, and then guided and placed on the

path leading to success in their career objectives. These programs in turn will strengthen the effectiveness of the intervention/prevention services delivered to the juveniles, and will facilitate the often missing aftercare component.

The Comprehensive Juvenile Justice Crime Prevention/Intervention Initiative recognizes that a well designed and implemented Continuum of Services is required to focus on the broad range of services required to assure that all juveniles receive the intervention and prevention services they require to become productive and contributing adult citizens. We further recognize that a partnership is required. The School Board of Alachua County, law enforcement, the business community, local governments, the judiciary, other agencies providing intervention and prevention services to juveniles, parents and guardians, as well as the juveniles themselves are partners in the juvenile cycle. All must be involved in the coordinated efforts required to effectively address solutions.

With this in mind, the City of Gainesville and its partners seek support for developing and implementing a strong well coordinated partnership-based Juvenile Justice Crime Prevention Initiative focusing on all aspects of the juvenile continuum. The City of Gainesville recognizes the need for enhanced communications and coordination among the partnership of juvenile providers while at the same time we recognize the need for developing and implementing a comprehensive strategy to attack this problem. Though this Initiative is in its infancy, we already have some outstandingly successful innovative programs which meet some of the needs of some of our juveniles. We traditionally have used our local resources in creative and innovative ways in order to provide the piecemeal service delivery we have at present.

We are convinced that our community has what it takes to create and sustain this Comprehensive Juvenile Justice Crime Prevention Initiative. The City of Gainesville is playing a leadership role in a number of interrelated initiatives within the juvenile justice/delinquency prevention area. To be effective, we must augment our local resources.

The City of Gainesville and other business partners stand firmly behind the goals and objectives of the Juvenile Continuum. As an example, the Gainesville Police Department has just donated \$100,000 to a scholarship fund for minority and disadvantaged youth, with the purpose of enabling them to have a chance at obtaining a degree in college or in obtaining a technical degree (trade) to assist them in obtaining meaningful and fulfilling employment.

It is our philosophy that scarce funds are much more effectively spent at the front end of the juvenile justice continuum, in comparison to the much larger price incurred when a society must deal with juvenile (and adult) criminals. We already have several local projects that have demonstrated marked success in delivering juvenile intervention/prevention programs. Each of these success stories is the result of the underlying strong partnerships which characterize the way our community historically has sought solutions to its problems. Some of our more creative and successful local initiatives include:

- The Department of Juvenile Justice (DJJ) now has the ability to immediately deal with counseling and referral issues, rather than waiting three to four weeks as has occurred in prior cases. There is an ongoing dialogue between DJJ and the Gainesville Police Department as to the disposition of juvenile cases and referrals. Communication is knowledge, and this information has allowed both entities to provide better service to the community and its juveniles.
- The OUTLET Teen Program is a unique community-wide partnership, addressing the crime prevention needs of the community's teens who are not yet in trouble, but who are at risk because the community lacks wholesome leisure-time alternatives for them. The OUTLET Teen program focuses on a three prong concept of (1) teen leadership, (2) teen volunteerism, and (3) teen social activities as an effective crime prevention tool. This highly successful program has resulted in an OUTLET Teen Council in all 7 of the high schools in Alachua County and is now moving into the middle schools. With participation growing, OUTLET has had a major effect on deterring juvenile crime and funneling the energy of Alachua County's teens towards productive endeavors. Currently, there is no program nationally that focuses on all three aspects of leadership development, community service, and wholesome entertainment for all teens. Even those cities that have instituted only one prong of the three prong concept have recognized a substantial reduction in teen crime. There is a well documented connection between teen crime and a lack of structured activities for teens. In our community, since OUTLET was formed, there has not been a congregation of teens in the business district; teens have volunteered to paint houses for the elderly and for those in poverty areas; teens have assisted the Gainesville Police Department in the annual bicycle give away to underprivileged children; teens have walked in the annual March of Dimes benefit; and

teens have planned, implemented, and attended drug/alcohol free social activities.

- The Reichert House is another example of recognizing specific needs/gaps in the Continuum underlying the Juvenile Justice Crime Prevention Initiative. Aimed specifically at young African-American males, the program provides services these young men would not normally have. By providing this service, the affected juveniles can channel their activity into productive areas. We have plans underway to replicate this program for young African-American females.

The concept of the Juvenile Justice Crime Prevention Initiative is a simple one. The School Board, the Police Department and other law enforcement agencies, the Juvenile Detention Center, Courts, parents/guardians, States Attorney, the juveniles themselves, as well as many others are partners in the juvenile cycle. However, each entity has specific goals and objectives and often operates independently of the others. The concept, though simple, is to have each entity work in conjunction with the others to devise an overall strategy to combat juvenile crime while providing efficient services. The main components of the Juvenile Justice Crime Prevention Initiative and Juvenile Assessment Center are:

- The Juvenile Justice Crime Prevention Initiative will be headed and administered by an Advisory Board, consisting of representation from all agencies providing services to juveniles. This Advisory Board will meet regularly to oversee and coordinate the development and delivery of a seamless continuum of Juvenile Justice services.
- As communication and coordination are critical elements, we will need a centralized information sharing and resource clearinghouse which all could tap into on behalf of any juvenile. Information sharing and coordination would need to be designed to meet the confidentiality requirements of the juveniles, so the focus would be on the sharing and efficient use of all resources available to the juvenile. The communication and information sharing network could serve as a resource and reference source for the juveniles, the participating agencies, and the community as a whole.
- The Juvenile Assessment Center (JAC) will be a centralized facility for providing delinquent juveniles with a comprehensive needs assessment followed by a coordinated delivery of appropriate services. All participating agencies would have a presence at the facility. The JAC would track how these needs are met, and how the juvenile is progressing.
- We as a community of juvenile service providers must identify all resources now available to us along with the needs of all our juveniles. We need to use our best and most knowledgeable professionals to strategize on what it takes to turn around an at-risk youth (and there are many types of at-risk youths) while at the same time not losing sight of the needs of our youths who are not yet in trouble, but who need wholesome alternatives. We also need to critically examine all resources we now have or can obtain so that increasingly scarce resources are combined and utilized in the most efficient and cost-effective manner. This requires the partner agencies to look beyond their own individual missions and to focus on the mission of the community as a whole and its desire for all youth to have every opportunity to become productive and contributing members of society.
- The process of resource identification and juvenile needs assessment will enable us as a community of providers to identify the gaps or overlaps in our juvenile service delivery system, and to work together in supporting our partner agencies as they carry out their own unique missions. From our experience, it is very enlightening for agencies to sit together and identify to one another what it is that they do, and to gain a greater understanding of what others do. Such efforts inevitably lead to the discovery of overlapping/missing pieces of the puzzle. An even greater benefit which we have observed is the lowering of the barriers between agencies, and an increased degree of collaboration and communication which spreads beyond the immediate arena.
- We then as a community will identify and prioritize the gaps to be filled, and will together develop and implement a strategy to fill such gaps. Each agency will contribute and share its own contacts and expertise to assist the others for the common good. Since this is a learning process that is dynamic in nature, it is essential that the Advisory Board be supported, and be dynamic and active in carrying out and coordinating the activities of the Juvenile Justice Crime Prevention Initiative. We will need to support and strengthen one another's efforts to tap all available resources. We will need to form task-specific partnerships in order to carry out initiatives beyond the capacity of an individual partner.

This is a critical and much needed initiative for which the City of Gainesville and its Police Department seek your support. If funding is provided, we will be able to augment our local resources to develop and implement the centralized and coordinated delivery of a seamless Juvenile Justice Crime Prevention Initiative for the youth of our community. What we are already doing and doing well here, although in piecemeal fashion, in our community can be formalized in our community and coordinated through the creation of a seamless Juvenile Justice Initiative. This then can serve as a highly efficient model which could be replicated in other communities nationally.

In closing, federal support is critical for the success of each of these initiatives. It is our hope that the Subcommittee will give our requests every consideration throughout the fiscal year 1999 appropriations process.

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PREPARED STATEMENT OF KENNETH E. BISCHOFF, CHAIRMAN, NATIONAL  
CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS

SEARCH is a nonprofit criminal justice organization dedicated to assisting state and local criminal justice agencies combat crime and administer justice through the effective and responsible use of information and identification technologies. SEARCH is governed by a Membership Group comprised of one gubernatorial appointee from each of the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands.

We submit this testimony seeking appropriation support for SEARCH's National Technical Assistance and Training Program in the fiscal year 1999 Byrne discretionary program appropriation for the Bureau of Justice Assistance (BJA). The National Technical Assistance and Training Program has received an appropriations earmark in each of fiscal years 1996, 1997 and 1998, in the amount of \$1 million.

SEARCH's National Technical Assistance and Training Program is unique—it provides no-cost assistance to all components of the state and local criminal justice system with respect to the development, operation, improvement and/or integration of all types of criminal justice information systems. The National Technical Assistance and Training Program not only helps state and local agencies work more efficiently and effectively through the use of advanced information technology, but it creates the foundation for a national information infrastructure for justice systems.

SEARCH is experiencing rapidly increasing demand for the program. There are a number of reasons, including the success of grant programs such as COPS More, the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program and the Local Law Enforcement Block Grant, which have provided seed money for justice information systems automation and integration. In addition, the nation's criminal justice agencies' critical need to quickly share complete and accurate information, and, therefore, their efforts to integrate and connect justice information systems has also impacted the demand for SEARCH technical assistance and training services. We anticipate this growth to not only continue, but to accelerate. Indeed, the need is so acute, that in the past year, BJA augmented the SEARCH earmark with an additional \$1 million to expand its existing training and technical assistance activities with those that specifically emphasize court automation and the integration of court information systems with the other disciplines within the criminal justice system.

We want to commend BJA and its fine, professional staff. Working in partnership with SEARCH, BJA has provided strong, national leadership to create opportunities for information systems training and technical assistance for state and local criminal justice officials.

Because SEARCH's Technical Assistance and Training Program is national, SEARCH is able to replicate successful computer implementation strategies in one state or locality and disseminate and transfer those strategies to other states and localities. SEARCH is also able to provide its assistance in a manner that promotes the interstate compatibility of criminal justice information systems. The beneficiaries are state and local criminal justice agencies throughout the nation; the federal government, which is the largest single consumer of arrest and conviction and other criminal justice information; and the public.

This year the National Technical Assistance and Training Program will accomplish the following: Provide in-depth technical assistance at SEARCH's National Criminal Justice Computer Laboratory and Training Center to representatives from state and local criminal justice agencies; Provide on-site, technical assistance to state and local criminal justice agencies; Provide technical assistance by telephone and via the Internet to officials from literally hundreds of criminal justice agencies in virtually every state in the union; Provide training to nearly two thousand crimi-

nal justice officials nationally; and Continue to develop and publish practical criminal justice information system technical bulletins and reference guides.

SEARCH's information support program for state and local criminal justice agencies makes a unique and vital contribution. Through a comprehensive program of technical assistance and training, SEARCH facilitates the operation of the criminal justice system in a cost-effective, efficient and fair manner.

*Benefits of the National Program*

SEARCH's National Technical Assistance and Training Program:

- Facilitates the development and implementation of state-of-the-art computer and networking capabilities among state and local criminal justice agencies with an emphasis on compatibility throughout the nation;
- Improves the accuracy, completeness and reliability of arrest, conviction and other criminal justice information;
- Increases the information capabilities of criminal justice agencies, particularly small- and medium-sized criminal justice agencies which often lack financial resources and specialized computer personnel to operate computer systems in a cost-efficient and effective manner;
- Improves the information system proficiency of criminal justice officials, resulting in a nationwide cadre of law enforcement officials trained in microcomputer technology and its application to law enforcement;
- Provides assistance and training based upon a national perspective and national strategy that promotes a consistent nationwide approach to managing criminal justice information and integrating information systems. A nationwide approach is essential because the processing of individuals and cases through the justice system depends on the sharing of information between state, local and federal agencies nationwide;
- Facilitates the effective and targeted expenditures of other federal justice assistance monies;
- Services provided by the National Program act as "seed" monies, leveraging state and local monies that then build upon the foundation established by the National Program;
- Identifies state and local criminal justice information management problems nationwide, and develops solutions that not only benefit individual agencies, but that promote compatibility and consistency with other state, local and federal systems; and,
- Replicates and disseminates successful information management strategies on a national basis, emphasizing the efficient and timely sharing of high-quality information, and, thus, improving the effectiveness of the administration of justice.

SEARCH's National Technical Assistance and Training Program assists agencies in developing the information resources which are critical in the reliable and timely identification of suspects and offenders; the effective prosecution and adjudication of offenders, including drug-related offenders; the efficient use of criminal justice resources; and the production of comprehensive and compatible criminal justice statistics and research information.

Furthermore, the National Technical Assistance and Training Program provides essential infrastructure support to targeted block and discretionary grant anti-crime and anti-drug initiatives. Without information technology support, these initiatives are handicapped.

As an example of such technology support, SEARCH will gather together hundreds of criminal justice practitioners from across the country for a national training event that focuses on the integration of justice information systems. The event will train criminal justice practitioners on technology and its application to the justice system, and will generate scores of requests for SEARCH technical assistance from the attending agencies.

TECHNICAL ASSISTANCE PROGRAM

SEARCH provides technical assistance via written correspondence, telephone consultations, electronic mail, and/or through an Internet web site, and when the needs of agencies require, SEARCH provides on-site technical assistance.

*In-house Technical Assistance*

SEARCH's program of in-house technical assistance provides access to a unique, centralized source of data about information management systems and related technologies that would otherwise be beyond the reach of most criminal justice agencies and, particularly, small- and medium-sized agencies. Simply by placing a telephone call or sending electronic mail, state and local criminal justice agencies have imme-

diate access to the specialized knowledge of SEARCH's professional staff. Under fiscal year 1998 funding, SEARCH will respond to several hundred telephone calls requesting technical assistance, which, on average, require two hours of staff time to effectively respond.

The nature and scope of in-house technical assistance varies considerably, but can involve the following: providing technical consultations on the planning, implementation or operation of automated systems, such as network configurations, software installations and technical innovations; conducting in-depth research; making referrals to other appropriate resource providers; and providing answers to questions on a wide range of topics related to justice automation.

SEARCH has also taken advantage of the Internet to expand the reach of its technical assistance program to justice agencies. The Technical Assistance Exchange Forum Web Site was specifically designed so that justice agencies of any size, in rural or urban locations, can immediately access information on a variety of technical issues related to justice information management via the World Wide Web. The web site offers a virtual library of information to justice practitioners, including published articles, documents and white papers; references to other justice agencies using particular technologies; interactive discussion forums where practitioners can share information with peers and experts on particular technologies; requests for proposals and requests for information databases; and links to other justice technology resources and information.

#### *On-site Technical Assistance*

The Technical Assistance Program also provides on-site assistance to agencies throughout the nation that are predominantly nonautomated or lagging in automation, and which have special needs in automating their information systems. Priority for technical assistance is given to block grant recipients, and among them, to grantees planning for and/or implementing multijurisdictional or statewide information systems. Since 1986, SEARCH has provided technical assistance to scores of agencies in every state, representing all components of the criminal justice system.

The majority of technical assistance is completed within one month, consists of a single site visit by two staff for approximately 2-3 days duration, and includes staff preparation, follow-up and production of a formal report. The following illustrates just a few examples of SEARCH on-site technical assistance in the past year.

SEARCH conducted a technical assistance project with the Baltimore (Maryland) Police Department to provide guidance on the development of a records management system and automation planning in general. SEARCH worked with Department staff and the Police Commissioner to define the scope of the effort, staffing, organization, and strategies for overcoming information technology implementation obstacles.

SEARCH completed a technical assistance project for the South Carolina Department of Public Safety to evaluate a grant-funded effort to provide the state's local law enforcement agencies with a hardware and software package to meet local, state and federal information reporting requirements. The software, developed by the University of South Carolina, would enable local police departments to provide incident-based data compliant with the National Incident-Based Reporting System (NIBRS) and South Carolina's Incident-Based Reporting System (SCIBRS). In connection with the project, SEARCH worked with the South Carolina Law Enforcement Division and visited seven police departments beta testing the software to observe the testing and to conduct interviews.

SEARCH provided technical assistance to a number of agencies in Colorado during the past year. Network security issues were identified and defined for the Canyon City Police Department. SEARCH also worked with the First Judicial District Probation Department in Golden, Colorado, to review the department's current operations, provide input and assist with recommendations on development of a strategic plan for its automated information systems and integration with state justice information systems. On-site technical assistance has been scheduled for Lakewood Police Department in early April 1998. This assistance will focus on the Department's mobile computing project and development of a new records information management system.

In New Jersey, SEARCH is working closely with the Camden Police Department to assist this agency in an upgrade of records management, digital mugshot imaging and automated fingerprint imaging systems.

During 1997-98, requests for technical assistance from SEARCH grew at an enormous pace. In order to handle the volume of requests, in some instances, where requests from numerous agencies were very similar in scope and content, SEARCH has held training workshops for the requesting agencies. In October 1997, SEARCH provided technical assistance to 25 justice agency practitioners representing 16

agencies in four states: Arizona, California, Hawaii and Texas. Each agency had requested technical assistance from SEARCH on implementing computer-aided dispatch, mobile computing hardware, records management systems and wireless telecommunications systems. During a three-day workshop, SEARCH staff and other operational experts provided assistance to the participant agencies on planning for and implementing these systems. By providing the assistance in a workshop manner, SEARCH was able to convene operational and technology experts, as well as SEARCH staff to provide assistance in a coordinated fashion. The workshop format allowed SEARCH to assist more agencies and provide collectively more resources.

Beyond these efforts to provide short-term assistance, there exists a pressing need to provide more extensive, long-term technical assistance to states and/or agencies within states to address the technically complex and sophisticated planning, design and implementation issues associated with developing integrated or consolidated information systems within and between justice agencies; and to assist these jurisdictions in developing state-, county- or citywide plans for justice information systems and technology and improvements in criminal records.

In response, SEARCH provides a limited number of agencies with technical support for extended periods of time, including multiple on-site visits, research and, often times, complementary training sessions. During such a project, SEARCH will often work with a variety of justice agencies, including police departments, courts, and prosecutorial, probation, parole, corrections and case management offices. In our experience, this type of project often produces knowledge and products suitable for transfer to other jurisdictions. Indeed, the vast majority of SEARCH's technical assistance is multijurisdictional. When SEARCH provides technical assistance in one state, SEARCH often involves practitioners from surrounding jurisdictions.

This type of on-site assistance typically involves helping a state or agency establish an automated justice information system, evaluate and plan for statewide integration of existing automated justice information systems, or assistance in enhancing, expanding or implementing a computerized criminal history repository program.

SEARCH is providing long-term technical assistance to agencies in Minnesota, New York, Wisconsin, Oklahoma, Oregon and Kansas, specifically focusing on integrating county-level justice information systems.

In fiscal year 1999, SEARCH would expect to provide on-site technical assistance to several dozen criminal justice agencies.

#### NATIONAL TRAINING PROGRAM

Since its inception in 1986, SEARCH's National Technical Assistance and Training Program has trained over 19,500 criminal justice officials from every state in the use of computers and other information technologies. In fiscal year 1998 alone, SEARCH will provide training to approximately 1,700 state and local criminal justice officials across the nation by presenting 25-30 in-house and outreach training courses, as well as making presentations at training conferences nationwide.

SEARCH's National Criminal Justice Computer Laboratory and Training center in Sacramento serves as a hands-on resource for criminal justice practitioners to learn about and evaluate computer technology. The National Computer Laboratory and Training Center is presently configured with 20 microcomputers using various operating systems and is equipped with state-of-the-art training technology. It is critical that this technology be maintained and updated on a regular basis.

Training sessions are customarily three to five days in length and are normally limited to 25 students, thus affording a high instructor to student ratio. Courses focus on the development, use and implementation of information technology in justice agencies, including introductory courses on microcomputer technology for criminal justice agencies, data processing for law enforcement managers, as well as advanced coursework in topics such as planning for automated systems, crime analysis, the investigation of computer crime, and new courses focusing on the investigation of crime perpetuated over the Internet.

SEARCH training in a particular state attracts participants from various state, federal and local agencies and, often, from agencies in neighboring states. For example, SEARCH training at the National Criminal Justice Computer Laboratory and Training Center, during the past year involved students representing justice agencies from throughout Colorado, Illinois and Kansas.

In other training activities, SEARCH presented the "Investigation of Computer Crime" training course in Columbia, South Carolina. The class was sponsored by the South Carolina Law Enforcement Division. Officers from the Division and other local officers attended the class.

During June 1997, SEARCH presented the "Introduction to Internet Crime Investigation" in Somerset, Kentucky. The class was cosponsored by the Pulaski County

Sheriff's Office and was held at the Center for Rural Development, University of Kentucky. Representatives of justice agencies from throughout the state attended the course, which provides instruction techniques to investigate cases online.

"The Investigation of Computer Crime" training course will be held in Anchorage, Alaska in March 1998. SEARCH is currently working with the Alaska Department of Public Safety and the Anchorage Police Department to sponsor this five-day training course, which teaches investigators and support staff how to investigate high-technology theft and computer-related crime. Participants learn computer technology, its criminal applications and issues associated with investigating these types of crimes.

The first offering of the new "Advanced Internet Investigations" training course was offered in Sacramento during December 1997. This is an advanced course designed to improve law enforcement's ability to successfully investigate and prosecute sophisticated Internet crimes.

During fiscal year 1998, SEARCH has also provided numerous training seminars at the National Criminal Justice Computer Laboratory and Training Center located at SEARCH headquarters in California. Criminal justice practitioners from throughout the nation are eligible to attend.

#### *Info-Tech Training Project*

During the past two years, the Computer Crime Unit of the U.S. Department of Justice, in conjunction with the National White Collar Crime Center, has conducted a federal level project to define how to best train and equip the nation's criminal justice investigators and prosecutors to deal with computer crime in the information age. The organizing agencies invited SEARCH and other key justice agency training organizations to participate in a series of meetings to discuss the mission and functional objectives of computer crime training for state and local justice practitioners.

The Infotech Training group continues to identify needs, gaps and overlaps in current training, coordination of future training courses, and setting standards for national justice training courses in the area of curbing computer crime. Other organizations participating in the group include: the Defense Department, Drug Enforcement Administration, Federal Bureau of Investigation, Federal Law Enforcement Training Center, National Security Agency, U.S. Postal Service, U.S. Secret Service, Canadian Police College, Forensic Association of Computer Technologists, National Aeronautics and Space Administration, National Association of Attorneys General, National College of District Attorneys, International Association of Chiefs of Police, and the International Association of Computer Investigative Specialists.

#### *Technical Assistance and Training Program Materials*

SEARCH's National Technical Assistance and Training Program also includes the preparation, publication and national dissemination of materials and reports that assist criminal justice agencies in acquiring and using computers and other information technology. SEARCH publishes quarterly Technical Bulletins that identify and evaluate information systems and technologies that have existing or potential application in criminal justice management. The Bulletins are a vital resource for criminal justice practitioners who receive them and help to identify and encourage potential markets for private sector development. The Bulletins are mailed to over 1,600 criminal justice practitioners, and are also made available electronically via the Internet.

Other types of SEARCH technical publications have included reports on such topical issues as: countywide justice integration, the implementation of the FBI's Integrated Automated Fingerprint Identification System (IAFIS); biometric technologies; directories which identify existing information systems for potential transfer; program briefs, which guide agencies in implementing automated systems; and comprehensive documentation for SEARCH-authored public domain software.

SEARCH also professionally produced an instructional video on planning for and implementing integrated justice information systems that has been distributed free of charge to hundreds of local, state and federal justice agencies throughout the country.

#### CONCLUSION

Federal support for SEARCH's National Technical Assistance and Training Program does not promise a quick victory or big headlines in the war against crime and drugs. But, without question, federal support for the National Technical Assistance and Training Program makes a vital contribution to the war on crime and drugs. For a modest federal investment, leveraged many times over by state and local funds, a critical contribution is made to the ability of state and local criminal

justice agencies to provide timely, accurate and compatible information for use in apprehending, prosecuting and sentencing offenders.

Accordingly, we respectfully request that the Subcommittee act to ensure fiscal year 1999 funding of SEARCH's National Technical Assistance and Training Program.

We thank you, Mr. Chairman, the members of your Subcommittee and the Subcommittee staff for your continued support.

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PREPARED STATEMENT OF LEE ARBETMAN, COORDINATOR, NATIONAL LAW-RELATED EDUCATION PROGRAM

I am Lee Arbetman, Coordinator of the National Coordinated Law-Related Education Program. I am submitting this testimony on behalf of Youth for Justice, the National Coordinated Law-Related Education Program. We respectfully request the Subcommittee's appropriations support for fiscal year 1999.

LRE/Youth for Justice is committed to involving young people in each state directly in identifying and implementing solutions to this nation's epidemic of juvenile violence. The program's approach is to teach young people about the law so that they can lead their lives within the law. In the last decade, the National Program has reached millions of at-risk children and trained hundreds of thousands of teachers, juvenile justice counselors and law enforcement officials.

Law-Related Education, despite its name, has nothing whatsoever to do with legal or pre-legal training. The National Coordinated Law-Related Education Program has a proven record of success in juvenile delinquency and violence prevention. Law-related lessons reach at-risk children and juvenile offenders in school and juvenile justice settings in both urban and rural environments. Youth for Justice meets its goals by developing and maintaining strong, viable LRE centers in each state. The National Program leverages a tiny federal investment, \$1 million in fiscal year 1998, many times over in private sector and state and local money and in in-kind support from the criminal justice and juvenile justice communities.

The program has two components. The first, and in 1998 the largest, component of the program is intervention. This part of the program operates primarily in various kinds of juvenile justice facilities. In settings ranging from detention centers to training schools and after-care, Law-Related Education Programs help youth develop problem-solving, conflict resolution, and communication skills in the context of engaging lessons that focus on personal responsibility.

The second component, prevention, operates primarily in elementary and secondary schools. When you visit a school involved in this program, you are very likely to see a teacher, a judge, a lawyer, the town's police chief, a law student, or a probation officer working with a class of students. In some of the best Youth for Justice classrooms, police officers co-teach with classroom teachers on a daily basis.

Your home state of New Hampshire is a national leader in adopting law-related education for use as both a prevention and intervention program. In 1996, 365 lawyers visited 31,000 students in 205 schools throughout the state as part of the Lawyer in Every School program. The Mock Trial Competition and We the People high school competition will attract participants from all over the state this year. A Peer Mediation video for high school students is currently being added to strengthen what is already a model program.

The State of Kentucky is another national leader in the adoption of LRE programs. Every judicial district in Kentucky has a fully operational court diversion program. Evaluation research conducted by faculty at the Eastern Kentucky University Department of Corrections has found that the recidivism rate for youth in the law-related education intervention program is only about 7 percent compared to about 20 percent for other youth who receive more traditional probation services.

Another of the many success stories comes from Betty Ackman's mock trial program at the Lorenzo Benn Campus, a Youth Development Center, in Atlanta. Before she began her program, this campus had not sent any of its youngsters to college. But of the 76 students who have been through her mock trial program, 16 have gone on to college, together receiving scholarships totaling more than \$50,000. The recidivism rate among her students is approximately 11 percent, compared to the normal Youth Development Center rate of 75-80 percent.

Mr. Chairman, thanks to the continued commitment of this Subcommittee, Youth for Justice, the National Coordinated Law-Related Education Program has built a vital, cost-effective program serving the needs of youth throughout our nation. This program:

- Involves young people in every state in identifying and implementing solutions to the nation's epidemic of juvenile violence;

- Promotes research-based educational programs that strive for safe, disciplined and drug free schools and communities;
- Teaches young people acceptable ways to resolve conflict;
- Fosters constructive attitudes towards authority figures, such as parents, teachers and police officers;
- Provides young people with meaningful opportunities to serve their communities;
- Promotes understanding of and reasoned commitment to the rule of law along with tolerance for varied points of view in a free and diverse society; and
- Helps young people understand the democratic process and develop the critical thinking, decision-making, and problem solving skills to enable their full participation in that process.

Youth for Justice is committed to providing leadership in the national effort to stop the outrage of violence committed by and perpetrated against this nation's youth. We have the capacity to involve young people directly in helping to identify and implement solutions. With the support of Congress, Youth for Justice is refocusing all programs to reflect the nation's growing concerns about violence committed by and against young people in our schools and communities.

- Law-Related Education is one of the few juvenile delinquency prevention programs with a proven record of reducing delinquent and antisocial behavior, increasing belief in the rule of law and developing responsible citizenship.
- Law-Related Education focuses on violence prevention. This Spring, thousands of young people from both the school and juvenile justice settings are again gathering with public officials in nearly every state, participating in Youth Summits designed to help develop public policy to help prevent violence by and against youth. During this fourth season of summits, thousands of young people are taking a close look at the problem of violence by and against youth. Recently, youngsters in Wyoming's Youth Summit actually wrote a violence prevention bill, lobbied the governor and the state legislature and were successful in having the bill passed this session and signed by the governor. As a result of this bill, teen courts are being established throughout the state.
- Law-Related Education is an extraordinarily effective prevention program, but it is also an extraordinarily effective intervention program—Law-Related Education reaches juvenile offenders in school settings as well as halfway houses, detention centers, and other non-school settings.
- While Law-Related Education targets at-risk children, it does so not just in urban settings but also in suburban and rural environments.
- Law-Related Education is one of the most effective programs in mobilizing volunteer support from the criminal justice community, including law enforcement officers, prosecutors and judges.

#### THE NATIONAL LAW-RELATED EDUCATION PROGRAM

The National Coordinated Law-Related Education Program is comprised of five not-for-profit corporations, each of which is recognized nationally and internationally as a leader in the field of law and civic education: The American Bar Association's Special Committee on Youth Education for Citizenship; the Center for Civic Education; the Constitutional Rights Foundation; the National Institute for Citizen Education in the Law; and the Phi Alpha Delta Public Service Center. By combining their expertise and experience as teachers, school administrators, juvenile justice professionals, attorneys and professors, these five organizations have successfully administered a nationwide program in which they have:

- Established and maintained an effective network of delinquency prevention law and citizenship projects in all fifty states, the District of Columbia, and Puerto Rico, so that accurate information and effective materials can be efficiently distributed and widely used without costly replication of research and development efforts;
- Provided training and technical assistance to the state projects in this network so that federal funding effectively leverages public and private funding appropriate to each state;
- Established innovative law and citizenship programs for at-risk youth in urban, rural and suburban communities, and Indian reservations;
- Provided several hundred thousand hours of training for teachers, law enforcement personnel and other professionals who work with young people;
- Developed and field-tested quality, research-based curricular materials for children—kindergarten through grade twelve—in public and private schools, juvenile detention centers, after-school programs and court-related diversion programs;

- Organized special initiatives on violence prevention, drug prevention, juvenile justice and urban education, publishing materials and sponsoring several thousand training events nationwide;
- Mobilized thousands of volunteers with expertise in law, public policy, drug and alcohol abuse prevention, juvenile justice and other areas; and
- Provided leadership and organization for another season of Youth Summits in the spring of 1998, involving youth and public policy makers on a state-wide basis in developing plans to solve the widespread problem of conflict and violence among our nation's youth.

We at the National Coordinated Law-Related Education Program acknowledge with pride the participation of dozens of organizations and thousands of individuals from the education, legal, law enforcement, judicial and juvenile justice communities. The Program has had assistance from the executive branch and strong bipartisan support in Congress for the outstanding delinquency prevention programs and materials it has developed and implemented.

In addition, it is a particular source of satisfaction to note that similar partnerships have been developed in most of the states participating in this network. A small amount of federal support has provided the impetus to attract funding from local organizations, agencies and foundations as well as large numbers of volunteer hours. One important goal of this Program is to continue to provide the support and technical assistance necessary to enable all of the states to build their own public/private partnership networks, effectively leveraging a small amount of federal assistance to build strong, well-funded local and state programs.

#### EVALUATIONS OF LAW-RELATED EDUCATION

For the past two decades, researchers have consistently reported that law-related curricula and instruction make a positive impact on youth, when compared with traditional approaches to teaching and learning law, civics and government. A review of the research in law-related education and related fields (including scholarly papers, dissertations, journal articles, and book chapters) conducted by Dr. Jeffrey W. Cornett and published on April 1, 1997 in monograph form concludes that LRE programs have a positive effect on student knowledge about law and legal processes, and about individual rights and responsibilities. In addition, the report concludes that there is evidence that LRE programs have a positive influence on student attitudes and behavior. Research studies indicate that effective LRE programs have improved juveniles' attitudes toward the justice system and toward authorities. Research findings also indicate a link between particular LRE programs and youth who, as a result of law-related education, exhibit more law-abiding behavior and commit fewer delinquent acts.

Within the next ninety days, the National Coordinated Law-Related Education Program will be releasing impact data from demonstration programs in Los Angeles, Chicago, and Washington, D.C. showing the positive effect that Law-Related Education can have on the highest at-risk youth. This data is the culmination of a three-year effort to test the impact of Law-Related Education on at-risk youth in the most challenging environments.

A four-year national quantitative evaluation of Law-Related Education was carried out in 32 schools in six different states from 1980–1984. Conducted by the Center for Action Research and the Social Science Education Consortium of Boulder, Colorado, the evaluation found that:

- Law-Related Education, when implemented properly, reduces those factors associated with delinquent behavior;
- Law-Related Education, more than any other subject, fostered a belief in students that laws are legitimate and should be obeyed; and
- Some of the positive effects of Law-Related Education included reduction of school infractions, decrease in the use of alcohol and other drugs, and a decrease in other delinquent behaviors.

The Office of Juvenile Justice and Delinquency Prevention has noted that evaluations of Law-Related Education Program have been “encouraging \* \* \* confirming the previous findings that such education serves as a significant deterrent to delinquent behavior.” Eighth Analysis and Evaluation of Federal Juvenile Delinquency Programs, U.S. Department of Justice, OJJDP, p. 60 (1985).

The Twelfth Analysis and Evaluation of Federal Juvenile Delinquency Programs published in 1988 similarly states, “[A] national study suggests that Law-Related Education, when properly implemented, can reduce the tendency to engage in delinquent behavior.”

Dr. Timothy Buzzell of Drake University in Des Moines, Iowa, in 1992 published a study of one of the first Law-Related Education Programs in a juvenile justice set-

ting. He found over the six year period of the study that a Law-Related Education Program implemented at the state training school for boys positively influenced risk factors commonly correlated with delinquent behavior.

A 1993 study of a Law-Related Education diversion alternative in Kentucky's Designated Court Worker Program showed both improved perceptions of the police and a low recidivism rate (10½ percent after one year).

Of course, even if these conclusions are accepted, and even if it is recognized that the National Program has a unique and remarkable record of achievement, Law-Related Education must still justify appropriations support. In other words, why should this subcommittee support an appropriation for the National Coordinated Law-Related Education Program?

—First, without congressional support it is now clear that the National Coordinated Law-Related Education Program will die. In fiscal year 1996, without earmark support, OJJDP slashed LRE funding by almost 35 percent, from \$2.8 million to \$1.9 million. In fiscal year 1997, with a soft earmark calling for "continued support for law related education," OJJDP again slashed LRE's funding (even though OJJDP's own funding was increased) almost 33 percent, from \$1.9 million to \$1 million. For fiscal year 1998, LRE's funding remains at \$1 million thanks to an earmark in the fiscal year 1998 Conference Report calling for continued funding at the fiscal year 1997 level. While OJJDP has stated publicly that it recognizes Law-Related Education's important value, we believe that, absent a specific dollar amount for earmark support for LRE, OJJDP will again deeply slash funding for the National Coordinated LRE Program.

—Second, it is also clear that LRE works and that it is one of the few programs proven to do so.

—Third, the federal government and, in particular, the Congress, has made a substantial investment over more than a decade in the creation of a National Coordinated Law-Related Education network and infrastructure including coordinating organizations in every state.

—Fourth, only a national program will undertake national initiatives that benefit the entire country, such as national training; national technical assistance; state financial assistance; new program and curriculum development such as Law-Related Education's highly successful and acclaimed Youth Summits; and the replication of successful state programs and the avoidance of unsuccessful pilot programs.

—Fifth, federal money is seed money used to sustain a national program which raises more than seven times the federal support through state legislative support, private donations, and in-kind support.

For all of these reasons, the National Coordinated Law-Related Education Program is seeking earmark support at the \$1.9 million level. This Subcommittee approved funding at \$1.9 million for fiscal year 1998. (The House earmark called for one million and, as noted, the Conference Report adopted the House number.) Mr. Chairman, this is a difficult time. There are enormous challenges facing the juvenile justice community and the Congress as all of us continue to wrestle with frequent, persistent and increasingly violent juvenile crime. It is a time to reassess and reevaluate. We would submit, however, that it is not a time to allow a multi-million dollar investment—which has been proven to work to reduce juvenile delinquency and which in recent years has developed new and effective intervention initiatives for youth violence, drugs and delinquency—to perish.

We thank you, Mr. Chairman and the members of this subcommittee, for your support over all these many years and we ask for your continued support.

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PREPARED STATEMENT OF THE UNIVERSITY OF MEDICINE & DENTISTRY OF NEW JERSEY

The University of Medicine and Dentistry of New Jersey (UMDNJ) is the largest health sciences university in the nation and the only one designated as a statewide system for health care. UMDNJ comprises seven schools on five academic campuses in Camden, New Brunswick/Piscataway, Newark, Scotch Plains and Stratford. We own and operate UMDNJ-University Hospital in Newark, the primary teaching hospital of the UMDNJ-New Jersey Medical School and home to New Jersey's Level One Trauma Center. UMDNJ also comprises three core primary teaching hospitals, five health care facilities, an integrated behavioral health delivery system, and has affiliations with more than 100 health care and educational institutions statewide.

It is with great pleasure and pride that UMDNJ submits testimony to the Senate Commerce, Justice, State Subcommittee on Appropriations to respectfully request

your support for an initiative of national importance and significance: the Violence Institute of New Jersey at UMDNJ.

The Violence Institute of New Jersey (VINJ) at UMDNJ is a site-specific project recommended by Congress as a candidate for the Justice Department's Byrne Discretionary Grant program. Our goal is to coordinate a comprehensive approach to understanding and preventing various aspects of violence, including child abuse, youth violence, violence against women, elder abuse, substance abuse, the development of aggression, the biological mechanisms of violence and the treatment of traumatic injury as a result of violence.

The establishment of the Violence Institute of New Jersey at UMDNJ constitutes a major commitment by the University's President, its Board of Trustees and the collaborative efforts of the 40-plus statewide programs that address various approaches to violence—research, education, prevention and treatment. The VINJ has made considerable progress over the past year in developing a unique, coordinated approach to all aspects of violence, providing ample evidence of the extraordinary promise this Institute can and will make on behalf of the citizens of New Jersey.

The mission of the Violence Institute is to facilitate the understanding, prevention and treatment of violence across the life span. The Institute seeks to build strong programs for the prevention and treatment of violence through collaborations within the University and with community-based partners. VINJ's mission is to support, coordinate and conduct violence-related research; to educate students, health care and law enforcement professionals and the public on violence-related issues and solutions; to serve as a clearinghouse for information and data on violence; and to seek a leadership role in the development of public policy on violence-related issues.

Last year, a colloquy was included in the Congressional Record as part of the Senate consideration of the fiscal year 1998 Commerce/Justice/State Appropriations bill. The colloquy recognized VINJ's efforts to curb violent behavior in all aspects of society and concluded that the Violence Institute of New Jersey at UMDNJ is worthy of support from the Department of Justice.

Also, last year, VINJ was cited as a violence prevention/research resource in the House Report on the Juvenile Crime Control and Delinquency Prevention Act of 1997. As a result, the Attorney General of the State of New Jersey wrote to the President of UMDNJ and offered his support for the VINJ and encouraged collaboration between his office and the Violence Institute. As a result, the VINJ is working closely with our State Department of Law and Public Safety. The Institute is expanding its training and consultation in support of law enforcement activities in New Jersey. We also met with the Association of County Prosecutors to engage in similar initiatives at the county level.

The VINJ was asked by the New Jersey Department of Education to submit a proposal to the U.S. Secretary of Education for programs to prevent youth violence. Funding is also being sought to disseminate the SANKOFA Violence Prevention Training Program to high schools throughout New Jersey. The SANKOFA program has been submitted to the State Juvenile Justice Commission and a demonstration project is being launched this year. There is interest in expanding this program statewide, targeting juvenile justice populations in New Jersey and in Alabama.

Another important initiative of the VINJ, the Social Problem Solving Program, is regarded as one of the nation's leading programs of social and emotional learning and conflict resolution. The program provides training and technical assistance to 20 new school districts in New Jersey each year and is being used in 22 other states across the country.

VINJ organized several major conferences on violence including a joint conference with the State Department of Health and Senior Services on Youth Violence, and a Violence Against Women conference co-sponsored by UMDNJ, The Foundation of UMDNJ, Wakefern Food Corporation and the Warner-Lambert Company.

In recognition of the efforts of the VINJ, the State of New Jersey committed \$750,000 in its fiscal year 1998 appropriation to UMDNJ to support the mission of the Violence Institute. These funds are used primarily for infrastructure needs, while federal funds are needed to expand VINJ's education, research, training and program support. An additional state appropriation of \$750,000 has been included as part of the Governor's proposed budget for fiscal year 1999.

Some of the state appropriation will be used to provide seed grants to address emerging issues on violence. Federal funds will enable the VINJ to expand grant opportunities and increase our ability to attract future funding from state, federal and private funding sources.

The Violence Institute of New Jersey at UMDNJ has achieved remarkable success in a short period of time and with little resources. Our programs have achieved national and local recognition and have garnered about \$24 million in funding over the past six years, half of which came from federal sources. A modest federal invest-

ment in the VINJ will allow the Institute to develop its administrative, data management and technical assistance core, and to expand its education, research and training programs to the community.

We, therefore, respectfully request your support by providing UMDNJ with funding of \$3 million through the Department of Justice that will enhance the development of the Violence Institute of New Jersey at UMDNJ as a state and national resource for the prevention and treatment of violence in our society.

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DEPARTMENT OF STATE

PREPARED STATEMENT OF DANIEL F. GEISLER, PRESIDENT, AMERICAN FOREIGN SERVICE ASSOCIATION

Mr. Chairman and Members of the Subcommittee: I am Daniel F. Geisler, President of the American Foreign Service Association (AFSA). On behalf of the Association, I wish to express our appreciation for the opportunity to again submit testimony to the Subcommittee regarding the fiscal year 1999 funding for the Department of State, the United States Information Agency, and the Arms Control and Disarmament Agency.

As you know, AFSA is the professional organization representing the 23,000 active duty and retired Foreign Service Officers and Specialists. We also serve a labor function as the recognized bargaining agent for the active duty Foreign Service personnel in five government agencies: the State Department, the Agency for International Development, the U.S. Information Agency, the Foreign Commercial Service of the Commerce Department and the Department of Agriculture's Foreign Agricultural Service. From either perspective, professional or labor, the Foreign Service is our constituency. For that reason, this bill is of vital interest to us because it directly affects us both in the workplace and in our quality of life.

The Secretary of State, in previous testimony before this Subcommittee and before other Congressional committees, spoke clearly and effectively of the complex world in which we live. She explained why the United States of America must remain engaged. AFSA agrees. There is no alternative to American leadership. Our domestic interests, especially our national security, are conditioned by world events. Our economic prosperity, the safety of our young men and women in uniform, the quality of our environment, the fight against drugs, and the security of our borders are tied to our ability to shape those world events.

Recent events in Iraq demonstrate how diplomacy can prevent bloodshed. They also demonstrated how many Americans believe diplomacy should be our first option for shaping the world to ensure our security and our prosperity. That is the heart of diplomacy: shaping world events to further our national interests. That is the mission of the Foreign Service, a mission we accomplish together with our colleagues from the Civil Service, and our Foreign Service National employees.

To accomplish our mission, we need the right tools. We need the right people, and they need the right skills. We need modern technology, especially information and communications technology. And we need things that people sometimes assume we have, such as safe buildings to work and live in. AFSA strongly believes that the State Department and the other foreign affairs agencies must use the public's tax money wisely. We believe just as strongly that America cannot get the world class diplomatic corps it needs and deserves if we try to do it on the cheap.

Thanks to the leadership of this Subcommittee, and that of your counterpart on the House side, we saw in fiscal year 1998 a reversal of the continued decrease in funding for the international affairs account, a decline that had been a constant feature of federal spending for more than a decade. This year for the first time we will hire to attrition so that our workforce will not shrink further. Given the tight budget considerations then and now, we appreciate the political courage and the hard work that went into making this possible. Thanks to the Senate appropriations level, there was a marked increase in funding for the technology account—in fact greater than the Administration requested for fiscal year 1998. That is important to the Foreign Service. We share the Subcommittee's concern about the need to modernize our information systems.

This turn-around in funding for the international affairs account came none too soon. But the modest increase in fiscal year 1998 funding has not eliminated the shortfalls in our diplomatic readiness that have accumulated. Thus the American Foreign Service Association supports, and urges the Subcommittee to support, at minimum, the Administration's foreign affairs increased funding request for fiscal year 1999.

We still face critical but costly infrastructure needs in capitals like Berlin and Beijing. Beyond these, there are countless repair jobs to our facilities around the world that continue to be put off—costing more in the long run. State Department managers have estimated that our infrastructure needs, especially overseas, outstrip our resources by a factor of two.

Over the last three years, we have lowered the flag in 32 American posts abroad. In East Asia and the Pacific, for example, 7 missions were closed, as well as 12 USIA missions and branch posts. These posts were America's forward deployment. Our posts abroad are the bases of operation for shaping world events to further our national interests. Closing all of our USIS branch posts in South Korea, for example, hampers our ability to explain to the Korean public our efforts to foster financial stability in East Asia at a time when they and their government have some tough financial decisions to make. The absence of an American presence abroad robs us of opportunities to tell America's story, to serve American travelers, and to promote American business.

But funds by themselves are not sufficient—funding must be used smartly. That means planning for an uncertain future, being ready to meet unforeseen challenges, and developing a flexible diplomatic corps today to serve America's needs tomorrow. It is difficult, but we believe it can be done.

AFSA has long advocated, and we hope the Subcommittee will do so also, that the Department of State establish a true needs-based system of strategic personnel planning. Work force management has been static and backward looking. We need, instead, a dynamic and forward looking system, reflecting new functions as well as needs. We must begin now by projecting our needs in five years to ten years, setting our priorities of implementation, and devising a system for allocating scarce personnel resources to reach our objectives. Large companies are able to do this, and so should the Department of State. Few people from the open job market come pre-equipped with both the diplomatic skills and the substantive knowledge required of an effective Foreign Service Officer or Specialist. We recruit some of the most talented people this country has to offer, and we give them the combination of formal training and on-the-job experience they need to achieve our mission. It takes time. It takes planning. We need to plan systematically today if we are to still have a top-ranking diplomatic corps tomorrow.

Mr. Chairman, there is one area of concern that I wish to raise with this Subcommittee—the increasing burden of service abroad. Foreign Service Officers and Specialists make themselves worldwide available to carry out the mission of American diplomacy. That often means service in parts of the world that are unpleasant, unhealthy or dangerous. A disciplined Service such as ours calls on its members, and on its members' families, to make sacrifices. Ms. Patricia Ryan, then President of the American Association of Foreign Service Women, said about family life in the Foreign Service, that:

“Foreign Service professionals and their families face hardships on a daily basis. In many places there is the risk of endemic disease and the lack of modern medical facilities. Water is often undrinkable, and food must be scrubbed and cooked in order to be safely eaten. While serving at distant posts, they are separated from friends and family. Due to security measures, living conditions are increasingly isolated. Children have limited opportunities to participate in activities and often have difficulties adjusting to new environments.”

We do not think Congress intended to make service abroad a financial burden. In fact, Congress enacted 5 USC Secs. 5925 and 5928 to lighten the burden of hardship and danger. However, AFSA is concerned that we are moving to a situation where this kind of adjustment may no longer have any meaning. This is because since 1994 the State Department has been reducing hardship allowances in 68 percent of the hardship-designated posts, and Foreign Service personnel, when serving abroad, lose the D.C. area locality pay adjustment forcing them, in essence, to take a cut in salary. This combination may sharply reduce hardship or danger compensation when compared to service in Washington.

Mr. Chairman, it is important that the Congress and especially this Subcommittee understand this serious concern of the Foreign Service.

We Foreign Service men and women serve today in countries marred by violence and civil unrest, and severe economic and political instability. We serve because we believe in our country and we believe in our mission. We serve at increasing personal cost, including financial cost. Reductions in benefits, as well as lack of an equalizer for locality pay, have meant that our people may actually take a cut in salary to serve America abroad. Many of us serve with outdated equipment, while living in substandard housing, and in the face of an expanding workload without equally expanding resources.

Mr. Chairman, AFSA asks that we be given the tools we need to shape world events to advance America's national interests. We firmly support full funding of the international affairs account for fiscal year 1999, and we ask that the Subcommittee move quickly on this legislation.

I thank the Chairman and the members of the Subcommittee for the opportunity to testify on this important matter.

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PREPARED STATEMENT OF THE ALLIANCE FOR INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

The Alliance for International Educational and Cultural Exchange (Alliance) appreciates the opportunity to submit testimony to the subcommittee in support of the United States Information Agency and the educational and cultural exchange programs which it administers. We urge an appropriation of \$210 million for USIA exchange programs—\$11 million above the Administration's request.

The Alliance is a broad coalition of sixty non-profit organizations which conduct exchange programs. The Alliance's members are extremely diverse and include academic, citizen, and youth exchange organizations. Some of these organizations receive part of their funding through USIA grants. Others do not. All, however, share the conviction that international exchange programs such as those administered by the USIA are an extremely effective and cost-efficient means of serving our national interests both at home and abroad.

We enthusiastically applaud the Administration's proposed increase in Fulbright educational exchanges. We are seriously concerned, however, that the cultural, professional, and citizen exchange programs slated for a significant \$7.5 million reduction will indisputably lead to atrophy and deterioration of the vast network of committed citizen volunteers throughout the United States which provide both visitor programming and hospitality in most communities. A \$210 million appropriation would prevent the destructive funding reductions in the exchange account, and allow professional and cultural exchange programs to be funded proportionately with the flagship Fulbright program.

In order to understand the role that exchange programs play in the present, it is perhaps useful to put them into a historical perspective. The International Visitor Program and its precursors go back more than five decades. Beginning in 1940, the federal government initiated a program to bring grantees—"the molders of thought and opinion"—to the United States for short-term visits. By the mid-1940's, the world was struggling with the devastating effects of World War II and the aftermath of nuclear warfare. In 1946, Senator J. William Fulbright saw a crucial opening to break new ground in the field of international relations and set the foundations of educational and cultural exchange. He created what is now known worldwide as the Fulbright program. The range of U.S. exchange programs undoubtedly helped to shape the stable Europe that emerged after World War II.

While today's global challenges are quite different from the late 1940's paradigm, the need for people-to-people exchange is greater than ever. As former Secretary of State Lawrence Eagleburger stated, "If we are to succeed in the next century as we did during the Cold War, we must make the same commitment to the [exchange] programs that equip American foreign policy to project our values and ideas." This statement provides a private sector perspective on how the Administration's exchange budget simultaneously addresses and fails to address a commitment to exchange programs as we approach the new millennium.

FULBRIGHT EDUCATIONAL EXCHANGE PROGRAM INCREASE

An independent study of the Fulbright Educational Exchange Program released in 1997 concluded that Fulbright exchanges for students, teachers, and scholars are critical to American interests, especially given the rate of global change and the dynamics of a global economy. The study report "Fulbright at Fifty" calls for restoration of Fulbright Program funding to the fiscal year 1995 level of \$125 million. In recognition of the Fulbright Program's value, the fiscal year 1999 budget calls for a modest increase of \$5 million for Fulbright exchanges from the current level of \$94 million. The Alliance firmly supports the proposed increase. Coming after a decline of approximately 25 percent in the program's funding over the last three years, the additional funding is urgently needed.

The Fulbright Program engages a wide network of U.S. institutions of higher education; private, non-profit international exchange organizations; and Fulbright alumni and community volunteers. In addition, the Fulbright program is extensively and consistently cost-shared by foreign governments and participants. Significant funding cuts over the last three years have threatened to erode the Fulbright Pro-

gram's ability to leverage foreign government support. Several key allies of the United States reduced their spending on Fulbright exchanges after the U.S. cut funds for Fulbright exchanges with their countries. The U.S. budget for Fulbright exchanges must signal to foreign partners that the Fulbright program is a U.S. priority and will be funded accordingly.

U.S. citizens who have received Fulbright grants return to their country with enhanced skills, deeper understandings of other cultures and of their own, and international connections which prove beneficial to their communities. For example, one returned Fulbrighter noted that "a Fulbright grant enabled me to get the research experience to return to the U.S. and set up a biomedical research laboratory specializing in homeostasis and thrombosis that over the years has become one of the most prominent such laboratories in the United States". The Fulbright Program has proven its capacity to develop both local and international leaders in business, government, education, public administration, the arts, and the professions; to increase understanding of the United States among foreign leaders and publics; and to promote our country's interests in prosperity and security through peaceful relationships with other nations.

The restoration of \$5 million to the Fulbright program would be a positive step in this process and would help insure that the modest investment the U.S. government makes in Fulbright exchanges will continue to provide excellent returns to the communities throughout the country which send and receive Fulbright students, teachers, and scholars.

#### ATTRITION IN THE INTERNATIONAL VISITORS/CITIZEN EXCHANGE PROGRAM NETWORKS

Despite the farsighted Fulbright increase in the Administration's budget, the proposed reduction of \$7.6 million in cultural and professional exchange activities will erode even further the infrastructure of community organizations across the country that support them. While leveraging significant private contributions, citizen and cultural exchange programs engage tens of thousands of volunteers—"citizen diplomats"—in communities throughout the U.S.

Citizen diplomats volunteer their time because they recognize the tremendous value which globalization has both for themselves and their communities—it creates new trading partners, builds understanding and cooperation between Americans and future foreign leaders, advances democracy and economic growth, and creates opportunities for Americans to learn, to prosper, and to work with others to solve shared problems and make our future more secure. USIA has carefully developed diverse tools to reach each of the above goals.

For example, many USIA International Visitors (IV) programs are geared towards democracy building. A recent IV program focused on democratic institution-building in Zimbabwe. After returning home, the Chief Justice of the Supreme Court and the Minister of Justice, both IV participants, are making a noticeable difference. The Chief Justice ruled that an election law favoring public funding for the ruling party was unconstitutional. When the Parliament protested, the Minister of Justice publicly chastised the parliamentarians, declaring that the independence of the judiciary is the sine qua non of democracy. Nearly 150 present and past foreign heads of state made their first visits to the United States on an exchange program. Citizen exchange programs advance important U.S. national interests by building understanding and cooperation between Americans and future foreign leaders.

The Alliance supports a budget which has equity and proportionality in funding increases for Fulbright and cultural/professional exchanges—roughly five percent. While these programs help our country to reach its foreign policy goals outlined in the strategic plan, professional and cultural exchange programs are renowned for their ability to leverage involvement and engagement domestically. For every federal dollar invested in exchange programs, the General Accounting Office estimates that twelve dollars are raised through private sector contributions.

Slashing these grassroots programs which democratize foreign affairs by involving thousands of Americans will erode an ability to meet the continuing public diplomacy challenges our country faces as the world's only superpower. A modest, proportional increase in the cultural/professional account will allow USIA to maintain the full diversity of its time-tested program tools to support U.S. foreign policy.

#### 33 PERCENT REDUCTION FOR OVERSEAS ADVISING

Included in the Administration's budget is a paralyzing reduction for one of our country's most cost-effective foreign affairs program—overseas student advising. This activity, funded through USIA's exchange programs budget, makes a truly remarkable contribution to our long-term foreign policy interests and to our balance

of trade. The Administration has requested reducing the overseas advising budget \$1.02 million, a 33 percent reduction.

With an fiscal year 1998 budget around \$3 million, USIA provided partial support to over 500 advising centers worldwide. Centers provide authoritative, unbiased information and advice on American higher education to prospective foreign students, and frequently serve as test sites for standardized tests required for university admission. Last year, nearly 458,000 foreign students contributed \$7.3 billion to the U.S. economy, generating 150,000 jobs. These numbers make higher education our country's fifth largest service export. The modest U.S. investment in advising clearly pays for itself many times over.

The benefits we gain from foreign students go well beyond our trade balance. Future leaders from around the world who study here learn our values, and they take those values home with them. The recent explosion of prosperity and democracy throughout Latin America, for example, corresponds precisely with the rise to power of a generation of leaders educated in the United States. These developments have a profound positive impact on our own security and prosperity. Our competitors—Australia, the United Kingdom, Canada, and Japan—certainly recognize these impacts and have themselves adopted assertive policies for attracting foreign students. As U.S. funding for overseas advising drops, we are already losing market share to our competitors. Increasing the exchange budget appropriation will allow us to maintain our position in the global higher education market and perhaps even allow for modest “comeback” in this highly successful, textbook example of a cost-effective program.

#### CONCLUSION

We in the exchange community recognize the difficult task before this subcommittee in attempting to meet the needs of a diverse array of national interests. With the potential \$1.5 billion increase in foreign affairs spending (function 150) over fiscal year 1998 levels, we urge the subcommittee to fund a modest increase for educational and cultural exchange programs. The federal role in fostering people to people connections is crucial, without it, the enormous private sector leveraging benefits will cease.

The proposed budget makes the crucial first step by providing a modest funding increase for the Fulbright program; we hope it will begin to restore the substantial 20 percent drop in the number of Fulbright participants. We urge your support for the Fulbright program.

To allow USIA the full diversity of tools to reach its foreign policy goals, we urge the subcommittee to take the next step and adopt a modest increase for the range of cultural and professional exchange programs which democratize foreign affairs for tens of thousands of Americans across the United States. They boast enormous benefits to American communities while exposing foreign leaders to our political values and aims. To prevent atrophy in the time-tested volunteer networks which make the these program possible, and to allow for a modest increase in the Fulbright program, we strongly recommend a fiscal year 1999 exchange program budget funded at \$210 million.

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#### DEPARTMENT OF COMMERCE

PREPARED STATEMENT OF BARRY K. ROGSTAD, PRESIDENT, AMERICAN BUSINESS CONFERENCE AND CHAIRMAN, BOARD OF OVERSEERS, MALCOLM BALDRIGE NATIONAL QUALITY AWARD

Mr. Chairman: I am Barry Rogstad, President of the American Business Conference and Chairman of the Board of Overseers for the Malcolm Baldrige National Quality Award. The Board of Overseers is the legislatively mandated oversight body for the Malcolm Baldrige National Quality Award. I am pleased to have the opportunity to present my views—and those of the Board—on the Baldrige Award, the unique and important role this Award plays in strengthening America's competitiveness, and the compelling arguments for expanding the Award to include education and health care categories.

I would like to summarize the key points which we believe the Congress should factor into the deliberations on funding the Baldrige Award to include education and health care categories.

*Baldrige Has Been a Primary Driver of Restoring America's Competitive Edge*

In 1987, Congress initiated what proved to be the major milestone in the quality movement in the United States and a major source of inspiration for improving U.S.

business competitiveness: The Malcolm Baldrige National Quality Award. For the first time, quality was recognized at the national level as a key factor in the competitiveness of U.S. firms. The Baldrige Award has served as an important dissemination point for best performance practices, and tens of thousands of U.S. companies have used the Baldrige criteria to strengthen their competitiveness.

Over 1½ million copies of the Award criteria have been distributed. Over 40 states now have Award programs. Over 1,000 organizations applied for awards throughout the national system in 1997. Over 30,000 sharing sessions have been held by Baldrige Award winners. Companies representing two-thirds of the GDP have participated in the Baldrige process. More than 25 nations have emulated the Baldrige process. The Baldrige public/private partnership has accomplished more than any other program in revitalizing the American economy.

*The Business Community Wants Baldrige Categories in Education and Health Care*

Starting in 1990, representatives of the business community requested creation of Baldrige award categories in education and health care. They believed then, and continue to believe now, that creation of these categories would improve education and health care quality, would control costs to business associated with worker health care and lost work time for remedial education, and would allow transfer of knowledge from business process improvements and management systems to the education and health care sectors.

Businesses have achieved 15–40 percent reductions in cost through process improvements and prevention-based systems. Costs of U.S. goods and services are greatly impacted by the costs of employee health care benefits. While business health care costs have been restrained over the last couple of years, annual health premium increases for American business remain a significant concern. U.S. workers are not educated for today's jobs. Businesses state that remedial education costs industry significant time and money. Many in the business community believe the education system doesn't understand its customers. The business community believes that extending the Baldrige performance management system to education and health care will begin the learning process that could attack some of these problems. Addressing these issues is critical to survival in an internationally competitive marketplace.

*The Education and Health Care Communities Need and Want Baldrige Award Categories*

Education and health care are today where American businesses were 12–15 years ago. They are being challenged to meet more demanding performance standards and higher customer expectations, and deliver quality services all at lower costs—and are increasingly being held accountable for their performance. Therefore, education and health care leaders are searching for improvement strategies that work. American businesses have proven that Baldrige does work. Therefore, education and health care leaders can and are eager to accelerate their own improvement efforts by using Baldrige, with community input and support, to redesign the way they do business.

Starting in 1992, K–12 and higher education and health care organizations asked for creation of Baldrige Award categories in education and health care. In 1995, successful pilot programs were conducted in education and health care. Applicants in the pilot program, who participated strictly for the learning with no awards being presented, represented a broad array of education and health care organizations. Between five and ten times the number of expected applicants participated in this pilot program. These organizations included: individual K–12 schools, small rural and major urban K–12 school districts, colleges, universities, technical schools, hospitals, managed care health systems, HMO's, individual physicians practices, nursing homes, and ambulance services.

Over 30,000 organizations have used the pilot education and health care criteria developed in 1995. The 30,000 number is based on copies of the criteria distributed by NIST. Beyond that, education and health care criteria have been distributed by many of the state and local award programs that use the NIST criteria.

In the survey that followed the 1995 Pilot Program for education and health care, 93 percent of the participants rated the relevance of the Baldrige Pilot Criteria to improving organizational performance as very good or excellent. 78 percent of the applicants rated the relevance and importance of the Feedback Report they received in helping their organizations improve as very good or excellent. 89 percent of the evaluators who participated said they benefited from the synergism created by having business, education and health care evaluators work together during evaluations so that lessons could be shared across the sectors.

The organizations that are charged with stimulating performance improvement are gravitating toward Baldrige. Accrediting agencies are working with NIST to establish award categories for education and health care. Continuous quality improvement is being embedded in their accreditation criteria. Regional accrediting organizations (K–12 and high education) are allowing schools to use the Baldrige Criteria as an alternative tool for accreditation. The state of New Jersey has just passed legislation allowing the use of Baldrige Criteria as an alternative assessment tool on a statewide basis. The Joint Commission on Accreditation of Health Care Organizations (JCAHO) has published a criteria crosswalk between their accreditation criteria and Baldrige criteria to encourage performance excellence. Two federal advisory commissions have recently issued statements in support of creation of Baldrige Award categories. The National Commission on the Cost of Higher Education has endorsed establishment of a Baldrige category for education and the Advisory Commission on Consumer Protection and Quality in the Health Care Industry, in its draft report, endorses establishment of a Baldrige Award category for health care.

Both Secretaries Shalala and Riley of the Departments of Health and Human Services and Education, support creation of Baldrige Award categories for health and education, respectively.

*The Baldrige Office Should Administer All of the Programs*

NIST as an organization embodies and conveys an image of high standards—vigorous standards that are applied to high performance and built-in continuous improvement cycles. Also under NIST leadership, the Baldrige Award is being used not just as an end point, but to encourage the winners and others to achieve even greater results.

The original national award process has prompted a network of state and local award programs that now covers over 40 states. These programs are responsible for creating a true national system committed to performance improvement and performance excellence. These programs, in essence, have formed a nationwide network committed to supporting performance excellence of all types of institutions—business, government, education, and health care—within their respective states and communities. Therefore they rely heavily on Baldrige materials which include: annually-updated Baldrige Criteria, Baldrige case studies, and Baldrige examiner training materials.

State and local programs need up-to-date Baldrige educational materials for health care and education if they are to continue having viable programs, and if they are to continue fostering a national network committed to education and health care quality improvement.

*The Rollout Under NIST Will Leverage Extensive Private Sector and Community Engagement*

The national focus and Presidential award ceremony make it possible for the Baldrige Program to attract thousands of volunteers through its federal/state award program network. The volunteers regard their participation as service to their country. An estimated 4,000–5,000 volunteers operate in the federal/state network. The overall network has an activity level of more than \$100 million per year. This means that for every appropriated dollar to NIST, other sources contributed about \$35.

Another important type of contribution to the national effort is the work of Baldrige Award recipients—at no cost to the Federal Government. These award recipients have held many thousands of sharing sessions. If we add to this the contribution of state and local award recipients, the total contribution would amount to several million dollars per year.

The Foundation for the Malcolm Baldrige National Quality Award is raising a new endowment to support education and health care categories in anticipation of a partnership with the federal government. We are going to leaders in education and health care to insure their active participation in all phases of this Baldrige expansion. The Baldrige Foundation has elected four new Directors to join the six industry Directors and help with the establishment of Baldrige Award Categories for education and health care. The four new Directors are Dr. G. Wayne Clough, President of the Georgia Institute of Technology; Dr. H. Richard Nesson, President of Partners HealthCare System, Inc. (the organization that is responsible for Massachusetts General Hospital); Dr. Robert R. Waller, President and CEO of the Mayo Foundation; and Dr. Arnold R. Weber, Chancellor of Northwestern University.

The Foundation is actively raising a \$15 million endowment to support these new categories, contingent upon a partnership with the Federal Government. The Foundation considers the partnership critical to the success of the existing Baldrige Program for business and equally critical to new Baldrige Programs for education and

health care. Volunteers who participate in the program consider their participation as service to their country and the tie to the Federal government is vital for that partnership.

Over the past decade, many of us in the business community have been involved with trying to make a meaningful contribution to improve K-12 education. These efforts, focusing on interactions between local school systems and companies, have shown considerable results, but there remains much to be done. Baldrige represents a comprehensive approach to systemic management improvement that can yield significant productivity gains to local education (and health care) institutions. We have proven it works for business; we believe it can be a catalyst for similar improvements in the education and health care sectors.

In conclusion, as business leaders we want to see the Baldrige framework introduced into health care and education. We view it as an external change agent and catalyst that can provide a proven yet fresh perspective to our colleagues who run school systems and health care facilities. We in the business community are taking active steps to achieve this end.

Congress created this opportunity in 1987 when Baldrige was signed into law. With relatively little investment, it can stimulate the same response in our two largest and most important sectors—education and health care—which will enable school districts, higher educational institutions, and health care organizations in all states and communities to achieve performance excellence and to improve continuously.

For all of these reasons, we strongly support the proposed expansion to enable education and health care to take advantage of the proven Baldrige infrastructure and act on the reality that improved performance is not limited to business, but is important to all organizations.

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#### PREPARED STATEMENT OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS

##### EXECUTIVE SUMMARY

The American Society of Civil Engineers (ASCE) is a strong supporter of the Clinton Administration's overall emphasis on U.S. infrastructure investment and civilian research and technology development.

The Administration's fiscal year 1999 request of \$715 million for the National Institute of Standards and Technology (NIST)—an increase of \$42 million, or 6.3 percent, over fiscal year 1998 appropriations of \$673 million—is strong evidence of the President's commitment to this issue. The proposed budget will fund the operation of NIST's civilian technology support programs that focus on the U.S.'s technology infrastructure. ASCE has long believed that the federal government needs to take a more active role in civilian research and technology development as a way to ultimately enhance the quality of the nation's public works infrastructure, and to strengthen the international competitiveness of the U.S. construction industry.

##### AMERICAN SOCIETY OF CIVIL ENGINEERS

ASCE, founded in 1852, is the oldest national engineering society in the United States. Membership is held by more than 123,000 individual professional engineers, and is equally divided among engineers in private practice; engineers working for Federal, state or local governments; and those employed in research and academia. The Society's major goals are to develop engineers who will improve technology and apply it to further the objectives of society as a whole, to promote the dedication and technical capability of its members, and to advance the profession of civil engineering.

##### NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY (NIST)

ASCE strongly supports the Administration's fiscal year 1999 budget request of \$715 million for NIST, including the \$13.7 million for the Building and Fire Research Laboratory (BFRL), \$2.1 million for the National Earthquake Hazards Reduction Program (NEHRP), \$260 million for the Advanced Technology Program (ATP), and \$107 million for the Manufacturing Extension Partnership (MEP).

ASCE supports coordinated and integrated basic and applied civil engineering research which leverages federal R&D funds through government-industry-university partnerships. These goals are currently being addressed through programs at NIST.

ASCE recognizes that as the Administration and Congress struggle to balance the budget, increased pressures will be placed on R&D budgets. However, unless those cuts are carefully targeted, the flow of talent and new technology in civil engineering and other technical disciplines will be reduced.

## THE BUILDING AND FIRE RESEARCH LABORATORY (BFRL)

ASCE is a strong supporter of NIST's Building and Fire Research Laboratory (BFRL) which is funded under the Measurement and Standards Laboratories Program. The fiscal year 1999 budget request for the Measurement and Standards Laboratories is \$286.3 million. Of this total, \$13.7 million would fund the building research program.

ASCE believes that the services provided by the BFRL are invaluable to the U.S. building industry. The major goals of the BFRL are to improve the productivity of U.S. construction industries, and to reduce human and economic losses resulting from fires, earthquakes, winds and other hazards.

The BFRL also serves as the premier fire research laboratory in the United States. It develops technologies to predict, measure and test the performance of construction materials, components and practices. NIST works closely with U.S. industries to integrate these new technologies into new materials that are less flammable and new products that reduce the consequences of unwanted fires.

Laboratory research activities include: fire science and fire safety engineering; building materials; computer-integrated construction practices; structural, mechanical, and environmental engineering; and building economics. The laboratory conducts investigations at the scene of major fires and structural failures due to earthquakes, hurricanes or other causes. The knowledge gained from these investigations guides research and is applied to recommendations for design and construction practices to reduce future hazards.

Construction is one of the nation's largest industries, comparable in size to the health care and agriculture industries. It serves as a critical asset for enhancing the international competitiveness of U.S. industry. Annually, more than \$600 billion is spent in the U.S. on the design, construction, maintenance, repair, and renovation of constructed facilities, according to statistics from the U.S. Department of Commerce. In 1996 alone, new construction totaled \$569 billion, about 8 percent of the Gross Domestic Product (GDP) and provided employment for 8 million people.

ASCE believes that there is a critical need for continued and expanded U.S. construction and fire research. The construction industry is in a process of technological change in materials, construction methods and utilization of advanced computer-based technologies.

The need for expanded construction-related research is critical if the United States is to reestablish a leadership position in the construction industry. The private sector does not have the resources to provide technological support, because of the fragmentation and expense of the necessary testing facilities. The BFRL is superbly qualified to provide research for the prediction, measurement and testing of the performance of building materials, components, systems and practices. These technical contributions are used in setting standards and codes for design and construction. This research also assists in removing barriers to beneficial innovations and maintains essential levels of safety.

With the increasing age of our nation's facilities and the need to rebuild our infrastructure systems, the role of the BFRL is—and will continue to be—of paramount importance. Research efforts currently underway will help highway engineers design reinforced concrete bridges that will have longer lives. This could be of great economic importance since hundreds of thousands of U.S. bridges are in need of repair, rehabilitation or replacement.

The BFRL research activities continue to impact a variety of infrastructure-related issues including: Structural Reliability; Nondestructive Testing of Concrete; Structural Failure Investigations; Seismic Design and Construction Standards; Rehabilitation Codes and Standards; Corrosion Protection for Reinforcing Steel; Prediction of the Service Lives of Building Materials; Quality of Construction Materials Laboratory Testing; Roofing Standards; In-Place Testing of Concrete; and, Computer Simulation of the Properties of Concrete and Other Porous Materials.

ASCE strongly believes that the services provided by NIST's BFRL are invaluable to the building industry, and should be adequately funded. Only by working with the BFRL is the construction industry able to leverage the funding and leadership necessary to remain competitive in the global marketplace.

## NIST EARTHQUAKE RESEARCH

ASCE strongly supports the President's \$2.1 million request in fiscal year 1999 for NIST's activities under National Earthquake Hazards Reduction Program (NEHRP) (Public Law 103-25). Under this program, NIST is responsible for "research and development to improve standards and practices for structures and lifelines." Lifelines are critical public works and utilities, such as facilities for water

supply and sewage treatment, liquid fuel and gas pipelines, electrical power and communications, and transportation.

The importance of developing technologies for industry and government to reduce the Nation's vulnerability to severe losses of life, property and economic activity from earthquakes, cannot be overstated.

Earthquakes pose the greatest single-event natural hazard faced by the Nation. A single earthquake and subsequent fires can affect hundreds of thousands of square miles, kill tens of thousands of people, cause property losses in the tens of billions of dollars, and disrupt the social and economic functions of the affected areas and the Nation. An earthquake the magnitude of the Loma Prieta earthquake of 1989—situated near a major urban center—would cause estimated losses of \$60 to \$100 billion.

Unless actions are taken to reduce hazards nationwide, the insurance industry estimates that property damage and loss from a single large earthquake would be sufficient to seriously impact the U.S. economy and national defense.

Earthquakes also inflict substantial economic damage that reduce the Nation's ability to compete. The destruction of plant and equipment has an enormous negative effect on U.S. competitiveness both for the affected industries and the economy as a whole.

State and local governments and industry depend on NIST to provide new technology for increased earthquake safety. Assurance of safety of constructed facilities traditionally has been a state and local government responsibility in the U.S. Government authorities and industry depend on national voluntary consensus codes and standards as a basis for safety standards and codes.

The central and predominant source of results underlying these national codes and standards is NIST. Even private sector research depends on the fundamental understanding, measurement technology, and predictive methods developed by NIST. Therefore, advances in public safety in the face of the threat of damaging earthquakes depends on enhancement of the research efforts at NIST.

NIST has extraordinary laboratory and computational facilities for structural performance investigations, modeling and testing. It also has close working relationships with design professions, industry, standards and model code organizations, and building regulatory officials. NIST is uniquely suited to carry out an effective program of research and delivery of new technologies to practice.

Nationally applicable practices for seismic safety of new and existing buildings are being developed with funding from FEMA, technical support from NIST and participation by the private sector. One major project already underway is the "NEHRP Guidelines for the Seismic Rehabilitation of Buildings." This project is a multi-year effort to develop comprehensive guidelines for the seismic rehabilitation of existing buildings. Because such guidelines do not currently exist, the document will prove to be an extremely useful tool to promote cost-effective rehabilitation of seismically vulnerable structures. The research and development effort funded by NIST is needed to formulate and apply effective practices for the seismic safety of new and existing lifelines.

While earthquakes in the U.S. occur most frequently in states west of the Rocky Mountains, 46 out of 50 states are known to have the potential to experience moderate and severe earthquakes. One or more such earthquakes have an even chance of occurring in the next decade. Design studies of standards recommended for new buildings show that preventing such damage adds less than two percent to new construction cost; comparable benefits are expected for lifelines standards. The proposed program will develop and implement design and construction practices to reduce losses in new and existing lifelines. Experiences in recent earthquakes show that losses can be reduced tenfold when new facilities are properly constructed and hazardous existing facilities are strengthened or replaced.

Lifelines are extremely vulnerable to damages in earthquakes. However, nationally accepted standards for seismic safety are lacking for most types of lifelines. Experts from private organizations with an interest in lifelines have recommended to NIST a Plan for the Developing and Adopting of Seismic Design and Construction Standards for Lifelines. The American Society of Civil Engineers has proposed to NIST the establishment of a Lifeline Seismic Safety Council to provide a focal point for coordination of private and public sector efforts in the development and adoption of seismic design and construction standards for lifelines.

The development of advanced earthquake technologies will also be transferred to international standards to increase U.S. competitiveness in the growing international markets for earthquake hazard reduction products and services. NIST will enter into cooperative research and development agreements with individual companies and consortia to enable industrial partners to gain experience with new earthquake safety technologies, integrate these techniques into their new commercial

products and services development, and accelerate market introduction for early advances in seismic safety and for leadership in international competition.

#### MEASUREMENTS AND STANDARDS FOR DISASTER MITIGATION

NIST also plays an important role in disaster mitigation. Traditionally, federal disaster mitigation policies have focused on minimizing loss of life and injuries. Today, with disaster costs skyrocketing due to increasing population densities in high-risk regions, disaster mitigation efforts are increasingly also concentrating on minimizing the costs of natural disasters to U.S. industry. Nationwide economic losses from recent natural disasters alone average \$1 billion per week, not including the indirect but equally severe losses due to disruption of businesses and services following such disasters.

ASCE strongly supports NIST's disaster mitigation program. In fiscal year 1999, NIST is requesting an increase of \$3 million to help carry out the programs' goals. These resources will allow NIST to develop measurements and standards that support next-generation mitigation technologies.

An underlying priority of the program is to "ensure that all new infrastructure systems are designed and constructed using up-to-date materials, equipment, processes; and system technologies for disaster mitigation; and that existing infrastructure systems are retrofitted to incorporate features that will mitigate natural disaster risks."

The potential trade-off of developing these measurements and standards for disaster mitigation are enormous. Ultimately, they will minimize the costs of natural disasters to the U.S. economy. If NIST-developed measurements and standards could reduce the costs of disaster by just one percent, it would be feasible to save about \$0.5 billion per year in direct economic losses—losses that are absorbed largely by U.S. commerce.

#### MEASUREMENTS AND STANDARDS FOR INTERNATIONAL TRADE

International competition is an increasing threat to American companies and projects. American firms have suffered not only a major loss of international work to foreign firms, but also are experiencing serious competition from foreign firms in domestic markets. Construction research funding in competing countries is significantly higher than that in the U.S.

The fact that over the past several decades the U.S. share of the international construction market has declined precipitously, from roughly 50 percent to 25 percent today, further underscores the importance of coordinated and focused R&D in this key sector. Moreover, because the U.S. construction industry is so fragmented, and many firms are so small that they're unable to absorb the inherent risks and costs of developing new technologies, the federal government and NIST must assume a leadership role in developing technologies to advance the industry.

In order to address these problems, NIST is requesting an additional \$4 million in fiscal year 1999 to "create a comprehensive approach to technical measurements and standards needed for international trade and to promote the global use of U.S. standards and measurements."

This initiative will help U.S. industry overcome or avoid technical barriers to trade in major developing markets by promoting the use of U.S. technology and practices in international standards and designing and implementing mutually recognized conformance assessment programs.

In addition, U.S. export growth currently lags behind that of many other countries. Statistics show that world trade has been increasing 15 percent annually while U.S. exports are rising at only about nine percent per year. Removing such technical barriers will open export opportunities for U.S. industry that are worth tens of billions of dollars and are the source of thousands of potential jobs.

#### ADVANCED TECHNOLOGY PROGRAM (ATP)

Under the President's proposal, the Advanced Technology Program (ATP) would receive \$260 million in fiscal year 1999, a \$68 million, or 35 percent, increase over its current level of \$192 million. ASCE supports the \$260 million request for the ATP. The ATP provides cost-shared funding to industry for high-risk research and development projects that have the potential to produce broad-based economic benefits for the U.S. To date, ATP has funded 352 projects with 842 participants, for a combined investment of \$2.3 billion shared almost equally between industry and government.

Companies in every manufacturing industry face the challenge of responding rapidly to changing markets and evolving business opportunities. Today, the speed at which new products are developed and delivered to market often is the underlying

determinant of competitive success. High quality products, more reliable and more flexible processes, fewer rejected parts, speedier product development, more efficient market transactions, higher levels of interoperability among machines and factories are but a few of the practical advantages that U.S. companies realize from the NIST laboratories' research, services and standards-related activities.

The ATP program in Manufacturing Composite Structures was established to assist U.S. companies develop the technical ability for producing vast amounts of affordable, high-performance composites for large-scale commercial applications. Advances in composite technology have allowed industry to produce materials that outperform traditional materials such as steel while reducing weight, maintenance expenses, and operating costs of cars, bridges and other structures.

The ability to produce commercial quantities of high performance composites at competitive prices will open new markets in the range of tens of billions of dollars to U.S. companies, according to industry projections. Auto manufacturers alone project that composites orders for building lighter weight vehicles that consume less fuel could go as high as \$20 billion.

Contrary to claims made by critics that the ATP benefits only large multinational corporations, ATP works to help companies of all sizes. For smaller, start-up companies, early support from the ATP can mean the difference between success and failure. To date, nearly half (46 percent) of the ATP awards have gone to individual small businesses or to joint ventures led by a small business.

According to a December 1997 survey released by the Commerce Department, ATP has enabled significant technological breakthroughs, rather than incremental advances, and that industry is actively pursuing commercialization of ATP-sponsored technologies. The study also found that 39 percent of the organizations believe they would not have started the ATP-assisted technology project without ATP funding.

#### MANUFACTURING EXTENSION PARTNERSHIP (MEP)

ASCE supports the \$107 million request for the Manufacturing Extension Partnership (MEP). These funds support the network of locally operated and NIST co-funded extension centers which provide hands-on technology assistance to the nation's 381,000 small and medium-sized businesses. This program has worked to strengthen the competitiveness of U.S. manufacturing firms by helping them adopt new technologies. Typical MEP services include: assisting small manufacturers access information on new equipment, reducing costs by lowering waste, improving quality, expanding markets for products, and locating financing for modernization efforts.

#### CONCLUSION

To reiterate, ASCE strongly supports the Administration's proposed \$715 million budget for NIST in fiscal year 1999. This vital research and technology development, coupled with the indispensable standards work, can be applied to the nation's infrastructure where it will enhance public health and safety and improve U.S. global competitiveness.

Federal leadership is essential to targeting civil engineering research. Without adequate federal funding, the ability to maximize the leveraging of R&D funds through government-industry-university partnerships would not be possible.

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#### PREPARED STATEMENT OF THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS

This testimony is submitted to the Senate Appropriations Subcommittee for Commerce, Justice, State and the Judiciary on behalf of The Association of America's Public Television Stations (APTS), which represents the 179 local public television licensees that reach 99 percent of American television households, over the air, through a public broadcasting system that is in place and working now.

APTS is requesting that the subcommittee fund the Public Telecommunications Facilities Program (PTFP) at \$56.25 million for fiscal year 1999. APTS recognizes that this is a significant increase over the fiscal year 1998 funding level and the President's fiscal year 1999 budget request. This request is year one of a four-year package to assist public broadcasting stations in the conversion to digital.

Public television is facing a daunting challenge: the transition to digital broadcast. This transition is mandatory for all television broadcasters and the Federal Communications Commission has laid out an aggressive timetable that requires the conversion to be completed by 2003.

Public broadcasters estimate that the costs associated with the conversion will total \$1.7 billion for the system. Unlike commercial broadcasters, public broadcasters are nonprofit or state or local government entities that rely on a grassroots funding structure. Public broadcasting's support comes from a combination of federal and non-federal sources including individual viewers and listeners, foundations and businesses, colleges and universities and state and local governments.

Because of their nonprofit status and grassroots funding structure, stations are constrained in their ability to finance such a major capital expenditure. Unlike their commercial counterparts, public stations are unable to pass along their costs to their customers. Most public broadcast stations cannot take out capital loans, and many, by law, must have balanced budgets on an annual basis and may not maintain cash reserves. Given these constraints, stations cannot utilize the typical mechanisms available to commercial entities to fund a major capital expenditure.

Congress has a long and significant history in helping public broadcasting fund capital investments. The Public Telecommunications Facilities Program (PTFP) housed at the National Telecommunications and Information Administration (NTIA), has helped fund the equipment needs of public radio and television stations for over 36 years. In addition, between 1991 and 1993 Congress appropriated funds for the Public Broadcasting Satellite Interconnection Fund that funded the cost of the satellite and the necessary equipment at the local stations to receive the satellite signal.

An additional federal investment is critical to ensure that all citizens of the United States have access to public telecommunications services through digital technology. The clarity of high definition and the multicasting capability of digital technology will allow public television to enhance the educational value of its programming and to multiply educational services. With digital, public television can serve more diverse, unserved and underserved audiences on a single channel.

This federal support will enable public broadcasting to continue to serve the nation and maintain its core principles. They are: noncommercial character and educational mission; creation and delivery of programming of unequaled quality and excellence; editorial integrity and independence; PTV's adaptation of new technologies to educational and public service purposes; universal access to our services; and local ownership, control and focus of public television stations.

The goal of each local station is to serve its community. Stations are governed by boards composed of people who live and have a personal investment in their community; decisions are made at the local level to determine the special needs of that community. Public broadcasting is the only broadcasting entity that is totally committed to ensuring that all Americans have access to free, locally based, enriching programs and education services in the digital age.

Public broadcasters have always been leaders in making use of new technologies for public service. We invented closed captioning and descriptive video services and pioneered satellite delivery of broadcast television. Public broadcasters once again have a vision of what new technology can deliver. We look forward to developing further applications of new technology to educate and enlighten all Americans.

We will provide these services through these new digital technologies:

- High Definition Television (HDTV) will significantly enhance the beauty and detail of public broadcasting's signature programming in science and nature, performing arts, science, drama and travel.
- Multicasting will enable public broadcasting to extend the reach of its educational services by enabling stations to broadcast four or more separate but simultaneous program streams. Potential channels might include: a preschool Ready to Learn service; K-12 instructional programming; GED and college credit telecourse; workforce training; local public affairs; or the popular how-to shows.
- The DTV signal will give public television the ability to transmit computer information and data over-the-air, providing another powerful tool for public television stations to expand their educational missions. Stations will have the capacity to deliver course-related materials to teachers and students, program guide information, and selected portions of the World Wide Web over-the-air to homes and schools. End users will be able to download this information instantaneously, using a set top converter, computer or a digital television receiver.

Highlighted below are some of our current services that can be enhanced in the digital age. Public television will be able to multicast more quality programs simultaneously with information and data available to download immediately. Quality science and technical programs will have the advantages of film quality through high definition television.

Public television stations work directly with local schools. They broadcast an average of five and a half hours per day of instructional programming for classroom use,

enabling 2 million teachers to use quality instructional programming to reach 30 million students in 63,000 K–12 schools. Local stations broadcast overnight so that teachers can record and build a library of programs. Stations encourage this and many publish special guides for teachers as well as supplementary materials to facilitate the use of public television programs in the classroom. Public television stations work with teachers to enable them to use video most effectively; we also offer access to program information on the World Wide Web.

Our children's educational programming remains the first choice of children, parents and teachers. Research does prove that children raised on "Sesame Street" and other public television programs perform better in school. The Ready to Learn project undertaken by public television is centered around a daytime block of children's programming but local stations have expanded the value of these programs by providing outreach services to children and their parents and caregivers to help them use public television as an effective learning tool. Over 450 workshops for parents and caregivers and benefiting over 70,000 children have been sponsored by local stations.

GED ON TV is an excellent example of what public television does best. Produced by the Kentucky Network and currently offered by 54 percent of public television stations, GED ON TV has enabled nearly 2 million adults to acquire a high school equivalency certificate. Recent figures from the Bureau of Labor Statistics indicate that citizens with high school diploma or equivalency contribute an additional \$4,980 per year to their state's economy than do high school dropouts. That's almost \$10 billion added to our nation's economy annually. Multiply that by the 30 or more years American's spend in the workforce.

The Rhode Island network has launched RInet36, that will provide a high speed Internet connection to all teachers and classrooms in the state at no cost to them. The project teams the station, the state department of education, a private university, and the U.S. Department of Commerce and a private donor in funding the program. RInet36 can save the schools up to \$1.4 million over the first two years.

Electronic field trips, produced by Kentucky Education Television have enabled an average of 550 classrooms across the state to visit Mammoth Cave, a working horse farm, a newspaper and an underground Kentucky coal mine. Other electronic field trips produced by public television have taken students to such diverse sites as the South Pole and Colonial Williamsburg.

Two thousand colleges and universities are using public television's Adult Learning Service (ALS). Local public television stations enable 400,000 tuition-paying students a chance to earn a college degree through television. In the last 15 years, over 3.5 million adults have participated in public television's ALS. These generally older students often live off campus, are employed and have adult responsibilities. Public television helps them move ahead by making a college degree accessible.

In Texas, by working in close alliance with the Texas A&M administration, KAMU has carved out a prominent role as the university's resource for extending distance learning. KAMU operates the TRANS-TEXAS Video Conference Network, which provides two-way video, data and Internet services to 100 locations in 40 cities across the state. Last year, KAMU provided 180 university courses and 5,200 video conferences. Public broadcasting has many more hours of educational programming and services than it has air time. Today, if we're broadcasting a children's program, then we're not airing workforce training or a college telecourse. The digital age will enable local public television stations to share more of our wealth of educational and cultural resources—with every American—than ever before.

Congress has mandated the conversion to digital and the Federal Communications Commission has set a deadline of 2003 for public television stations to broadcast in the digital format. Digital technology is not a frill; it's a technological imperative. Since the FCC is requiring all television stations to convert to digital programming by 2003, public broadcasters are obliged to make unprecedented investments in new transmission and production equipment.

Public broadcasters simply will not be able to make the transition without federal support. Almost half of all public television licensees (86 out of 177) will incur transition costs that alone exceed their projected annual revenues. Federal funds provide the critical seed money that stimulates private contributions.

We are pleased that the administration has established a Public Broadcasting Digital Transition Fund in the fiscal year 1999 budget request to Congress. That request is for \$450 million over five years. Seventy-five million of this amount would be administered through the Public Telecommunications Facilities Program (PTFP.)

Public broadcasting, however, estimates the cost associated with the digital transition will exceed \$1.7 billion. We are asking the federal government for \$600 million of that amount. The majority of the funding would come through the Corporation for Public Broadcasting (CPB). The PTFP program should supplement the CPB

and provide additional funding to meet the needs of rural or hardship sole-service stations and to meet the continuing analog equipment needs of public television and radio stations.

Public broadcasting will raise the rest of the necessary funds, roughly one billion dollars, from other sources: individual contributions, corporate underwriting, state funding, foundation grants, and through new efficiencies and cost savings. The non-commercial nature of public broadcasting makes raising these funds from private sources even more challenging than for the commercial networks, and thus requires a public investment to meet the new technological standard.

For a one-time charge of \$2.24 per American—about the cost of a video rental—every viewer will gain a lifetime of unlimited access to public broadcasting's enriched and expanded programs and education services in the digital era. That's a high value for a relatively low cost. The alternative—a future of 500 digital channels with no safe harbor of noncommercial educational channels—puts this investment into perspective. At a time when the education needs of this nation are so great, it should be one of the government's highest priorities.

Public television stations are already exploring the challenges and opportunities of digital transition to achieve efficiencies and cost savings. Many stations are participating in CPB's Future Fund projects to experiment, on a micro basis, with the activities that all of public broadcasting may have to undertake in the digital future. The transition to digital gives public broadcasting an opportunity to undertake collaborative activities that will yield a more efficient broadcasting operation while reducing costs. Some Future Fund projects are listed below. The results of these projects are applicable across public broadcasting and bear watching.

*Five Star Network.*—Five southern state networks—Arkansas, Mississippi, Louisiana, Georgia and Alabama—are developing working teams to examine possible collaborations and to develop closer communication links. Areas examined include production, underwriting, technical operations and DTV conversion among others.

*Northern Indiana Collaborative.*—Three stations, WYIN, WNIT, and WFWA examine areas of collaboration, including an engineering service bureau, regional underwriting and joint planned giving initiative.

*National Underwriting Cooperative.*—Feasibility study is funded to examine cooperative underwriting sales among major producing stations and PBS. KCET, WGBH, WETA, WNET join with PBS to develop a uniform approach to corporations and agencies for production underwriting. In its second phase, the project calls for an implementation of a business plan calling for single approach to major sponsors of public television programming. A new organization was created—the PBS Sponsorship Sales Group—to provide a unified approach to potential national underwriters, provide marketing materials and appropriate sales training for staff.

*Centralized Programming and Traffic Consolidation Service Florida Public Broadcasting Service.*—The Florida public television licensees have implemented a multi-phase effort to consolidate services and functions for 12–14 stations. Through these efforts the stations expect to significantly reduce operating expenses, increase the utilization of their technical and production resources, enhance revenue opportunities from existing production capacity, and deploy staff resources to increase operating productivity. They have created a centralized programming office and staffed it with a chief program executive. They are also developing a statewide program guide and a plan to optimize studio and post-production resources to further reduce the operating costs.

*New England Public Television Development Cooperative WGBH/Boston, WGBY/Springfield, Vermont Public Television & New Hampshire Public Television.*—The state networks in Vermont and New Hampshire, along with WGBH and WGBY in Massachusetts, will form a regional development cooperative to increase membership and fundraising income opportunities, while reducing their collective costs in this area.

*Statewide Development and Fundraising Cooperative Illinois Public Broadcasting Commission.*—Nine public television and thirteen public radio stations in Illinois plan to form a statewide underwriting agency, and to explore various areas of shared service and fundraising opportunities.

#### CONCLUSION

You have made a very wise investment in public broadcasting. You have helped us improve millions of Americans lives every day. We hope that you will continue this support in assisting the industry into the digital age.

Thank you. On behalf of the nation's public television stations, we look forward to working with you to ensure that we have the financial resources to continue to

provide the American people free access to quality, noncommercial educational television.

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PREPARED STATEMENT OF NATIONAL PUBLIC RADIO

On behalf of National Public Radio (NPR) and the more than 590 public radio stations it represents, I respectfully submit this statement for the hearing record on the fiscal year 1999 appropriation for the Public Telecommunications Facilities Program (PTFP). The public broadcasting community urges you to support a \$56.25 million PTFP funding level to fulfill the program's traditional role as well as to help us meet the challenges the transition and conversion to digital broadcasting funding will create.

NPR is a private, non-profit corporation. It is a producer and distributor of award-winning programming such as "Morning Edition," "All Things Considered," "Performance Today," "Car Talk," "Jazz Profiles," and "Talk of the Nation." NPR is also a membership organization comprised of noncommercial, educational radio stations. Each member station is locally controlled and designs its own format—combining local programming with offerings from NPR and other programming sources. Each station's local format is crafted to provide the best service for the local community. Forty-eight percent of the programming that airs on NPR stations is locally produced.

NPR stations are independent and autonomous, licensed to a variety of non-profit organizations, communities, colleges, universities and other institutions. The majority of NPR member stations are licensed to educational institutions.

The PTFP program is a matching grants program for public radio and television stations throughout America. These grants help public broadcasters purchase equipment to extend their signals to unserved areas as well as to replace or upgrade outdated hardware such as transmitters, master control rooms, or towers. The program is a model of a successful and efficient public and private partnership since each grant requires a local match of up to 50 percent leveraged from a station's community. PTFP grants act as an incentive that allows stations to generate the required match from listeners and other donors who might otherwise be reluctant to cover the costs of an entire project. The National Telecommunications and Information Administration (NTIA), which is a part of the Commerce Department, administers PTFP.

PTFP'S SIGNIFICANT ROLE IN PUBLIC BROADCASTING'S DIGITAL FUTURE

The PTFP program will play a significant and expanded role in public broadcasting's future. In a recent NPR survey<sup>1</sup>, 76 percent of public radio stations plan to utilize the program in the next five years for equipment upgrades or extending its programming service.

The program will continue to carry out its traditional objectives of replacing obsolete and malfunctioning equipment and extending public radio's signal into underserved areas. In addition, public broadcasting stations will soon look to PTFP to help absorb the costs associated with digital broadcasting.

President Clinton's fiscal year 1999 budget recognizes the importance of funding public broadcasting's digital future. Although NPR is appreciative of the Administration's support, the budget does not contain enough money to meet the needs of the program's expanded role. The budget proposal provides PTFP—titled the "Public Telecommunications Facilities and Digital Broadcasting Applications Program"—with \$15 million per year for five years for the digital transition, totaling \$75 million. A \$15 million funding level is insufficient for public radio and television's current analog needs and the transition to digital technology.

There is currently no digital radio transmission standard in the United States. Stations are anxious to convert their studio equipment to digital in anticipation of the impending digital conversion. The delay for digital radio transmission in this country is due to the lack of vacant spectrum to allocate for new digital radio services. U.S. broadcasters are busy developing a transmission technology that works in the existing AM and FM radio bands, hence, the name in-band on channel or "IBOC". In Canada and Europe, broadcasters are moving forward with a different digital radio transmission technology. Digital broadcasting will allow public radio to

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<sup>1</sup> NPR equipment needs survey conducted in December 1997. A total of 58 stations responded to the equipment needs survey. 50 NPR member stations responded (representing 18 percent of NPR stations), while 8 associate stations responded (representing 3 percent of NPR associate stations).

do more and better programming. Cost estimates, using an IBOC solution, are \$150,000 per station.

In addition, public radio stations are currently converting their production facilities to digital because analog equipment and parts are being phased out in the radio industry. Digitizing stations increases operational efficiency and decreases operating costs. In fact, 58 percent of stations that responded to equipment needs survey conducted by NPR have implemented some form of digital technology. For instance, KUT-FM in Austin, Texas has several digital equipment pieces. In 1995, the station was awarded a \$70,550 PTFP grant to replace its worn-out transmitter system and its associated studio-to-transmitter link. This equipment delivers a program audio signal to a transmitter site. Since much of the station's programming was digitally produced, it made sense to replace the aging studio-to-transmitter equipment with a digital link. This digital equipment produces a clean, quality sound not possible with analog equipment.

New Hampshire Public Radio is also converting its production facilities to digital as well. The station currently has a digital control board for master control, digital editing equipment and digital studio-to-transmitter link. For instance, the digital control board is a mixing console that allows the station to electronically combine a number of different programming sources to create one seamless, programming stream. Public broadcasting will continue to rely upon this successful public and private partnership to keep pace with today's latest technology which will become tomorrow's standard operating equipment.

PTFP grants are particularly important to public radio during public television's transition to digital television (DTV). Congress' mandate to convert television stations to DTV may result in many radio stations currently co-located on a television tower to have to move from these leased towers. DTV technology requires that more transmission equipment be placed on towers, creating a weight and load problem. Thus, these public radio stations would have to build new towers, an expensive prospect. Or, if space is available, a dislocated public radio station would have to move to another tower and may incur interference problems. There are also other significant costs associated with the transition to DTV. For instance, there is a possibility of greater interference involving adjacent television and reserved FM band stations. PTFP matching grants can help ease the severity of these expensive disruptions.

Beginning next year, PTFP will take on this expanded role. A \$56.25 million PTFP appropriation, therefore, is necessary to help public broadcasters in both an analog and digital capacity.

#### PTFP IS A VITAL COMPONENT OF PUBLIC BROADCASTING

PTFP is the only capital improvements program available to public broadcasting. The program is particularly important because public broadcasters lack access to capital. Public radio stations operate on "shoe-string" budgets funded primarily through charitable contributions and government funding. Whatever extra money is available is reinvested in the production or acquisition of additional high-quality programming or, sometimes, small capital budgets. As non-profit entities, stations cannot rely upon later profits to recoup capital expenditures. Thus, they would have serious difficulties finding a lending institution that would provide financing for equipment replacement. This is particularly true in many rural areas where other small businesses experience great difficulty obtaining financing. Stations' relatively small budgets do not afford them the luxury of paying for big ticket items such as a transmission system, which is likely to cost \$380,000 according to the PTFP guidelines. The average public radio operating budget, before federal funding, is \$905,667. Thus, without the federal matching grant, public radio stations could never afford a piece of equipment that is a third of their operating budgets.

In addition, matching federal money is crucial since there are fewer non-federal resources available to public broadcasting stations for capital improvement projects. Public broadcasters are under more pressure to finance the production and the acquisition of quality local, regional and national programming because the Corporation for Public Broadcasting (CPB) appropriation is at its lowest level in several years (the fiscal years 1998 and 1999 levels are \$250 million). Thus, stations must seek additional money from local communities just to maintain the level of service provided in the past. These programming costs leave little money for crucial capital improvement efforts. Sustaining the public broadcasting system is a primary goal of PTFP and the replacement of aging, obsolete equipment is a critical concern for stations, but not at the expense of programming. Without proper maintenance and upgrades, eventually the infrastructure falls into disrepair. Public broadcasters continue to rely on the NTIA program for the replacement of equipment.

It should be noted that public radio stations generally replace their existing equipment several years after the normal life-span of a particular equipment piece. For example, the average life span of a main transmitter is 12–15 years. According to NPR's survey results, stations, on average, are not replacing transmitters until 4–7 years after this average life span. This observation is also true for production studios. Public radio stations are replacing their production studios on average, every 13 years. Yet, the average life span of a studio is usually 7 years. For example, in 1996 KSUT–FM in Ignacio, Colorado was awarded \$73,626 to replace a 20-year-old master control and studio equipment. PTFP, due to the nature of its local and national partnership, discourages frivolous grant applications because each station must leverage half the cost of a project from its community.

Stations also may use PTFP grants for emergency purposes. For instance, KBRW–AM in Barrow, Alaska was awarded \$78,262 to be used towards the replacement of the station's transmission system which was completely destroyed by fire on October 16, 1996. The money also will help purchase an automated fire suppression system. The station provides the only radio service on the North Slope which covers 88,000 square miles, or an area the size Minnesota.

Other examples include KHSU–FM in Arcata, California which was damaged by a severe winter storm in 1994. The station was awarded a \$14,975 emergency grant to replace its aging transmission antenna and to reconstruct a translator in Willow. The translator was destroyed, leaving the community of Willow without service. If not for this PTFP grant, both communities would have experienced significant periods without the station's service. Since replacing the antenna and translator, KHSU–FM's service has been reliable, even during the winter months. In 1993, WDNA–FM in Miami, Florida received a grant to replace an antenna, studio-to-transmitter link and a transmission line destroyed by Hurricane Andrew. These emergency PTFP grants are vital to maintain public broadcasting service to these local communities, particularly in areas that have limited, or in some places, no other source of informational and cultural programming.

Public radio signals currently reach about 91 percent of the U.S. population. The PTFP program helps public radio continue its expansion into unserved or underserved areas. PTFP benefits both rural and urban states where topography, sheer size of the state or other interference problems such as buildings and other broadcast signals make it difficult for communities to receive public radio programming. In fiscal year 1997, 17 PTFP grants were provided to public broadcasting stations to help them reach unserved and underserved areas. For example, a fiscal year 1997 PTFP grant was awarded to activate a new public radio station on 88.7 MHz in Mountain Home, Arkansas. The station will repeat the signal of KASU–FM, but will also have some local programming production capability. This new station will provide first service to 107,422 people and additional service to about 23,965 people. For fiscal year 1997, the Southern New Mexico Radio Foundation in Alamogordo, New Mexico was awarded \$130,877 to activate a new noncommercial educational FM station in Alamogordo which will provide the first local programming to about 54,700 people. Also, WKMS in Murray, Kentucky received a \$25,335 PTFP grant that will extend the station's signal by activating translators in Paducah, Kentucky and in Paris, Tennessee. The new translators will deliver the first public radio signal to about 43,213 persons. WKMS currently serves an estimated 278,000 persons from its existing facilities.

In fiscal year 1996, 22 grants were awarded to provide the first public broadcasting service to local communities. For example, WZRU–FM in Roanoke Rapids, North Carolina was awarded \$87,075 to provide the first public radio service and the first radio reading service for the blind to approximately 46,000 residents of northeast North Carolina and southeast Virginia. Also, WVPN–FM in Charleston, West Virginia received \$7,560 to provide the first public radio service to about 17,000 people in the rural communities of Logan and Bluefield, West Virginia. WVPN–FM installed a translator in Logan, operating on 91.9 MHz., and all the necessary satellite equipment.

Radio is portable and affordable. This equipment replacement is important because it maintains the existing infrastructure that allows public radio to produce and broadcast programming. This programming is a valuable source of information and entertainment for millions of Americans. Radio listening in cars and trucks is where many people receive a substantial amount of their news and information. This is especially true in rural areas because the automobile is the most common mode of transportation. Often, there is a lack of public transportation and people must drive to work, to buy groceries and to see a movie.

Radio is also inexpensive. A radio may cost \$50 or less, far less than the cost of a computer, making public radio programming easily accessible and affordable to almost every American. It simply does not make good business sense to allow the pub-

lic broadcasting infrastructure, which represents a 25 year federal investment, to crumble. Without PTFP, listeners would experience frequent disruptions due to equipment failure.

If you measure the popularity and utility of the PTFP program by the number of stations requesting funding, then PTFP is crucial. In a preliminary count, over 239 applications have been received by NTIA for fiscal year 1998 PTFP funding, totaling an estimated \$117 million, more than five times the amount of money available (\$21 million is slated for 1998 grants). In fiscal year 1997, public broadcasting stations and other telecommunications entities submitted 220 applications totaling nearly \$50 million. Meanwhile, 97 grants were awarded totaling \$14.2 million (the PTFP appropriation was \$15.25 million). In fiscal year 1996, 251 applications were received. The total amount of funds requested by the applications was \$54.9 million. PTFP awarded 96 grants totaling approximately \$13.4 million.

#### PUBLIC BROADCASTING'S ACCOMPLISHMENTS THROUGH PTFP

Public broadcasting has accomplished much through PTFP. This matching grants program helped build the infrastructure necessary to deliver unique, quality educational, informational and cultural programming that many Americans rely upon. In fact, the program has financed over \$500 million in public telecommunications facilities. This represents a significant investment in communities as diverse as Kilauea, Hawaii; Berlin, New Hampshire; and Charleston, South Carolina. PTFP has helped stations put in place the necessary infrastructure to provide signals to more listeners. In turn, this has enabled stations to reach a greater audience and to increase the opportunity for more of a financial stake in the station by private individuals and corporations.

The investment in the public broadcasting infrastructure should not be allowed to deteriorate. As America moves into the digital age, PTFP should help maintain this solid public broadcasting foundation as well as build upon it.

Thank you for your past support for PTFP. I appreciate your consideration of a \$56.25 million appropriation request for PTFP in fiscal year 1999.

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#### PREPARED STATEMENT OF GLENN A. GRANT, ESQ., BUSINESS ADMINISTRATOR, CITY OF NEWARK, NJ

Thank you for the opportunity to present information to you about economic development opportunities in Newark, New Jersey. Newark is at the heart of the vast metropolis that extends from Boston to the Washington, D.C. metropolitan area. Fully one-quarter of the population of the country either lives within, or is easily accessible to, this area. We are only eight miles west of New York City, within 100 miles of Philadelphia, and only a four hour drive or one hour flight away from Boston and Washington. Our location is enhanced by ready access to transportation connections via rail, sea, air, and nine major interstates and state highways. Port Newark/Port Elizabeth has become the largest container port on the east coast because of the ability to move goods quickly and economically to and from the area. Newark Airport is the ninth-largest airport in the U.S., and is one of the fastest growing in the country.

Despite our active port and airport facilities, fully-occupied new office buildings, successful New Jersey Performing Arts Center, and complex of institutions of higher education and hospitals, our unemployment rate continues to hover around a staggering 15 percent. We are the fifth-most densely populated city in the nation, where the mean family income is only barely above the poverty line. Our population is poor: the 1990 Census showed an aggregate poverty rate of 26 percent, and an incredible 37 percent of our children live below the poverty line. A full 50 percent of the children in our public schools are from families receiving AFDC. Jobs for the parents of those children will positively affect this population more than any other factor.

We have lost many of the jobs that match the skills and work experience of a large segment of our population. We know, however, that the jobs created through the transportation industry cross the whole spectrum of employment opportunities. With the decline of our manufacturing base, shipping, warehousing, and related blue-collar employment are essentially the only good paying jobs left in the area which do not require higher education. Further, the thousands of white-collar jobs in such varied industries fuel the economy of the City, both directly and through the second support industries they, in turn, sustain. The growth of the hotel and hospitality industry is another key segment in the production of job opportunities for Newark residents.

It is a goal of the administration of Mayor Sharpe James to create jobs to meet the range of needs of Newark's residents, and we ask for the Federal government's partnership in continuing to expand the number of these vital employment and investment opportunities. Newark has been designated a Federal Enterprise Community, and the projects which Newark is presenting to you for funding consideration all lie within this zone, and are designated to provide employment for its residents.

The City of Newark is proposing projects at two important sites in close proximity to Newark International Airport. Directly across U.S. Route 1 from the airport, is an underutilized abandoned rail yard of slightly over 100 acres known as Waverly Roads. The Port Authority of New York and New Jersey operates the first phase of an airport monorail, and has begun construction of the second phase, which will cross U.S. Route 1 and connect to a new stop on the Northeast Corridor rail line within Waverly Yards. The completion of this monorail will provide a direct, fast rail linkage with downtown Newark, and all of its rail and bus connections. The City of Newark now owns much of this property, and wishes to promote development of it to its full potential. To do so, several infrastructure improvements must be accomplished.

First, there is currently only one road leading into the site. Right-of-way acquisition through property owned by existing businesses and roadway construction are necessary for appropriate accessibility. Secondly, some of the area will require environmental remediation before facility construction can take place. In addition, basic site services, such as power, water and communication lines, need to be brought into the location. Site clearance and acquisition of several parcels from private owners will complete a building site of unparalleled attractiveness.

The City proposes to make the site available for the development of facilities which would make the best use of the proximity to the airport and the direct rail link, such as a hotel, conference center, and office park. Private developers will have the opportunity to purchase or lease a portion of the property for construction of primary or complementary facilities. It has been estimated that activity on this site will ultimately generate hundreds of jobs in the trade, hospitality, convention and transportation industries. Further, the City of Newark is pursuing the establishment of an International Trade Center, which is currently in a study and preliminary design phase. The site for this facility has not yet been determined, but it is projected to be in a location which will also take advantage of the transportation links described. We are requesting that this Subcommittee make an appropriation of \$6,000,000 to help us reach our long-range goals for the Waverly Yards; to enable the generation of job and economic development opportunities for Newark's residents, and create needed enhancements to a regional transportation center.

Only a mile away from Waverly Yards lies an area in need of redevelopment which could have a tremendous impact on the economic well-being of our City. There is an inventory of dozens of factory and warehouse buildings which have become underutilized, even abandoned. Some of them are city-owned as a result of tax foreclosures, many others have simply been closed by their owners. Thousands of manufacturing and shipping jobs have been lost in the Frelinghuysen Avenue industrial corridor. Yet Port Newark and the airport generate millions of dollars in the businesses of processing, packing, and distribution. Conversely, Newark is home to a large exporting community, which makes use of our key position on the transportation network.

The City is proposing a project which would provide supplemental funds to retrofit underutilized buildings to enable them to be reused by these industries. An appropriation of \$3,000,000 to launch a pilot program would allow us to begin a process of returning these facilities to the tax rolls, and returning our populations to work. The additional jobs that would be generated in the distribution industry will serve to create family incomes, which will in turn create retain detail, in Newark. The plentiful and competitively priced labor force within the City in general, and our Enterprise Community in particular, will provide a ready supply of employees for operations in the types of industries we need to keep and expand.

Newark is also home to five institutions of higher learning, ranging from a fine community college to two law schools and a medical school. This complex also is a part of our Enterprise Community. Along with a public/private partnership of government and business, they have begun to develop University Heights Science Park, with a high-tech business incubator, day care center, and lab space already operational. A federal allocation of \$9,000,000 would be utilized to leverage approximately \$130 million in private and non-federal public sector funds to begin and complete the next project phase; an International Center for Public Health. This Center would be a world-class infectious disease research and treatment complex comprised of the Public Health Research Institute and the University of Medicine and Dentistry of New Jersey's National Tuberculosis Center. EDA funding would be applied

toward construction-related costs, which will create approximately 300 direct and indirect construction and technology jobs.

We are asking for your help in changing the situation in Newark. Through the allocation of funding for the projects I have described, you will create long-term economic opportunity for people who currently have none. Through these economic development initiatives, you will help some of Newark's currently unemployed population to earn a decent salary and support their families.

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PREPARED STATEMENT OF THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY

The University of Medicine and Dentistry of New Jersey (UMDNJ) is the largest health sciences university in the nation and the only one designated as a statewide system for health care. UMDNJ comprises seven schools on five academic campuses in Camden, New Brunswick/Piscataway, Newark, Scotch Plains and Stratford. We own and operate UMDNJ-University Hospital in Newark, the primary teaching hospital of the UMDNJ-New Jersey Medical School and home to New Jersey's Level One Trauma Center. UMDNJ also comprises three core primary teaching hospitals, five health care facilities, an integrated behavioral health delivery system, and has affiliations with more than 100 health care and educational institutions statewide.

It is with great pleasure and pride that UMDNJ submits testimony to the Senate Commerce, Justice, State Subcommittee on Appropriations to respectfully request your support for an initiative of national importance and significance: the International Center for Public Health at University Heights Science Park, Newark.

The International Center for Public Health (ICPH) is a strategic development initiative that will create a world-class public health complex at University Heights Science Park (UHSP) in Newark. UHSP is a joint venture between Newark's four institutions of higher education, the City of Newark and private industry to harness science and technology research as a force for urban and regional economic development. The Public Health Research Institute (PHRI), a nationally prestigious biomedical research institute, will re-locate from New York City to become the core tenant at the ICPH with UMDNJ as the primary medical center linkage and academic affiliation.

The International Center for Public Health is a strategic initiative that will create a world class, infectious disease research and treatment complex in University Heights Science Park, Newark, a Federal Enterprise Community neighborhood. The ICPH will have substantial local, regional, national and international impact as it addresses many critical social, economic, political and health-related issues. The Center is a \$78 million anchor project that will launch the second phase of the fifty-acre, \$350 million mixed-use urban redevelopment Science Park. The construction of ICPH will generate 1,500 direct and indirect construction and permanent jobs. The project scope also includes the consolidation and preparation of three adjacent building pads that will be simultaneously marketed to private biotechnology corporations. These pads will leverage an additional \$60 million of construction (for a total of \$138 million), and another 1,500 direct and indirect construction and permanent jobs (for a total of 3,000). The ICPH anchor facility will total 161,600 square feet and house three tenants: the Public Health Research Institute (PHRI), the University of Medicine and Dentistry of New Jersey's (UMDNJ) National Tuberculosis Center, one of three Federally funded TB centers, and the UMDNJ-New Jersey Medical School's Department of Microbiology and Molecular Genetics. Development of the ICPH is a priority project for UMDNJ, Rutgers-The State University, New Jersey Institute of Technology, Essex County College and the City of Newark.

The core private tenant for the International Center is the Public Health Research Institute, which will relocate from New York City. PHRI is an internationally prestigious, 56-year-old biomedical research institute that conducts a broad range of infectious disease and public health research. A major PHRI research focus is the study of antibiotic resistance to life threatening bacterial organisms, and the development of new antibiotics. Among its many accomplishments over the years, PHRI has contributed to the development of smallpox vaccine, developed a new diagnostic assay for influenza, conducted early experiments on oncogenes, cloned the gene responsible for toxic shock syndrome, and identified the multi-drug resistant TB strain "W". PHRI's current research focuses on molecular pathogenicity, drug discovery, drug resistance, diagnostic and vaccine development, and gene expression. Scientific disciplines include virology, immunology, biochemistry, genetics, cell and structural biology, and regulation of cell development. Presently, PHRI supports a staff of 110, including 20 Principal Investigators. These numbers are expected to double with the move to the International Center.

UMDNJ will be the primary medical center linkage and academic affiliation for the PHRI. The National Tuberculosis Center at UMDNJ, one of only three model TB Prevention and Control Centers in the United States funded by the CDC, will add an important clinical component to the International Center. The TB Center was founded in 1993 as a response to the national resurgence of antibiotic resistant tuberculosis strains. At that time, Newark had the nation's second highest rate of TB cases for a major city.

The relocation of the UMDNJ-NJMS Department of Microbiology will add a staff of approximately 100 to the Center's critical mass of microbiology research. Currently the 17-member faculty conducts research in control of cell proliferation; cellular aging; transcriptional, post-transcriptional, and transcriptional regulation; mutagenesis; DNA replication and recombination; chromosome structure and segregation; human molecular genetics; and molecular pathogenesis of viruses, bacteria and parasites.

#### *The Anchor Project for University Heights Science Park*

University Heights Science Park (UHSP) is a collaborative venture of Newark's four higher education institutions, the City and Community of Newark, and private industry, designed to harness university science and technology research as a force for urban and regional economic and community development. The university sponsors—New Jersey Institute of Technology (NJIT), The University of Medicine & Dentistry of New Jersey (UMDNJ), Rutgers University and Essex County College—annually conduct nearly \$100 million of research in Newark.

UHSP is unique among science parks nationally in that it is designed as a mixed-use, community-based redevelopment program. At buildout, Science Park will include one million square feet of technology commercial space, 75,000 square feet of technology business incubator space, 20,000 square feet of retail business opportunities, an 800-student technology high school, two blocks of new and rehabilitated housing, and a 100-child community day care center. The \$10 million first phase of Science Park is complete and includes a technology business incubator, the 100-child day care center and industrial prototype laboratories for biomaterials and medical devices. The construction of the International Center will anchor the second phase of Science Park and serve as a magnet to attract pharmaceutical, diagnostic and biomedical companies to Science Park. The Center will have the same impact on the Park as an anchor store does in a retail shopping mall.

#### *What this Project Means to Newark*

The International Center means urban technology job opportunities, improved health care, and creative educational opportunities for Newark's youth. For minority and urban residents it is one challenge to acquire necessary job skills, but it is another to have the means to travel to where the jobs are. In the last 20 years Newark has lost 35,000 private sector jobs, many having moved to the western suburbs. Science Park is a development strategy to bring well-paying jobs back to Newark's urban center, providing City residents with access to the technology jobs of the 21st century. The International Center project, together with the three adjacent leveraged facilities, will generate 3,000 direct and indirect construction and permanent jobs. Located in an urban, federal Enterprise Community neighborhood, these permanent job opportunities are well paying with a wide range of qualifications and educational requirements.

The City of Newark is New Jersey's largest municipality with 275,000 residents, 84 percent of whom are minorities, plus a significant number of undocumented and uncounted residents. It is also the State's most at-risk municipality when considering the health of its residents. With unemployment hovering around 14 percent, Newark carries a heavy burden of poverty reflected not only in low per capita wages, but also in the highest rate of infectious diseases in the State (tuberculosis, AIDS and sexually transmitted diseases). Being located on the front line of infectious diseases, the new International Center will provide cutting edge diagnostic and treatment support to the City's health care providers, thereby ensuring that Newark residents will benefit from the latest discoveries in the battle against infectious diseases.

Today's youth are tomorrow's scientists. As a commitment to the education of Newark's youth, Science Park projects include school linkages and programs with technology tenants. PHRI, the proposed core tenant in The International Center for Public Health, will establish two educational programs to nurture and develop the interest of urban and minority students in science and science-related careers. ScienceLab will be a collaboration with the Newark Public Schools to provide a year-round science education program for Newark high school students and science teachers in a "real-time" private research institute environment. The International

Center will also sponsor a BioMentors program and be part of the Westinghouse Science Talent Search program. The goal of these educational programs is to influence and encourage Newark high school students to pursue careers in biomedical sciences and one day employ their skills in Science Park companies.

*How the International Center for Public Health Enhances and Implements Department of Commerce (EDA) Objectives*

The International Center for Public Health (ICPH) is a creative and unique public/private partnership located in University Heights Science Park, Newark, New Jersey that will combine infectious disease research and public health programs; pharmaceutical industry participation; international, state and regional public health collaborations; high school urban and minority science education initiatives; urban economic and community redevelopment, and high-technology job creation in a federally designated Enterprise Community.

The Economic Development Agency (EDA) has historically supported urban efforts to create and retain jobs. A new impetus results from the need to effectively implement welfare reform as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The role of universities in the revitalization of distressed urban neighborhoods continues to expand, and has been an underutilized resource for economic and community redevelopment. The International Center will contribute to the achievement of these objectives in the following ways:

Newark is a federally designated Enterprise Community (EC), and as such is already part of a Federal strategy to attract and support economic development activity that will create jobs in the urban core. The 50-acre Science Park is located within the boundaries of one of the EC neighborhoods. Approximately \$14 million of the total \$78 million development cost for the International Center is for acquiring 14 acres, demolition, remediation and site infrastructure. This prepares four building pads, one of which will be occupied by the International Center as the anchor, magnet tenant to attract additional tenants. The other three pads will be simultaneously marketed to private pharmaceutical, diagnostic and biomedical companies who desire to be adjacent to a world class biomedical research institute. The four pads will generate a total of \$138 million of development (including the International Center for Public Health), 2,000 direct and indirect construction jobs, and 1,000 direct and indirect permanent jobs.

The permanent jobs include custodial and clerical positions, lab technicians, medical personnel, researchers, and administrators. Science Park will work directly with the Essex County College (one of its sponsoring educational institutions) and their Technology Training Project (TTP) to train Newark residents as lab technicians for the International Center. TTP is privately sponsored by New Jersey's biomedical industry and has been in existence for nearly 30 years. TTP currently trains and places 50 lab technicians annually, all of whom are high school graduates or adults looking for a new career.

This project redevelops urban land, preserves open green space, and utilizes existing public transportation (bus and subway) to the doorstep of the Park. The International Center for Public Health will serve as the cornerstone to launch Phase II of University Heights Science Park's 50-acre urban redevelopment initiative. The \$10 million completion of Phase I in the Fall of 1996 includes the NJIT Enterprise Development Center 2, a 100-child day care center and the CHEN Building (housing the industrial liaison laboratories for the Center for Biomaterials and Medical Devices). The technology business incubator is 100 percent leased with 17 new technology start-up companies. Forty percent of the incubator companies are minority and/or women-owned technology business enterprises. In addition, over half of the children in the Science Park day care center are from the surrounding community, and 90 percent of the day care center staff live in Newark. At buildout the Science Park will generate over \$350 million of construction, 5,000 direct and indirect construction jobs, and 6,600 direct and indirect permanent jobs with an annual payroll of \$275 million.

The development of the ICPH at UHSP accomplishes a sister agency's objective to expand the role of universities in urban redevelopment. The Department of Housing and Urban Development maintains the Office of University Partnerships, a division which recognizes that universities are anchor institutions in many distressed urban neighborhoods and have a vital stake and role to play in economic and community revitalization. NJIT, UMDNJ, Rutgers and ECC are adjacent to each other in Newark's Central Ward and form the Council for Higher Education (CHEN) in Newark. For almost two decades CHEN has jointly sponsored housing, retail/commercial development and educational programs (in collaboration with Newark's public schools) in Newark's neighborhoods. The four CHEN institutions are the found-

ers of University Heights Science Park and are solidly behind the development of the International Center for Public Health.

*Current Status of the International Center for Public Health Project*

In recognition of the enormous economic and scientific value of the International Center for Public Health, and through the leadership and direction of Governor Christine Todd Whitman, a Memorandum of Understanding (MOU) was executed between the State of New Jersey, UHSP, UMDNJ and PHRI in October, 1997. The MOU commits \$60 million of State loan and grant funds toward development of the \$78 million International Center for Public Health. Science Park is working closely with the New Jersey Economic Development Authority, through whom project bonds will be issued and 14-acres of land acquired. Presently the Science Park partners and International Center for Public Health tenants are seeking the remaining \$16 million from Federal and private sources during 1998. Groundbreaking is scheduled for March 1999.

*Request For Assistance*

University Heights Science Park is requesting \$9 million from the Department of Commerce Economic Development Agency in fiscal year 1999 to support the Phase II development of Science Park: the construction of the International Center for Public Health. Such support will leverage Phase II development that totals \$138 million, and creates nearly 3,000 direct and indirect construction and permanent technology jobs. These funds will be used specifically for construction related project costs. This project is a top priority for UMDNJ, Rutgers, New Jersey Institute of Technology, Essex County College and the City of Newark.

On behalf of UMDNJ, we thank the Committee for the opportunity to present this request. We appreciate your consideration of our proposals, and hope to receive your support for the development of the creation of the International Center for Public Health at University Heights Science Park, Newark, NJ.

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PREPARED STATEMENT OF THE AMERICAN OCEANS CAMPAIGN

On behalf of American Oceans Campaign, a national environmental organization dedicated to protecting the oceans and its living resources, we submit this statement in support of fully funding the Administration's requests for critical programs and initiatives of the National Oceanic and Atmospheric Administration (NOAA). We request that this statement be included in the Senate Appropriations Committee's hearing record for the Departments of Commerce, Justice, State, and the Judiciary Appropriations Bill for fiscal year 1999. Today, we would like to focus our comments on NOAA's budget requests for fishery management programs and its Clean Water Initiative.

IMPLEMENTATION OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND  
MANAGEMENT ACT OF 1996

American Oceans Campaign urges the Committee to, at a minimum, match the Administration's request for the base activities and programs of the National Marine Fisheries Service (NMFS) in order to ensure the complete and expedient implementation of the Magnuson-Stevens Fishery Conservation and Management Act of 1996. Programs and activities identified in the NMFS budget request that require funding to meet the objectives and requirements of the Magnuson-Stevens Act include resource information, fishery management programs, regional Fishery Management Councils, and enforcement/surveillance.

In recent years, the general public has been deluged with information detailing the steep declines in our nation's marine fisheries. According to NMFS, of the fish stocks under its jurisdiction whose status is known, 36 percent are either overfished or approaching an overfished condition. The list of overfished stocks includes many of the nation's most prized fish species from around the country, including: Atlantic salmon and many species of Pacific salmon, Atlantic swordfish, Gulf of Mexico red snapper, New England cod, many species of grouper, and American lobster. NMFS expects the list of overfished species to grow significantly when overfishing definitions are revised to comply with the Magnuson-Stevens Act in October 1998.

The ecological and economic impacts of these declines are significant not only to coastal communities, but also to the nation as a whole. NMFS estimates that restoring fisheries will have a potential \$25 billion impact on the national economy. In

addition, restoring fisheries to sustainable levels will help to bring back an ecological balance in our marine environment.

In response to the high-profile problems afflicting our fisheries and coastal communities, the 104th Congress took a significant step in rebuilding marine fisheries by enacting the Sustainable Fisheries Act Amendments to the Magnuson-Stevens Act in 1996. Under the amended Magnuson-Stevens Act, the Regional Fishery Management Councils and NMFS are required to adopt or amend fishery management plans that: (1) identify overfished stocks and stocks approaching an overfished condition, and prevent or eliminate overfishing and rebuild overfished stocks; (2) avoid bycatch and minimize the mortality of unavoidable bycatch; and (3) identify, designate and protect essential fish habitat, including minimizing adverse effects on essential fish habitat caused by fishing and non-fishing activities.

#### *Resource Information*

NMFS is requesting \$92.7 million for base program activities associated with Resource Information. This represents an \$8.95 million increase over current funding levels. This increase is to be used to conduct stock assessments which are needed to meet Magnuson-Stevens Act requirements and to restore base program funding that was used to meet earmarks in the fiscal year 1998 budget. With the status of many fish stocks declining at rapid rates and a growing skepticism among resource users of NMFS stock assessment data, funding to ensure use of the best available and most accurate science is imperative.

American Oceans Campaign recommends that the Senate fund NMFS Resource Information programs at the level requested by the Administration—\$92.7 million.

#### *Fishery Management Plans*

NMFS is requesting \$34.4 million for base funding to support fishery management programs. This represents an increase of \$8.65 million over the current year's funding levels. This increase includes \$2.85 million for implementation of essential fish habitat provisions of the Magnuson-Stevens Act; \$1.45 million for new fishery management plan amendments which implement the overfishing and bycatch provisions of the Magnuson-Stevens Act; \$2.85 million to implement new fishery management plans; and finally, \$1.5 million to restore base program funding that was used to cover earmarks of the fiscal year 1998 budget. Ensuring compliance of fishery management plans with the new conservation provisions of the SFA aimed at preventing overfishing, minimizing bycatch, and protecting essential fish habitat is the first step towards rebuilding U.S. fishery populations to sustainable levels.

American Oceans Campaign recommends that the Senate provide, at a minimum, the \$34.4 million in NMFS' base funding for implementing fishery management programs.

#### *Regional Fishery Management Councils*

NMFS is requesting \$12.8 million to support the work of the eight regional fishery management councils. This represents an increase of \$900,000 over funding levels for this year.

Fishery Management Councils were given significant responsibilities under the 1996 Magnuson-Stevens Act. Most important, the Councils are charged with developing and implementing the important new conservation provisions for the fisheries under their jurisdiction. Last year, this Subcommittee recognized the increased duties of the councils and provided \$13 million to support the work of the regional Councils.

American Oceans Campaign recommends that this Subcommittee again provide \$13 million for the regional Fishery Management Councils.

#### *Enforcement/Surveillance*

NMFS is requesting \$18.5 million to support its enforcement duties related to fishery management. This represents a \$900,000 increase over the actual funding levels for this year.

The enactment of the new provisions of the Magnuson-Stevens Act will require greater enforcement efforts from NMFS. The agency is intending to use the increased resources to expand efforts at voluntary compliance and vessel monitoring. Unfortunately, these initiatives are being scaled back due to NMFS receiving an adequate increase in the fiscal year 1998 budget.

American Oceans Campaign supports the Administration's request of \$18.5 million to strengthen compliance, surveillance, and enforcement activities of NMFS. We consider these activities to be critical for our national efforts to restore depleted fisheries to healthy and sustainable levels.

## CLEAN WATER INITIATIVE

American Oceans Campaign urges the Subcommittee to, at a minimum, match the Administration's request for a coastal water quality initiative in NOAA's budget. This \$22 million initiative funds the National Ocean Service (NOS) responsibilities and programs that are included in the Administration's recently announced Clean Water Action Plan. American Oceans Campaign considers the funding request to be absolutely critical for curtailment and preventing polluted runoff (nonpoint pollution) in our nation's coastal areas.

Polluted runoff impairs more water bodies nationwide than any other pollution source. It occurs when rain, snow melt or other water washes over land, packing up oils and metals from parking lots and streets, pesticides from agricultural lands and lawns, excess nutrients from fertilizers and animal wastes, sediment, and other contaminants. Eventually, these contaminants find their way into streams, lakes, estuaries, and oceans.

The environmental and economic impacts of this pollution on the coast are significant. Contaminants which enter storm sewers after rains pour into coastal waters at storm drain outfalls, causing beaches to close and health advisories against swimming to be issued. Polluted runoff is also responsible for closed or harvest-limited shellfish beds, declining fisheries, red tides, and other harmful algal blooms, fish kills, sediment contamination, habitat destruction, deteriorating coral reefs, and impurities in the drinking water supplies of coastal communities. Researchers in the mid-Atlantic states are also studying the links between nutrient pollution from runoff and outbreaks of *Pfiesteria*.

Coastal waters provide considerable benefits to local communities and the nation as a whole. U.S. beaches and coastal areas rank as a favorite vacation destination for Americans, with the average resident spending 10 recreational days on the coasts each year. In addition, more than 75 percent of the United States' commercial fish catch depends on estuaries. Further investments which prevent and clean up the pollution damaging these coastal areas make perfect environmental and economic sense.

The Coastal Nonpoint Pollution Control Program is our nation's best hope for reducing polluted runoff. Unlike other federal programs, this program ensures that actions to control polluted runoff will be taken if voluntary measures are ineffective. It stresses coordination among agencies, and allows states and local governments to craft their own clean-up and prevention strategies for their coastal areas subject to minimum national standards.

Since 1990, NOS has been working with coastal states to develop nonpoint pollution control programs for the state's coastal zone. States are currently in the process of completing their coastal nonpoint source pollution control plans. The national program has now reached a critical stage where funding is absolutely necessary to ensure states have adequate resources to finalize their management programs. Additional funds are absolutely essential so that states and territories can implement programs to prevent polluted runoff and help restore coastal water quality.

American Oceans Campaign urges the Senate to support NOAA's fiscal year 1999 budget request of \$22 million for its Clean Water Initiative. This money is needed to help protect coastal communities from polluted runoff and harmful algal blooms.

In summary, as America celebrates the "International Year of the Oceans and the majesty of the oceans, we call upon this Senate subcommittee to increase funding for key NOAA programs that help to protect the oceans and its living resources for this and future generations. Thank you for your consideration.

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PREPARED STATEMENT OF THE CENTER FOR MARINE CONSERVATION

The Center for Marine Conservation appreciates this opportunity to share our views regarding the President's fiscal year 1999 budget request for the marine conservation programs of the National Oceanic and Atmospheric Administration (NOAA).

The Center for Marine Conservation is committed to protecting ocean environments and conserving the global abundance and diversity of marine life. Through science-based advocacy, research and public education, CMC promotes informed citizen participation to reverse the degradation of our oceans. CMC is a nonprofit conservation organization with 120,000 contributing members, headquartered in Washington DC, with field and regional offices in California, Florida and Virginia.

In this the International Year of the Ocean, we commend this Subcommittee for the commitment it has shown to the protection of our marine ecosystems in the appropriations bill, for this fiscal year, passed by the United States Senate last year. We urge this Subcommittee, at a minimum, to provide funding for the base activi-

ties of the marine stewardship programs of NOAA requested by the President. We also urge you to provide for the additional needs described below.

#### NATIONAL OCEAN SERVICE

##### *National Marine Sanctuary Program*

We urge the committee to provide \$18 million for this important program, the authorized level. We were extremely disappointed by the President's request of only \$13.8 million. The request represents cut in the of \$800,000 from the \$14 million level provided by Congress for this year.

Often referred to as our marine parks, the 12 sanctuaries around the country encompass almost 18,000 square miles of the nation's most significant marine resources. Yet as this month's issue of National Geographic points out: "The entire system has an annual budget of \$11.7 million (referring to the fiscal year 1997 budget)—a sum in effect that reduces these sanctuaries to a state of poverty \* \* \* The typical sanctuary, therefore must take care of an enormous area with a staff that could fit in a broom closet." In 1990, an independent National Marine Sanctuary Program review panel recommended annual funding of \$30 million, a recommendation that was endorsed by NOAA's public advisory committee in 1992. Furthermore, this year NOAA is beginning a resource intensive review of each sanctuary's management plan as required by law, but the Administration has provided no additional resources for this important work.

##### *South Florida Interagency Ecosystem Restoration Initiative*

We recommend that the Committee fully fund NOAA's portion of this vital initiative for the coming fiscal year. The \$5.1 million requested by NOAA, a small portion of the overall request for the Initiative, involves \$3.2 million in the National Ocean Service budget for monitoring and modeling, and will allow NOAA to fully implement its integrated ecosystem monitoring program in Florida Bay and the Florida Keys National Marine Sanctuary. These waters are the downstream end of the South Florida ecosystem and thus are affected by the activities of other agencies working to restore and protect the Everglades. The monitoring program will help the agency model and assess changes to the marine resources of Florida Bay and the Florida Keys coral reef system. The Administration's request also includes \$1.9 million in NMFS' budget for fisheries restoration and research.

##### *The Control of Polluted Runoff to Coastal Waters*

We urge the Committee to provide \$22 million for NOAA's portion of the Administration's Clean Water Initiative. These funds are a sound investment in the future of our coastal waters. The Administration's request includes \$10 million for NOAA to conduct research, monitoring and assessments of harmful algal blooms such as Pfiesteria and red tides through funding the National Pfiesteria Research and Monitoring Strategy, and the Ecology and Oceanography of Harmful Algal Boom program.

The Initiative also includes \$12 million for the states to complete and implement coastal nonpoint source pollution control programs, authorized under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). This program was unfunded in 1996 and 1997. For the current year Congress gave the program a needed boost by providing for the President's request of \$1 million. Much more funding is needed, however, for 1999.

Nonpoint source pollution, or polluted runoff, is the largest source of pollution to the nation's coastal waters and is responsible for beach and shell fish bed closures. Section 6217 promotes reducing polluted runoff to coastal waters through better government coordination. There are few enforceable controls on this massive source of coastal pollution which threatens ecosystems, public health and local economies. Section 6217 is the only national program to ensure that if voluntary measures taken to reduce polluted runoff are ineffective, the State has enforceable backup authority to protect coastal waters.

The nation's 6217 program has now reached a critical stage where adequate funding is absolutely necessary to ensure states and territories have resources to finalize and implement their programs. Twenty-nine coastal states and territories have submitted programs to NOAA and the Environmental Protection Agency for final review and approval. Seventeen of these programs have already been conditionally approved, but there remains a great deal of work to be done. Additional funds are essential so that states and territories can complete their programs and begin to implement management measures to reduce the impacts of polluted runoff.

*Commission on Ocean Policy*

We urge the committee to reject the Administration's proposed cut of \$1 million for this commission. It is our hope that the Ocean Act of 1997 will soon be enacted.

## NATIONAL MARINE FISHERIES SERVICE

*Resource Information*

We support the Administration's request for an additional \$8.95 million in funding for the Resource Information base program. Congress provided a significant \$8 million increase for the program this year, but accompanied that increase with \$12.4 million worth of earmarks. As a result, the agency has curtailed ongoing stock assessment and data collection work. The requested increase for next year will be used by the agency for much needed stock and bycatch assessments as required under the Magnuson-Stevens Act.

In highlighting the effects of Congressional earmarks in this program (and in Fisheries Management) we are not opposed to them. Nearly all of these additional activities have merit. But absent the needed increases for the base programs, they erode the benefit to the marine environment of budget increases. We therefore request that the committee fund earmarks and add-ons with funds that are in addition to those requested by the Administration for core programmatic activities.

CMC supports the continued funding for research into Dolphin Safe technologies. Continued research into sound ecological ways of catching large yellowfin tuna without encircling dolphins is critical to the conservation of dolphins, the tuna fishery, and the marine ecosystem of the Eastern Pacific Ocean. We also support maintaining funding for New England stock depletion research and the Gulf of Maine groundfish survey.

We are, however, very concerned about some of the cuts proposed in specific line items under Resource Information in the Administration's request. We oppose the following proposed cuts:

- the \$200,000 cut for in the right whale research line item and the elimination of the gear modification research line item. With only 300 North Atlantic right whales remaining, and the species' continued existence threatened by entanglement in fishing gear and collisions with vessels, research must be continued to improve our understanding of right whale biology, determine the frequency and location of entanglements and collisions, and allow for the development of technologies to modify fishing to reduce entanglements.
- the \$50,000 cut in the Hawaiian monk seal line item. Hawaiian monk seals are the most endangered pinniped in the United States. We must commit the necessary funds to ensure that projects such as health assessments, marine debris assessments and removals, and habitat and foraging studies go forward.
- the cut for the Stellar sea lion recovery plan line item. Since 1994, the number of juvenile and adult Stellers has dropped by 18 percent in the Gulf of Alaska population alone. Pup counts at Alaska's largest rookeries fell by 40 percent between 1991–1994. Using current population models, fisheries service biologists predict there is nearly a 100 percent chance the western Steller sea lion population will be extinct in the next 65 to 100 years. CMC believes that current management measures are insufficient to prevent the extinction of this species and must therefore be modified. We recommend an additional \$1 million, over the President's request, for additional research including assessing how well fishing area closure zones have functioned to benefit Steller sea lions, and developing adaptive management experiments to reexamine how Stellers may interact with fishing operations.

*Fisheries Management Programs*

The marine fishery resources of the United States are in serious trouble. According to NMFS, of the fish stocks under its jurisdiction, whose status is known, 36 percent are overutilized. NMFS estimates that restoring fisheries will have a potential \$25 billion total positive impact on the national economy.

These public resources must be managed on a sustainable basis and assessments must be completed (for exploited stocks in particular) and kept up to date. In 1996, Congress took the first step in rebuilding and conserving these public resources by enacting the Sustainable Fisheries Act which strengthened the Magnuson-Stevens Fishery Conservation and Management Act. Under the Magnuson-Stevens Act, the regional fishery management councils and NMFS are required to adopt or amend fishery management plans that: (1) identify overfished stocks and stocks approaching an overfished condition, and prevent or eliminate overfishing and rebuild overfished stocks; (2) avoid bycatch and minimize the mortality of unavoidable bycatch; and (3) identify, designate and protect essential fish habitat, including minimizing

adverse effects on essential fish habitat caused by fishing and consulting with federal agencies proposing activities that may adversely affect such habitat.

Last year, this Subcommittee demonstrated a recognition of the importance of restoring and managing the public's fishery resources. You went beyond the President's request for fisheries management programs by providing \$30 million. Unfortunately, your increase was not sustained in the Conference Committee with \$27.25 million being provided. While an increase was still provided, NMFS received only half the additional funding needed to implement the Magnuson-Stevens Act. As a result, the agency is limited in its ability to implement the Act's new provisions relating to overfishing, bycatch and essential fish habitat. The reduction from the Administration's request also limits resources available for implementing fishery management plans developed by the councils.

NMFS has requested an increase of \$8.65 million and 5 additional FTEs over the current year's funding level including: \$2.85 million for implementation of essential fish habitat provisions of the Magnuson-Stevens Act; \$1.45 million for new fishery management plan amendments to implement new overfishing, rebuilding and bycatch provisions of the Act; \$2.85 million to implement new fishery management plans; and \$1.5 million for restoration of funds to the base program used to cover this year's earmarks.

We recommend that the Subcommittee provide for these needed increases.

#### *Regional Fishery Management Councils*

For the current fiscal year, the Senate recognized the increased demands placed upon the councils to implement the critical conservation provisions of the Magnuson-Stevens Act and went beyond the President in recommending \$13 million. While the Conference Committee provided \$11.9 million, this figure was still above the President's request and a needed boost in council resources. We recommend that the Senate again provide for \$13 million, and at a minimum, no less than the \$12.8 million requested by the Administration.

#### *Protected Species Management*

##### *Marine Mammal Protection Act*

The President's request for \$9.5 million for Marine Mammal Protection Act implementation is woefully inadequate. We recommend an appropriation of \$18 million. In 1994, the Center for Marine Conservation worked with the Congress and the fishing industry to amend the MMPA and institute a system to reduce the accidental mortality of marine mammals in commercial fishing operations. The program devised by these amendments anticipated stepped up monitoring and management activities. Twenty million dollars alone is needed to conduct the necessary marine mammal research and stock assessments, convene incidental take reduction teams, devise and implement take reduction plans, develop a streamlined system to report incidental mortality, observe fisheries at levels necessary to accurately determine incidental mortality, and to conduct public outreach to the fishing community to inform them of the various requirements under the MMPA. Lack of funding has been one of the primary reasons for NMFS's failure to effectively implement the MMPA. Furthermore, inadequate funding and the ineffectual implementation of the MMPA that it causes, threatens to destroy unprecedented cooperation, started in 1994, among conservation groups, commercial fishing industry, and the government.

In addition, the proposed level of funding, does not provide sufficient research funds to assess marine mammal populations and to investigate fishing gear and technologies that reduce incidental mortality. These two areas are critical to the conservation of marine mammals while still allowing the commercial fishing operations to continue.

As regards other sections and titles of the MMPA, Congress authorized nearly \$19 million for implementation. Consequently, the proposed budget is insufficient to implement these sections as well. For example, Title IV, the Marine Mammal Health Stranding and Response Act has been historically underfunded; nevertheless, unexplained die-offs of marine mammals have continued on almost an annual basis along the United States coastline. Additionally, this Title should assist in funding the rescue of starved, sick, or injured seal and sea lion pups associated with El Niño in California. NMFS' response to these die-offs has been hampered because, to date, no funds have been appropriated to the Emergency Response Fund.

##### *Endangered Species Recovery Plans*

The Center for Marine Conservation appreciates the \$10.25 million increase in appropriations and the additional 14 FTEs for Endangered Species Act Recovery Plans. However, the allocation of \$2.95 million to critically endangered species such as the North Atlantic right whale, Hawaiian monk seals, and Steller sea lions is

still insufficient to recover these species. We therefore recommend an additional \$4 million for this line item. At the current level of funding NMFS will be unable to implement and revise recovery plans for these marine mammals. NMFS will also be unable to develop and implement recovery plans for all other species (other than salmon) currently listed and under its authority, adequately and promptly process and issue permits for scientific research, and meet new mandates to conduct research programs that will move NMFS toward an ecosystem approach to managing marine mammals and other protected species.

*Dolphin Encirclement*

The Center for Marine Conservation supports the \$3.3 million appropriation to continue a four-year study on the effects of encirclement on dolphins as a method for harvesting tuna. However, the President's budget fails to include \$3 million, authorized by Congress, for the implementation of the International Dolphin Conservation Program Act. This money is badly needed to develop and implement domestic regulations and participate in the international program that will allow the United States tuna fishery to participate in the yellowfin purse seine fishery in the Eastern Pacific Ocean. Additionally, these funds are needed to develop a tracking and monitoring system for verification of "dolphin-safe" tuna. CMC urges Congress to appropriate an additional \$3 million to permit effective implementation of this law which had strong bipartisan support.

*Habitat Conservation*

CMC supports the Administration's requested \$2.3 million increase in Habitat Conservation. We are concerned, however, about potential impacts of the transfer of the Beaufort, NC, and Oxford, MD, labs from NMFS to NOS. We urge the Committee to make sure that agreements are put in place between the two agencies that ensure NMFS will be able to meet its habitat responsibilities under the Fish and Wildlife Coordination Act and the Magnuson-Stevens Act.

*Enforcement and Surveillance*

CMC supports the Administration's proposed \$900,000 increase and the additional 5 FTE's for enforcement. Adequate funding for enforcement and surveillance activities is critical to the successful implementation of any statute. The enactment of the new provisions of the Magnuson-Stevens Act require a greater enforcement effort from NMFS. Moreover, it is doubtful that the proposed \$18.5 million is adequate to cover the enforcement of the Marine Mammal Protection Act and the Endangered Species Act as well as the Magnuson-Stevens Act. Initiatives to expand efforts at voluntary compliance and vessel monitoring are being curtailed as a result of not receiving an adequate increase for this year.

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PREPARED STATEMENT OF THE COAST ALLIANCE

Mr. Chairman: The undersigned conservation, environmental, and fishing groups are submitting testimony to urge you to support a \$22 million appropriation for a coastal initiative in the fiscal year 1999 budget request for the National Oceanic and Atmospheric Administration and the Department of Commerce. This funding request, called NOAA's Clean Water Initiative, is absolutely critical to fight polluted runoff, which is the leading source of water quality impairment. Last year, many coastal communities were devastated by outbreaks of red tides, dead zones, and Pfiesteria. In varying degrees, polluted runoff is implicated in these harmful events. The funding will provide states with the necessary resources to complete and begin to implement their Coastal Nonpoint Pollution Control Programs, and will provide critical funds for additional research, monitoring and assessment of the causes of hazardous algal blooms and oxygen depletion.

Our economy depends on healthy coastal waters. The U.S. coasts support 34 percent of our national employment, more than 28 million jobs, and 70 percent of commercial and recreational fisheries. Commercial fishing is a \$45 billion industry employing more than a quarter of a million people. We also spend about \$24 billion per year on recreational fishing, generating \$69 billion for our economy, much of it in coastal areas.

Our coasts need help. Polluted runoff from farms, roads, timber, mining and construction activities, faulty septic systems, and other nonpoint sources of pollution is a major threat to coastal waters and marine life. It is the main reason why nearly 40 percent of tested waters in this country are not fishable and swimmable. It is responsible for thousands of beach closings and fishing advisories, millions of dead fish, and the closure for harvest of 30 percent of the nation's shellfish beds.

The Coastal Nonpoint Pollution Control Program is our nation's best hope for reducing polluted runoff. Unlike other federal programs, the Coastal Nonpoint Program ensures that actions to control polluted runoff will be taken when voluntary measures are ineffective. It stresses coordination among agencies, and allows state and local governments to craft their own clean-up and prevention strategies for their coastal areas subject to minimum national standards. States are currently in the process of completing their coastal nonpoint source pollution control plans. States need adequate funding to secure final approval of their programs and to implement management measures that will prevent polluted runoff.

The program has been woefully under-funded over the last few years. This has deprived many states of the resources necessary to complete and implement their nonpoint source pollution control programs. We urge you to support NOAA's \$22 million request to address non-point source pollution and toxic algal blooms. We need to start making real progress in preventing polluted runoff. The very large payoff for water quality, wildlife, jobs, and the economy easily justifies this modest funding request.

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PREPARED STATEMENT OF DR. RAYMOND E. BYE, JR., ASSOCIATE VICE PRESIDENT  
FOR RESEARCH, FLORIDA STATE UNIVERSITY

Mr. Chairman, thank you and the Members of the Subcommittee for this opportunity to present testimony. I would like to take a moment to acquaint you with Florida State University. Located in the state capitol of Tallahassee, we have been a university since 1950; prior to that, we had a long and proud history as a seminary, a college, and a women's college. While widely-known for our athletics teams, we have a rapidly-emerging reputation as one of the Nation's top public universities. Having been designated as a Carnegie Research I University several years ago, Florida State University currently exceeds \$100 million per year in research expenditures. With no agricultural nor medical school, few institutions can boast of that kind of success. We are strong in both the sciences and the arts. We have high quality students; we rank in the top 25 among U.S. colleges and universities in attracting National Merit Scholars. Our scientists and engineers do excellent research, and they work closely with industry to commercialize those results. Florida State ranks seventh this year among all U.S. universities in royalties collected from its patents and licenses. In short, Florida State University is an exciting and rapidly-changing institution.

Mr. Chairman, let me describe two projects that we are pursuing this year. The first is a major collaborative program which focuses on climate variability in the State of Florida and the Southeast. Objectives include developing scientific applications for climate data. This consortium draws upon the expertise of scientists at FSU (climate analyses and coupled ocean-atmosphere prediction models), UM (climate analyses and economic value of forecasts), and the University of Florida (agriculture) to quantify climate variability (e.g., the El Niño phenomena) for the SE and to explore the potential value and practical application (there is a strong emphasis on agricultural applications) of climate forecasts.

During the initial phase of this effort, the FSU team described qualitatively the impact of El Niño (and the other extreme, La Niña) on temperature and precipitation patterns across the SE. Additionally, they found a geographic shift in tornadic activity associated with El Niño events. A new climate forecast system to provide predictions of seasonal temperatures and precipitation with longer lead times and improved skill is in the testing phase. Improvements are due partly to the coupled nature (i.e., linking the ocean and atmosphere so they respond to each other dynamically) of the forecast system. Our colleagues at the University of Florida identified several crops in Florida which are vulnerable to shifts in weather patterns associated with El Niño and La Niña, but noted further that the impact is not uniform in nature across the state.

Continuing with this collaboration, we hope to estimate the economic advantages that could be achieved by incorporating climate forecast information into farming management systems and eventually work with sector representatives in developing guidance products for the agricultural community. Initial funding has been provided by the National Oceanic and Atmospheric Administration.

We are seeking \$3 million from NOAA to continue and expand this work in fiscal year 1999.

Our second project we propose is a cooperative agreement with the National Marine Fisheries Service (NMFS), which is in the U.S. Department of Commerce, to provide funds for research and training directed towards building and sustaining fishery resources and healthy coasts in the southeastern United States (U.S. De-

partment of Commerce, NOAA Strategic Plan: a Vision for 2005, pp. 9–12). This agreement will expand and strengthen the Institute for Fishery Resource Ecology (IFRE), which is a successful three-year old partnership between the NMFS Southeast Fishery Science Center (SEFSC) and Florida State University.

Healthy coastal and marine resources play a major role in Florida's economy. Commercial and recreational fisheries have a direct value of \$4 billion annually. That fraction of Florida's annual tourist industry associated with diving, which hinges upon tourists' desire to enjoy a healthy coastal environment, produces an additional \$3 billion annually. All of these resources are at risk; Florida's citizens are concerned about this risk and Florida's best intellectual resources ought to help find solutions to the problems that have created that risk.

The partnership between FSU and the NMFS will support a variety of programs. The critical research problems include, among others, finding reliable indicators of habitat quality, determining the critical factors that affect the numbers of fishes, and evaluating different ecological, economic, and social approaches to developing sustainable use of these resources. The results of this research are brought to bear on current management by the involvement of our scientists with the regional fisheries management councils of the Gulf of Mexico and the South Atlantic.

The scientists working in the IFRE will play vital roles as educators. Most obviously, they will be training the next generation of resource managers and scientists through the graduate programs of the university. But they will also teach the next generation of resource users. They will engage undergraduates through problem-oriented classes, internships with FSU faculty and NMFS scientists, and work experience on contracts and grants. They will also help expand FSU's award-winning outreach programs in marine biology for elementary and middle-school students in north Florida.

The proposed partnership will grow through the IFRE over the next five years. In the first year, we will solidify the scientific research, education, and outreach programs. We will also strengthen our ties to local, state, and federal resource management agencies. This research and education effort will provide the foundation for phase two, in which we will develop a multidisciplinary program in policy sciences by instituting new courses oriented towards social scientists and expanding our research into areas of policy sciences. All of these efforts are consistent with NOAA's Strategic Plan.

These programs will include a commitment to the minority community. Of course, we want to attract and retain minority students in careers in either the natural or policy sciences in the area of marine resources. We have experience in doing so and will continue to work closely with the Florida-Georgia Alliance for Minority Progress Program at Florida A&M University, and with the NMFS Science Center, to identify and recruit interested students. In addition, we want to use our outreach programs to continue providing educational opportunities for the elementary and secondary school students in the predominantly rural, African-American communities in our area.

We are requesting a specific line for this effort within the NMFS budget, and in the Administrative Operations portion. We request a separate line item in the Resource Information portion, designating \$1 million for this joint NMPS/FSU project. In addition, we have requested that the Florida legislature provide a substantial state match for these federal funds.

Mr. Chairman, these activities discussed will make important contributions to solving some key problems and concerns we face today. Your support would be appreciated, and, again, thank you for an opportunity to present these views for your consideration.

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PREPARED STATEMENT OF DR. ROBERT BALLARD, PRESIDENT, INSTITUTE FOR  
EXPLORATION, SEA RESEARCH FOUNDATION

My name is Dr. Robert Ballard. I serve as President of the Institute for Exploration (IFE) at the Sea Research Foundation in Mystic, Connecticut and I am Founder and Chief Scientist of the JASON Foundation for Education. My entire career has involved oceanography. In the last decade, I have been heavily involved with education, particularly the application of electronic communications to distance learning for students in K–12. As an educator and oceanographer speaking on behalf of JASON, IFE and millions of students and teachers throughout the United States, I would like to thank the members of this subcommittee for approving \$15.5 million for NOAA's National Undersea Research Program (NURP) in the fiscal year 1998 Commerce, Justice, State and Judiciary Appropriations bill. The \$15.5 million in funding for NURP will go a long way toward enhancing knowledge about our

planet's largest and most basic ecosystem, the ocean. Furthermore, by directing that JASON and NURP work together to develop a program that will translate the data from America's NURP laboratories to students and teachers throughout the United States, the bill recognizes that oceanographic research is not only intrinsically important but that it should also serve education by stimulating interest in science and technology. This NURP-JASON partnership, inspired by the International Year of the Ocean, is already proving to be highly productive with an exciting and innovative plan for long-term collaboration taking shape. That is why I urge the subcommittee to approve funding for NURP at a higher level than fiscal year 1998 and to once again make provisions for an expanded NURP-JASON partnership for fiscal year 1999. On behalf of the partnership established between NURP, JASON and IFE, I request that \$2 million be directed toward that partnership.

The members of the subcommittee, no doubt, are aware of the relatively modest sums our country invests in oceanographic research compared to other endeavors such as medicine or space exploration. As a result, we know relatively little about the sea and almost nothing about the ocean depths. It's said that we know more about the surface of Mars, for example, than we do the bottom of the ocean. At the same time, I think it's safe to say that the vast majority of Americans recognize the importance of oceans to the overall health of our planet. In fact, a survey of 1,014 randomly selected adults commissioned by the Pew Charitable Trust last August showed that most Americans feel a personal, if not spiritual, connection with the oceans. When asked to choose between space and ocean exploration, 55 percent of those surveyed thought ocean exploration should be the priority as opposed to 35 percent who chose space. Although I believe both areas should be priorities—indeed they should be explored together as inter-related parts of our own biosphere—in my view we need to invest considerably more in ocean research. The dividends we would reap from enhanced knowledge about this vital realm that covers three-quarters of the Earth's surface would be incalculable.

Young people, of course, have an insatiable curiosity and for them, the oceans have a particular fascination. I discovered that in the months after I located the wreck of the Titanic in the North Atlantic more than ten years ago. To my surprise, I soon began getting thousands of letters from young people all over the world who wanted to know more about the Titanic and how we found its remains. On the part of so many of these students, I found a particular hunger for more information about the science, the technology and engineering that went into that discovery. That's when I decided to start the JASON Foundation for Education.

Now in its ninth year, JASON's mission is to excite and engage students in science and technology and to motivate and provide professional development for their teachers. From oceans to rain forests, from polar regions to volcanoes, the JASON Project explores Planet Earth and closely examines its biological and geological development. Using advanced telecommunications technology under the guidance of their teachers, students learn the physical, biological and historical significance of the area under study and work with leading scientists to develop an appreciation in the earth's total ecology. The young voyagers in school districts throughout the country become hands-on participants. With internet and telepresence supplementing classroom instruction, students engage in a "you-are-there" experience. A network of museums, educational and government institutions, businesses and research organizations throughout the world serve as JASON sites allowing students to communicate with scientists at the expedition site, operate robots and scientific equipment via remote control and see live, up-to-the minute coverage of expedition activities. Most importantly, these sites link the JASON project with community resources, including access to local scientists and experts.

With congressional approval in the fiscal year 1998 NOAA Appropriation for JASON's newly-established partnership with our nation's NURP laboratories, JASON and its many participants will benefit enormously from the data and insights developed by marine scientists on both of our nation's coasts and in Hawaii. Within weeks of congressional passage of the NURP-JASON partnership, five of the six NURP laboratory directors met at the Institute for Exploration (IFE) to prepare a plan of action. Based on that initial meeting and its follow-up, I am pleased to inform the subcommittee that the NURP laboratories will be an integral part of the 1998 JASON Expedition to Monterey Bay and Bermuda. NURP scientists are already involved in the planning of the program. During the expedition itself which begins in less than two weeks, NURP will make its scientists available to interact with students on real-time oceanographic activities.

By serving as a mentoring organization to JASON, I believe NURP benefits as well. NURP does an outstanding job with the resources they have and the program should have more, but very few people have ever heard of the program. Through its association with JASON, millions of students along with their teachers, adminis-

trators and parents will not only hear about NURP, they will be able to see the work NURP does and interact with its personnel. Above all, the program will have the opportunity to present its data to young minds that are eager to learn. Many of them will themselves choose careers in science, hopefully in oceanography, as well as a whole range of existing and emerging opportunities in science and technology.

An important element to the NURP-JASON partnership will be the involvement of the Institute for Exploration (IFE) as a full partner. Special exhibitry and on-line programming that will be developed and displayed at the IFE will make permanent the legacy of the International Year of the Ocean. (Through its affiliation with the Mystic Aquarium, the IFE participates in one of America's five Coastal Learning Centers that is working in collaboration with the Department of Commerce and other government agencies to educate the public on the critical need to protect and preserve the wealth and beauty of our coastline.)

The exhibitry and public outreach technology for education to be established at the IFE under the provisions of the fiscal year 1998 Appropriations bill, is just the beginning of the NURP-JASON-IFE partnership. JASON and IFE have submitted to NURP detailed work proposals for the next five years that begin with continued and expanded outreach to the millions of students from K-12 who join JASON's expeditions every year. NURP, JASON and IFE agree that our primary mission is to continue to educate young people about the oceans, the planet and its different environments and how they all work together to create the earth's total ecology. The technology-based partnership we propose, however, includes much more. Working together, we propose that IFE, NURP and JASON develop new technologies for exploration and research and that these be used to bring remote oceans to the classrooms and living rooms of America. This will include: the use of remotely operated vehicles for coastal research, exploration and education; establishment of a national network of regional-scale ocean observing systems; and promotion of public awareness of the oceans. This partnership will wed the best elements of basic science working in the field with educational outreach applying distance learning, on-line communication, curriculum development and classroom instruction.

This testimony describes the benefits of the NURP-JASON-IFE partnership to science and to education, but there is no substitute for seeing for yourself how JASON works and I certainly encourage everyone to do so. One of our thirty-plus Primary Interactive Network Sites (PINS) is located at the National Geographic Society in Washington, D.C. Students from the District of Columbia and surrounding states will fill the auditorium for five sessions a day for two weeks in the latter part of March. I hope the subcommittee members and their staffs will contact Andy van Duym (202 857-7700) to arrange a time when they might be able to participate in the JASON program.

I am aware that in approaching the subcommittee for funding to continue the NURP-JASON-IFE partnership, it is unreasonable to expect the government sector to support our efforts if we cannot support ourselves. The fact is, this partnership combines the best elements of a public-private partnership. In this case, one-third of the costs of JASON's annual programming will be borne by the private sector through the generous support of corporate sponsors, another third by the fees paid by participants in the program and another third through the support of the Congress. IFE, for its part, is engaged in a \$57 million capital campaign that is supported by corporate sponsors, private foundations and the State of Connecticut through a generous grant and bond issue. Any federal funding we might get is dedicated to programming and is matched by private donations.

There is no greater challenge than preparing for the future. It is our responsibility to leave our children with a sound environment and a good education. The NURP-JASON-IFE partnership furthers those objectives. By investing in National Undersea Research Program and the vital scientific work this program performs, we create the knowledge base and the tools we need to understand our greatest natural resource—the oceans. By investing in the education of our nation's young people, we give the next generation of Americans the means to solve whatever problems they might confront. By wedding the two programs into an ongoing partnership, we strengthen both and create a synergy that will pay many dividends for oceanography and for education.

Thank you for your consideration.

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PREPARED STATEMENT OF CHRISTIAN ANDREASEN

My name is Christian Andreasen, Rear Admiral, NOAA retired, and I am the past President, 1992-1997 (internationally elected) of the Directing Committee for the International Hydrographic Organization (IHO), an intergovernmental scientific and

technical organization consisting of 64 member governments working to support safety of navigation and the protection of the marine environment. The IHO coordinates the activities of worldwide national hydrographic offices, works towards uniformity in nautical chart documents, develops international standards for marine surveys and charting and coordinates with many national and international organizations with related marine interests. It is my pleasure to provide my views on the future of the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration (NOAA Corps).

#### NOAA CORPS

As part of the National Performance Review the Administration sent a proposal to disestablish the NOAA Corps to Congress on May 22, 1997. Should this proposal be adopted, a uniformed service that is vital to NOAA programs, and in turn to the nation, would be dissolved. Dissolution would further mark the first elimination of a uniformed service in our nation's history. Equally disturbing is the real potential for the loss of the many very talented and dedicated officers, who in some cases, have talents not available elsewhere. A full inquiry into the facts and circumstances surrounding the proposal, including activities that have taken place since dissolution was first proposed, will reflect that the basic tenets of the dissolution proposal are simply not supportable.

#### BACKGROUND

Today's NOAA Corps, a direct descendant of the commissioned service of the United States Coast and Geodetic Survey, is distinctively designed to meet the operational needs of NOAA (ships, aircraft and mobile duty) and to respond quickly to the emergent requirements of the nation. It is the nation's only commissioned environmental service and is the only uniformed service that requires every officer to have a college degree in science or engineering prior to being commissioned.

The NOAA Corps' rotational system provides NOAA with officers who are multifaceted. In this respect, officers typically serve within multiple line components, similar to the Department of Defense's joint service commands. This multiplicity of assignments results in officers who are experienced in many parts of NOAA, as well as extremely dedicated and loyal to NOAA and the Nation. The NOAA Corps talent pool has contributed significantly, not only to NOAA, but to other agencies, as well as to the international community. Examples are numerous, including several past presidents of the International Hydrographic Organization, fellows in the American Geophysical Union, and past presidents of various sections of prestigious scientific and professional societies. The Corps' officers are acknowledged world experts in the areas of geodesy, photogrammetry, and hydrography and are the only pilots experienced in penetrating hurricanes at the low altitude required for research purposes. The success of the NOAA Corps' personnel system can be seen as a virtual replica of the system recommended in a 1996 Brookings Institution publication "Civil Service Reform—Building a Government that Works." The Corps has served NOAA and the nation very well, and should continue to do so through the 21st century.

#### NATIONAL INTERESTS

There are significant national interests, to include environmental safety and potential national security implications that must be carefully examined and considered in evaluating any proposal to disband the NOAA Corps.

NOAA Corps officers are subject to a legislative transfer provision whereby the Corps' officers, ships, and equipment can be transferred immediately to the armed services in time of war or national emergency, as was done in World War II. More recently Corps officers have served, or are serving, in interface assignments with the National Imagery and Mapping Agency, Oceanographer of the Navy, Naval Meteorology and Oceanography Command, and with various foreign offices. NOAA Corps officers also serve on the staff of the commanders of various U.S. Coast Guard (USCG) Districts and provide support to the USCG in matters of hazardous material spills in a marine environment. Recently, officers have been assigned to the U.S. Army's Directorate of Combat Development and the U.S. Naval Academy, as experts in surveying procedures. The NOAA Corps and fleet also participate in Marine Defense Zone (MARDEZ) operations under the direction of the USCG.

#### ENVIRONMENTAL THREATS

Today's threat moves beyond the Cold War definition of the United States' strategic interests and includes environmental threats. To many, the NOAA Corps is viewed as the nation's environmental service. The NOAA Corps and NOAA fleet

have provided significant resources during numerous national emergencies. For example, when the *Exxon Valdez* oil spill occurred in Alaska, NOAA Corps officers, working in conjunction with the USCG and Naval units, conducted numerous air, ship, and land based environmental surveys within Prince William Sound.

NOAA Corps officers are the only group of uniformed federal hydrographers in the nation and are responsible for NOAA's highly regarded nautical charts. With 98 percent of this nation's international trade traveling by ship, it is of vital interest to maximize both safety and economics. The loss of this hydrographic expertise, resident within the NOAA Corps, could jeopardize the benefit the nation enjoys through these very accurate charts. A poignant example of the importance of the NOAA Corps' hydrographic expertise is a recent U.S. District Court decision regarding a \$52 million suit against the United States. The case relates to the grounding of an oil tanker on a rock in Alaska in 1987 and the resultant spilling of 100,000 gallons of oil during the salmon season. The owner of the oil taker asserted that the cause of the grounding was an uncharted rock not depicted on a nautical chart. As recognized by Mr. R. Mike Underhill, Trial Attorney, Department of Justice Torts Branch, in a letter to Commerce Secretary Daley, the decision and findings in the government's favor were largely due to the hydrographic expertise resident in the NOAA Corps, who collected the data, managed chart production and served as expert witnesses.

NOAA Corps aviators operate NOAA's specialized research aircraft for hurricane research and reconnaissance, snow surveys for prediction of spring floods, marine mammal surveys, and aeronautical and nautical charting. Snow survey aircraft collect critical data on snowpack depth, that is not obtainable from satellite imagery, are used for the prediction of spring floods and for the management of water resources for agricultural and western cities. Hurricane reconnaissance and research aircraft collect data vital to accurately predicting storm landfall. To qualify as a hurricane aircraft commander, NOAA aviators undergo 3-5 years of low-level hurricane penetration training, in addition to prerequisite heavy aircraft training. Although the United States Air Force supports NOAA with high-altitude hurricane reconnaissance, they are not trained to fly the more dangerous, low-level research penetrations and, unlike the NOAA Corps operated aircraft, are prohibited from flying over Cuban airspace.

Any purported marginal savings realized through eliminating the Commissioned Corps, which I believe are nonexistent, would be more than offset by the loss of the NOAA Corps' capacity for rapid response to prevent catastrophic environmental accidents, such as the grounding of an oil tanker on an uncharted rock, inability to forecast the landfall zone of an approaching hurricane, or lack of data to predict flooding or manage water resources properly.

#### RECENT NATIONAL EMERGENCIES

NOAA Corps officers served with the armed forces during both Operation Desert Shield and Operation Desert Storm. The NOAA Corps provided ship and technical expertise for environmental appraisal, and the first comprehensive environmental study of the Persian Gulf. NOAA Corps officers ashore provided scientific expertise in hazardous materials management, leading shore parties, and conducting surveys of oil related damage to beaches and tidal areas.

A more recent example of the vital importance of the NOAA Corps is the NOAA Ship *Rude*, which located the wreckage of TWA Flight 800 within 24 hours of the crash. The *Rude* and a shore component composed of NOAA Corps officers, created highly detailed mapping products that greatly facilitated the retrieval of the wreckage of the plane. The NOAA Corps' talent and efforts in this regard were specifically noted in public ceremonies commending the officers involved, by both the Secretary of Commerce and the Secretary of Transportation.

#### PUBLIC AND PRIVATE SECTOR ENDORSEMENTS

The programmatic and economic contributions of the NOAA Corps are becoming increasingly recognized. This is evidence by the large number of associations and international groups writing to the administration and the Congress expressing strong opposition to the disestablishment of the NOAA Corps. A partial list includes the Harbor Pilots Associations from Charleston, South Carolina; Savannah, Georgia; Southeast Alaska, and the Northeast U.S.; the International Hydrographic Bureau, the Center for Marine Conservation, American Oceans Campaign, EARTHJUSTICE (Sierra Club) Legal Defense Fund and Scenic America.

## COST SAVINGS

The asserted cost savings from eliminating the NOAA Corps, simply stated, are nonexistent. The asserted basis for dissolution began with the mistaken belief that savings could be garnered through dissolution. The original proposal to eliminate the NOAA Corps was, however, as has now been clearly established by cost studies subsequently commissioned by the Commerce Department, not based on a thorough economic analysis.

When the NOAA administrator announced his intention to eliminate the NOAA Corps, a GAO study requested by Representative Kasich was underway and nearing completion. The only cost study available at the time of the administration's announcement, however, showed that the NOAA Corps was actually less costly than an equivalent civil service work force. This study, prepared by Arthur Andersen & Company, under a contract initiated by the Under Secretary of Commerce's office, showed that the NOAA Corps was less expensive than its civilian counterpart. Subsequently, the General Accounting Office (GAO) released its report (GAO/GO-97-10, "Federal Personnel Issues: Issues on the Need for NOAA's Commissioned Corps") and found: "that using civilian employees to carry out the Corps' current functions could result in limited savings".

Following both the Arthur Anderson & the GAO Report, the accounting firm of Hays Huggins, revised their annual estimate of the incurred unfunded retirement liability, using the latest cost figures in lieu of an earlier estimate that they had provided to Arthur Anderson and the GAO. These latest figures found the NOAA Corps to be cheaper in all aspects than their civilian counterparts. In terms of operations (i.e., ships and aircraft) NOAA Corps officers are at least \$2 million per year less expensive.

I believe the Committee will be well served by thoroughly reviewing all aspects of the proposal to disestablish the NOAA Corps. The proposal is not based on either economic or programmatic considerations, but a political calling.

Two documents are attached as enclosures (1) and (2). These documents clearly indicate the administration's knowledge that there are no cost savings to be incurred through dissolution and that the NOAA Corps capacity for movement and relocation on short notice would be lost. These documents also reflect the basis for the misplaced recommendation to dissolve the NOAA Corps.

The first document (enclosure (1)) is a U.S. Department of Commerce document entitled, "REGO II Options," or Reinventing Government II Options, which was used as briefing material for Vice President Gore in April 1995. Included in this document is the following statement: "\* \* \* termination of a uniformed service would be highly visible with significant political appeal."

Enclosure (2) is a memorandum dated February 16, 1995, for the Deputy Secretary, United States Department of Commerce, from the Administrator of NOAA addressing REGO II. One of the enclosures to this memorandum discusses the pros and cons for elimination of the NOAA Corps. To briefly paraphrase:

PROS for elimination: "\* \* \* termination of a uniformed service would be highly visible with significant political appeal" CONS for elimination: "NOAA Corps provides an easily adaptable personnel force that can respond to changing NOAA personnel needs more quickly than a civilian workforce. The capacity for movement and relocation on short notice at little or no additional cost to NOAA would be lost." "The cost of operating the NOAA Corps are comparable to the cost of equivalent civil service personnel so that would not be significant cost savings." "NOAA Corps officers perform duties that are critical to achieving NOAA's mission, such as conducting onboard, realtime oceanographic, environmental, mapping and charting, and living marine research programs. In addition, between 40 and 50 NOAA Corps personnel provide the backbone of NOAA's nautical charting and geodetic service functions. Elimination of the Corps would make vulnerable the critical functions performed by these officers \* \* \*."

## SUMMARY

In summary, for no increase in costs, the NOAA Corps provides the nation with a cadre of highly professional and dedicated women and men who serve in a multitude of ways. Any proposal to eliminate the Commissioned Corps must carefully examine the potential risks to the nation from the loss of the Corps and its unique technical expertise.

Dissolution should not be permitted to proceed without a verifiable plan for how NOAA plans to continue providing services to the nation, such as nautical charting and hurricane research, without added cost to the taxpayer. This plan should be especially specific in the area of hydrographic surveys, where private contractors may

not accept liability for their surveys, or agree to conduct surveys in remote areas such as Alaska or in times of national emergency with the other uniformed services.

If all the costs of elimination are fairly considered, there is a significant savings in keeping the NOAA Corps that has served the nation faithfully for decades. Clearly, the potential cost savings from eliminating the NOAA Corps is nonexistent and the shortsighted basis for elimination of the NOAA Corps could have an adverse effect on the environment, as well as potentially impair our national security in time of crisis.

Without the NOAA Corps, the nation will suffer over the long run. At some point in the future when we again find we need the NOAA Corps, it will take years to rebuild it, at an even higher cost, perhaps at the cost of lives. In short, the outstanding service the NOAA Corps provides to the nation and the fact that there will be no savings in its dissolution must lead to the retention of the NOAA Commissioned Corps.

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PREPARED STATEMENT OF JOHN D. BOSSLER

My name is John D. Bossler, Rear Admiral, NOAA (Ret.). I would like to focus my testimony on the difficulty the National Oceanic and Atmospheric Administration, or NOAA, will have replacing the commissioned officers of the NOAA Corps with civilian employees, and the potential negative effects of such replacement, if a dissolution plan for the NOAA Corps (e.g., S. 877) is passed.

This plan stresses that the positions presently held by NOAA Corps officers will be filled by civilian employees with equivalent qualifications. An important specific issue facing NOAA, however, revolves around the dual role played by its commissioned officers in managing and navigating its ships (a Wage Marine (WM) role) and actually managing and conducting data collection operations (a General Schedule (GS) role).

This dual role applies to both the fishery research ships and the oceanographic ships of the NOAA fleet, as well as the aviation program, but in my area of expertise it is probably most critical in the nautical charting program. Therefore, my comments are primarily directed to the charting program.

The dual "hatting" of officers in the field of hydrography has been described quite clearly by Rear Admiral Andreasen, past president of the International Hydrographic Bureau Directing Committee, International Hydrographic Organization. Admiral Andreasen pointed out that "The great majority of governments conducting this work worldwide do so through uniformed service personnel, and I believe for good reason." There is a reason for that is, as Captain Whitemarsh S. Smith, III, President, Charleston Branch Pilots' Association, has indicated, that they \* \* \* "fail to see where the creation of two separate cadres, one of ship drivers and one of hydrographers, would match the present efficient, responsive, multi-purpose resources and still yield a product that is mariner-friendly." Finally, Senator John Kerry (D-MA) has also spoke at some length about the tangible, and to some extent intangible, benefits to NOAA's programs of a uniformed service career system.

The quality gained in the surveys and charts as a result of having commissioned officers as professional mariners involved in chart production ashore, as well as directly involved in the data collection at sea, is invaluable. The only type of personnel system that is presently capable of efficiently engaging the seagoing side of this equation and the shore side is the uniformed service personnel system.

Much of the difficulty NOAA will face in emulating the uniformed service's dual role in a civilian service is inherent within the federal civilian personnel systems, General Schedule (a competitive service), and Wage Marine (an excepted service). To replace its commissioned officers, NOAA will be required to work within these personnel systems. The crux of the problem NOAA will face is that in both of the civilian systems, the grade and pay resides in the position itself, not in the individual. An individual is appointed to a specific position. If the duties of the position change significantly, the position must be reclassified. If the individual changes positions, he must accept the grade and pay of the new position. In a uniformed service, grade and pay reside in the individual officers through their commissions, not in the position. A change of position or duties does not, therefore, result in a change in pay or grade. The uniformed system is, thus, very responsive to periodic changes in assignment, in particular between shore and ship and on-board ship.

NOAA will encounter difficulties when it attempts to merge the two civilian personnel systems—to recreate what the administration already has in the NOAA Corps. The duties of a merged position are simply not conducive to classification under either single system. For example, the commanding officer of a NOAA ship fills two equivalent civilian functions, WM master and GS chief of survey party. To

attempt to classify this merged position under either system alone is virtually impossible without creating a whole new classification and pay system. Both WM master and GS chief of survey party are professional positions in their own fields, requiring many years of experience and certification or licensing from the respective controlling authorities. The commissioned officer is a professional in both of these occupations because he or she rotates from land-based position, as a professional hydrographer, to a ship-based position, as the commanding officer or master. The experiences gained in their career at sea serves the individual officers and the organization well when they are assigned to management level positions in the hydrographic office. The converse of this is true as well, with rotating officers taking to sea with them the untold needs of the charting program.

These commissioned officers are not thus qualified because every one of them is in the 99th percentile. It is simply because the uniformed service personnel system allows career development along both paths with no detrimental effects to an individual due to service in one area versus service in the other, i.e., time at sea weighs equally with time ashore in the program area.

While technically it is possible under the Federal Personnel regulations to rotate shoreside GS hydrographic personnel to sea for short periods of temporary duty, it is technically improbable, if not impossible, to gain sufficient experience as a mariner to satisfy the U.S. Coast Guard's requirements for a merchant seaman's license, given the constraints discussed previously. This is because without significant changes in the GS and/or WM personnel and pay systems it is not possible to spend long periods at sea without an individual's pay or shoreside career advancement suffering.

Similarly, while it may be possible to rotate WM personnel ashore for short periods, it would, again, be technically and professionally improbable to gain sufficient experience to qualify to any professional extent for any program management level positions in the charting program.

In summary, there are no civilian job descriptions, such as NOAA assumes in its dissolution plan, that are fully equivalent to the duties of the NOAA Corps. To provide the same services, NOAA Corps billets at sea must be divided between civilian GS and WM personnel. When the functions are split, a grade suitable for the required knowledge and responsibility of each function is necessary.

The point, and this is ironic, is that these WM and GS employees are not interchangeable, as NOAA Corps officers are—yet it is the Corps that NOAA, ostensibly in the name of cost-efficiency, intends to dissolve. Although NOAA indicates that it hopes to be able to use the GS and WM employees interchangeably, it is not possible unless a new employee classification and pay system is created. This system would be similar to that which supports the NOAA Commissioned Officer today.

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PREPARED STATEMENT OF CAPT. FRED R. BECKER, JR., DIRECTOR, NAVY AFFAIRS,  
RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

My name is Fred R. Becker, Jr. I am the Director, Naval Affairs of the Reserve Officers Association of the United States. I would like to limit my testimony to the cost studies that have been conducted with regard to the administration's proposal to dissolve the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA).

Much has been made of the purported cost savings to be achieved by dissolution. A full and complete review of all the cost studies, however, clearly reflects that no real savings will be achieved. In this respect, the dissolution plan forwarded to the Congress by the administration reflects cost savings that are, simply stated, nonexistent. In fact, the cost of dissolution, as will be discussed in detail, will exceed \$26 million over 5 years. More importantly, there will be no real cost savings even in the outyears, as dissolution of the NOAA Corps will increase the operating costs of NOAA's ships and aircraft by over \$2 million annually as a result of civilianization.

The 1990 Commerce Department Inspector General report, that first asserted that there would be savings through dissolution of the NOAA Corps, has been largely discredited by three more recent cost studies that I shall later discuss in detail. As to the former Inspector General's report, the fault lies in the fact that his report focuses on the civilianization of only a portion of the shore side positions and ignores the clearly more expensive civilianization of the sea-side and aviation positions, where significant overtime costs are routinely incurred. In addition, the former Inspector General report does not attempt to grade each position by its responsibilities. For example, the report equates all captain positions to GS-14's, although many captain positions in the NOAA Corps have supervisory responsibilities equal to that of GS-15's or senior executive service positions. The former Inspector Gen-

eral report further incorrectly incorporates, as a cost of current operations, the annual payment of retired pay to formerly retired NOAA Corps officers, as opposed to the annual retired pay liability for those officers currently on active duty. In addition, there are a number of other irregularities in the former Inspector General's report. The later studies by Arthur Andersen and Company, the General Accounting Office (GAO), and Hay Huggins correct all these deficiencies.

In January 1996, at the time the NOAA administrator announced his intention to eliminate the NOAA Corps, the only cost study available, conducted by Arthur Andersen and Company, showed that the NOAA Corps was actually less costly than an equivalent civilian work force. Specifically, the Arthur Andersen study, commissioned by the Department of Commerce, found that the NOAA Corps was about \$500,000 less expensive annually than its civilian counterpart. Subsequently, the GAO released its report (GAO-GGD-97-10, "Federal Personnel Issues: Issues on the Need for NOAA's Commissioned Corps") that stated: "\* \* \* that using civilian employees to carry out the Corps' current functions would result in limited saving". Referring to the Arthur Andersen study, the GAO report asserts that, when the estimated federal income tax benefits of Commissioned Corps officers are considered, the government would realize net savings of an estimated \$661,000 by employing civilians. The GAO report also states: "If the Corps were to be converted to civilian employment, the actual net cost reduction could vary depending on various factors \* \* \*. It must also be recognized that, because the Corps is now smaller than it was in the period (in which the report was conducted) and further reductions are anticipated, any savings available from civilianizing the Corps in the future would be reduced accordingly."

At the time the GAO study was conducted the NOAA Corps strength was 384 officers. The size of the NOAA Corps as of January 31, 1998, is, however, 262 and is not anticipated to exceed 299, even if the current hiring freeze, unilaterally imposed by administration over 3 years ago, is lifted. Therefore, the projected savings set forth in the GAO report have been markedly reduced. In addition, both Arthur Andersen and GAO fail to include overtime pay for aviation personnel. Increased moving expenses for civilians, included in the Arthur Andersen study, are also not considered in the GAO report. Lastly, both GAO and Arthur Andersen underestimate the contributions that would have to be made by the federal government to the Federal Employee Retirement System (FERS) were the NOAA Corps to be civilianized.

The most recent study, by Hay/Huggins, also commissioned by the Commerce Department, includes a review of the previous studies conducted by Arthur Andersen and the GAO. Hay Huggins finds that the cost of operating either a civilian or military personnel system are identical (\$27.9 million). The Hay Huggins study, however, notes that the separation of those officers who do not have a vested right to retirement, some possibly within as little as one month of vesting, would save approximately \$2 million annually. Such "firing before vesting" savings would occur in any case where an individual is fired before his or her retirement account becomes vested. Furthermore, to suggest that such "firing before vesting" savings are, in reality, a savings to the taxpayer is unconscionable.

The administration's dissolution plan, forwarded to the Congress in May of 1997 attaches, as an appendix, the Hay Huggins report. The only savings found by Hay Huggins are, however, those that relate to "firing before vesting." Consequently, Hay Huggins does not support the other cost savings set forth in the administration's plan, wherein it is asserted that there will be savings over the next 5 years of \$24 million, or \$4.9 million per year. Specific examples of the inaccuracies in the administration's plan not supported by Hay Huggins are: the inclusion of streamlining savings that have already occurred; an underestimation of the increase in salaries and benefits that will be accrued by civilianization; the inclusion of nonexistent savings based on assumptions regarding the retirement account liability for future work of those officers who would be involuntarily retired; a comparison of the NOAA Corps' current cost of operations (that has been increased by \$3 million annually solely as a result of the current administration directed hiring freeze) to civilian positions that are not equivalent to those of NOAA Corps officers; and the transference of retiree health and dental costs to the Department of Defense. Each of the foregoing items is addressed below.

#### *Streamlining Savings*

The administration's plan includes \$6 million per year, or \$36 million total, in savings over 6 years (1997 to 2002) from "Streamlining Corps personnel from 415 to 299" (Table 1). This reduction in personnel had, however, already occurred prior to the administration's submission of its plan to the Congress. As a result, these streamlining savings have already been achieved and should not be considered in any cost calculations. Furthermore, if only the \$36 million in nonexistent streamlin-

ing savings are omitted from Table 1, wherein it is asserted that there will be \$24.6 million in costs savings over 5 years, it becomes readily apparent that disestablishment will in fact be more, not less expensive, over the next 5 years—in fact by nearly \$12 million (See Tab A).

#### *Increased Salaries and Benefits Due to Civilianization*

As also reflected in Table 1 of the plan, the administration calculates an “increase in salaries/benefits under a civilian system,” as opposed to a uniformed system, of \$2.54 million per year, or \$12.7 million over 5 years (1998 to 2002). The \$2.54 million increase in salaries/benefits under a civilian system is, however, based on the annualized salary cost of \$20.327 million for the 299 officers in the NOAA Corps in March 1997. In March 1997, however, the NOAA Corps had no ensigns. As a result, the Corps March 1997 costs are inflated by approximately \$3 million, solely as a result of the administration’s hiring freeze. The increased costs through civilianization, as reflected in Table 1, should therefore, be approximately \$3 million more on an annual basis than that estimated in the administration’s plan—for a total of \$5.54 million per year, based on the actual increased costs incurred in civilianizing 299 positions (See, Tab A).

Attached at Tab A is Table 1 to the administration’s plan, modified to reflect the previously discussed changes in outlays, savings and receipts. Changes that have been made to Table 1 are reflected in bold type, with the administration’s original figures shown in parenthesis. Based on the foregoing and as reflected in Tab A, the actual changes in outlays, savings, and receipts is, therefore, an increase of \$26.367 million in outlays over 5 years, not a savings of \$24.633 million.

#### *Other Irregularities*

The administration’s plan also includes other irregularities. Table 2 (One Time Costs and Savings of Disestablishment Legislation) incorrectly includes, in the \$80.4 million “Savings in Retirement” column, \$52 million based on assumptions regarding the retirement account liability for future work of those officers who would be involuntarily retired. No similar costs are, however, included for future work under a civilianized system. In addition, the \$20.327 million “grade 01 to 10 (payroll),” as reflected in Table 1–A, is based on the annualized cost for the 299 officers in the NOAA Corps in March 1997—inflated by approximately \$3 million annually strictly as a result of the hiring freeze, as previously discussed. Furthermore, in comparing the salaries and benefits of a civilianized, as opposed to uniformed corps, system, Table 1–A reflects a total cost of \$24.187 million of civilian positions, calculated through estimation as opposed to desk audit or formal classification of civilian positions. Finally, the administration’s plan does not include the \$2 million annual cost that is transferred to the Department of Defense for the health and dental care of NOAA Corps retirees.

In summary, in the examination of costs there are three issues: pay and benefits, retirement and overtime costs, and the unfunded liability of the NOAA Corps’ retirement system. As to pay and benefits, the following chart reflects that the cost studies show there is virtually no difference in the pay and benefits of a uniformed and civilianized system.

Study	NOAA Corps	Civilian Work-force	Difference
Arthur Andersen & Co. (384 positions) .....	\$29,708,000	\$30,281,000	(\$573,000)
General Accounting Office (384 positions) .....	30,942,000	30,281,000	661,000
Hay/Huggins, Inc. (333 positions) .....	27,954,000	27,953,000	1,000
			(0 percent)

In addition, the following chart, taken from Tables 7 and 8 of the Hay Huggins report, reflects that the NOAA Corps’ higher retirement costs are virtually totally offset by the increased costs in overtime incurred by a civilianized system.

Cost	NOAA Corps	Civilian Work-force	Difference
Retirement .....	\$5,326,000	\$2,941,000	\$2,385,000
Overtime and Specialty Pays .....	667,000	3,001,000	(2,334,000)

Finally, regarding the unfunded liability of the retirement account, Hay Huggins notes that if you involuntarily separate those officers who have not reached retirement eligibility, some possibly within as little as one month of vesting, there would be a reduction in unfunded liability of \$2 million annually. Such saving would, however, be incurred in any case where an individual is fired before his or her retirement account becomes vested. In this respect, I sincerely hope that this Committee understands that the purported savings set forth by the administration's plan are not the result of a more efficient way to do business, but by betraying the bona fide expectations of officers who they took their oaths of office and voluntarily agreed to serve their country.

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PREPARED STATEMENT OF CYRUS M. JOLLIVETTE, VICE PRESIDENT FOR GOVERNMENT RELATIONS, UNIVERSITY OF MIAMI

Mr. Chairman and Members of the Subcommittee: I am pleased to submit testimony on behalf of the University of Miami and Florida State University. Both of the institutions have long enjoyed your support, and my colleagues in Florida are deeply appreciative of your leadership, Mr. Chairman, and the Subcommittee's confidence. At no time in the past have you and your colleagues on the Appropriations Committee faced more difficult constraints. Yet, I am certain that you will continue to make the difficult choices with the best interests of the nation guiding your decisions. My colleagues and I hope that you will find it possible to fund the important initiatives detailed below in the fiscal year 1999 appropriations cycle.

On behalf of the University of Miami and Florida State University jointly I commend you, Mr. Chairman, for your affirmative response to the Florida Delegation's earlier requests concerning The Florida Consortium for Climatic Research, a project involving the University of Miami, Florida State University, the University of Florida, and the University of South Florida.

The importance of El Niño South Oscillation (ENSO) events as a major source of climate fluctuations, together with advances in ENSO predictability, suggest that forecasts have significant potential for benefitting agricultural productivity and economic decision-making. For fiscal year 1999, we seek \$3 million for the Florida Regional Application Center.

The geographic focus of the project will include the southeastern U.S., a large food producer whose productivity is significantly impacted by weather conditions generated by the ENSO phenomenon. Decisions made by well-informed participants from farm to policy level, made several months or seasons in advance, can significantly benefit productivity.

This project presents an end-to-end approach that will provide the bridge between climate and forecast producers, such as the recently-formed International Research Institute for Climate Prediction (IRICP), and agricultural decision makers. Specific objectives for the project are to: (1) adapt, develop, and evaluate a generic, flexible set of tools and methodologies for assessing regional agricultural consequences of El Niño events and for applying forecasts to improve agricultural decision-making; (2) demonstrate by successful applications of forecasts to agriculture and other sectors which would benefit best in the southeastern United States that began in 1996; and (3) assess the value of climate predictions to different agricultural sectors in these southeastern region.

The Rosenstiel School of Marine and Atmospheric Science at the University of Miami is one of the premier academic, oceanographic research facilities in the world. Located on a 16-acre facility on Miami's Virginia Key in Biscayne Bay, the Rosenstiel School offers the only subtropical marine research base in the continental United States. With the Gulf Stream off shore, a vast expanse of living coral reefs just to the south, and the Florida-Bahamas Carbonate Platform to the east, the campus is surrounded by a unique marine laboratory.

My colleagues at the Rosenstiel School, 90 well-published and broadly talented Ph.D. scientists who work in close collaboration with other scientists—in Florida and across our region—are uniquely qualified to conduct valuable research in their fields. On their behalf I bring the following three projects to the attention of and respectfully request the endorsement of the Subcommittee for these projects through the National Oceanographic and Atmospheric Administration.

On behalf of the University of Miami I seek your support for a Southeast Region Consortium for Coral Reef Research. Local changes in water quality, broader scale environmental changes potentially related to global climate change, and fisheries over-exploitation of coral reef ecosystems, are thought to be contributing to deterioration of coral reefs world-wide. Scientists are hampered in helping government make critical and socially difficult management decisions by our rudimentary under-

standing of coral reef ecosystem processes. Coral reef environmental research has historically been piece-meal and under funded, with few attempts at true interdisciplinary process-oriented research.

The purpose for establishing a Southeast Consortium for Coral Reef Research is to foster greater organization and collaboration within the U.S. scientific community, to lead the development of a new level of understanding of the processes and environmental conditions necessary for the establishment, survival, and sustainable use of coral reef ecosystems, and to assist in the transfer of this information to managers and the general public.

The initial focus of the Consortium would be to address problems faced by coral reef ecosystems in Florida and U.S. possessions in the Caribbean region (Puerto Rico and the Virgin Islands), and also to coordinate these efforts with those of coral reef researchers within the Caribbean region, in recognition of the larger scale relationships between coral reef systems with the Inter-America Seas, and to the benefit of the whole region.

This Consortium would invite partnership with regional academic institutions with expertise and interest in coral reef research, such as the Florida Institute of Oceanography; the Nova Oceanographic Institution; the University of South Florida, the University of North Carolina at Wilmington's Florida Keys Research program; the Mote Marine Laboratory; the University of Georgia; the College of Charleston; and others as researchers from elsewhere in the nation working in the region. Further, it is anticipated that several state of Florida and Federal agencies with coral reef research interests such as the Florida Institute of Marine Science, the NOAA Florida Keys National Marine Sanctuary, the EPA and the USGS are anticipated members of the Southeast Consortium for Coral Reef Research.

The Southeast Consortium for Oceanographic Research (SECOR) was established in 1988 and is comprised of three universities—the University of Miami, Texas A&M University, and the University of Texas. Additionally, in 1996, the NOAA Atlantic Oceanographic and Meteorological Laboratory joined SECOR as an associate member. The broad goal of SECOR is to foster closer relationships between the major marine science groups in the southeastern United States for the purpose of promoting the most efficient use and operation of oceanographic research facilities.

The University of Southern Mississippi is seeking support for construction of an intermediate class research vessel which it proposes to be operated by SECOR as a new regionally-based oceanography ship in cooperation with NOAA, NSF, and ONR as part of UNOLS, the University National Oceanographic Laboratory System. Research trends over the past five years as well as national needs make the Gulf Coast and Caribbean areas of great opportunity. Such a vessel could fill the need for a sub-intermediate class ship, capable of working on oceanographic projects on the continental shelf and offshore waters, as well as conducting National Marine Fisheries Service fishery stock assessment surveys.

The institutional members of SECOR enthusiastically support the proposal by the University of Southern Mississippi Institute of Marine Sciences for construction of a Class III (approximately 190-foot) vessel in the Gulf of Mexico. A new fishery-oceanographic research ship with the capability to conduct complex, interdisciplinary research in shallow water regions of the Gulf Coast and Inter-American Seas is vitally needed in the region.

The worldwide oceanographic community is working to develop the Global Ocean Observing System (GOOS) as a vehicle for providing regular observations to document climate variability and global change in support of the Rio Treaty; and to support marine operations such as safe navigation, fisheries management, ocean pollution control, and search and rescue activities. GOOS already has begun to implement these activities in Europe and Asia. Now is the time for the U.S. to move ahead in cooperation with Mexico and other Latin American and Caribbean nations with the initiation of a regional GOOS, the Inter-American Regional Control Global Ocean Observing System (IAS-GOOS).

Modern marine operations have a common need for a regular program of remote oceanographic and atmospheric observations. These observations must be synthesized with computer models to provide predictions and products that can be applied to fisheries management and ocean pollution control. The Rosenstiel School's proposed plan includes a five-year research and demonstration phase, and includes partnering activities with regional NOAA laboratories.

PREPARED STATEMENT OF THE NATIONAL AUDUBON SOCIETY, PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, NORTH CAROLINA SIERRA CLUB, FISH UNLIMITED, NATIONAL FISHING ASSOCIATION, COASTAL WATERS PROJECT, GULF RESTORATION NETWORK, CAPE ARAGO AUDUBON SOCIETY COOS BAY, IDAHO WATERSHEDS PROJECT, FISH FOREVER

These comments address the Administration's Proposed fiscal year 1999 Budget for the National Marine Fisheries Service (NMFS), within the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce. They are submitted for your consideration on behalf of the undersigned conservation and fishing organizations. Our organizations and members are increasingly concerned about the continuing decline in populations of the nation's marine fishery resources, which is recognized to be due primarily to excessive fishing pressure and a nationwide loss and degradation of habitats that are essential to their survival. Such population declines have devastated coastal fishing communities, dramatically reduced the supply of one of the nation's highest quality sources of protein, resulted in the loss of tens of thousands of jobs, eliminated millions of dollars in state and federal tax revenues, and adversely affected the quality of the recreational fishing experience and the catch for a large part of the nation's 17 million marine sport fishing enthusiasts.

The undersigned organizations oppose the Administration's proposed transfer of NMFS' Beaufort, NC, and Oxford, MD, Laboratories to NOAA's National Ocean Service (NOS). The Administration's proposed adjustment to NMFS' base funding of \$2.24 million, by transferring these two NMFS laboratories and their scientific staffs would decrease, not strengthen, NOAA's ability to protect coastal environmental quality. It would seriously weaken NMFS' ability to carry out its mission—"to act as the federal steward for the nation's living marine resources"—by eliminating its primary scientific expertise, and thus its credibility, in coastal and estuarine ecology. Such an elimination is nationally important because NMFS is the only federal agency with a legislative mandate to be involved on behalf of living marine resources in all federal decisions on proposed projects affecting them or their habitats, nationwide. Each year, such decisions involve about 20,000 federal water resource development projects and federal authorizations of projects (through permits, leases or licenses) that would affect hundreds of thousands of acres of important habitat. Cumulatively, the outcome of these decisions determines the health of the nation's coastal environmental quality and the abundance of most populations of living marine resources. NOS has no legislative mandate for or role in such decision-making, and it lacks the necessary scientific expertise to become involved. Moreover, this proposed transfer of NMFS scientific expertise to NOS will substantially weaken NMFS' ability to fulfill the new stewardship requirements of the Magnuson-Stevens Act to rebuild overfished stocks and protect essential habitat.

The transfer of these two laboratories and their staffs is being proposed as a means to develop a science capability within NOS and as one way to consolidate NOAA's coastal environmental stewardship activities in a single NOAA line organization. Such a transfer saves the taxpayer nothing since it is only a change in administration within NOAA. Affected NMFS laboratory directors see it as a potential means of finally obtaining full funding. NMFS has historically refused to provide its habitat-related research programs with more than half their needed funding, on average, forcing the laboratory directors to obligate their staffs to other organizations' priorities in return for reimbursable funds to support salaries and operations. This has reduced their involvement in and value to the Habitat Program's primary mission activities conducted under the Fish and Wildlife Coordination Act (FWCA). This problem would be eliminated if NOAA provided NMFS with sufficient base funds to conduct its Habitat Program activities.

Transfer of the Beaufort and Oxford Laboratories to NOS would eliminate NMFS' primary center of scientific expertise in inshore marine and estuarine ecology, fish disease and pathology, wetlands and seagrass functions and value, and understanding the importance of coastal and inshore habitats and ecosystems in sustaining healthy marine fishery populations. NMFS' Habitat Program consists of a total of about 400 scientists and support staff (located in 11 NMFS laboratories, all Regions and Fishery Science Centers and NMFS headquarters) having a combined budget of about \$20 million per year. The transfer would strip such expertise from NMFS' Habitat Conservation Program, weakening it further in the process, and denying it direct access to the scientific involvement and credibility that for the past 25 years has been one of the most valuable parts of the agency's ability to defend the interests of living marine resources in all federal agency decision-making on proposed projects that would adversely affect it. It will seriously reduce NMFS' ability to protect such habitats from physical alterations, water diversions, contaminant introductions and nutrient over-enrichment, which are the four primary threats to habitats

important to living marine resources. By eliminating its core expertise in wetlands science, transfer of these two laboratories to NOS would also eliminate NMFS' capability to effectively restore degraded habitats and ecosystems under its habitat restoration program and its damage assessment authorities.

Transfer of these laboratories to NOS would completely isolate these valuable scientists from any meaningful role in federal decision-making processes affecting coastal environmental quality. NMFS is the only component of NOAA and in fact the only agency that has a legislative mandate to act as the federal steward for the nation's living marine resources. This is provided by the Fish and Wildlife Act of 1956. In addition, under authority of the Fish and Wildlife Coordination Act, any federal agency that proposes to build or authorize others to build (through permit, lease or license) any project that might adversely affect any habitats that are important to living marine resources (throughout their range), must first consult with NMFS to obtain its views. (These authorities were transferred to NMFS when it was created from the Bureau of Commercial Fisheries in the U.S. Fish and Wildlife Service and moved to the Dept. of Commerce when NOAA was created in 1970.) Thus, NMFS is the only federal agency having the authority to represent the interests of living marine resources in all federal agency decision-making affecting them, the cumulative effects of which determines the nation's coastal ecosystem health and, to a great degree, the potential future abundance of most marine fish populations.

Loss of this valuable ecological research component would deprive NMFS (and NOAA) of its ability to actively protect habitats and coastal ecosystem health upon which an estimated 75 percent of the nation's commercial fishery resources and 80 to 90 percent of its marine recreational fishery resources are dependent for spawning, nursery and feeding areas or as migratory pathways. Loss by NMFS' Habitat Program of this vital expertise would be a devastating blow, from which it could not recover, since its scientific credibility in marine and coastal ecology would have been largely lost.

#### *Recommendation*

Rather than transferring NMFS' primary scientific expertise to other organizations, the Administration should strengthen NMFS' Habitat Program by proposing a significant budget increase—\$20 million was recommended in 1992 by the National Fish and Wildlife Foundation and in 1991 by the National Fish Habitat Symposium—to allow it to adequately fulfill its important legislative mandates under the FWCA, as described above. The Habitat Program represents only about 6 percent of NMFS' total budget while it deals with those human-caused factors that are responsible for roughly half of the losses, which have been experienced by U.S. marine fishery populations. A fully functional Habitat Program would provide protection sufficient to eventually double inshore-dependent populations of living marine resources, which is estimated to produce an additional \$1 billion in dockside landings, \$12 billion in economic activity and 250,000 additional jobs in the commercial sector and generating \$4.2 billion in earnings, \$15 billion in economic activity and 286,000 additional jobs in the recreational sector per year. Other related NOAA programs (e.g., Sea Grant, Coastal Zone Management, Ocean Assessment, Status and Trends, Marine Sanctuaries and Reserves, Environmental Research Laboratories, and Damage Assessment) should be managed by NOAA's senior leadership, as described in the NOAA Habitat Strategic Plan, to support and/or complement the single NOAA program (NMFS) having the legislative authority to both (1) act as the federal steward of living marine resources and their habitats, and (2) be involved in all federal decision-making on proposed projects that together determine the nation's coastal ecosystem health. Finally, NMFS' entire Habitat Program, including its research programs, should be managed as a unit under the direct line authority of a single national program manager in NMFS headquarters.

Our organizations stand ready to assist the Administration and the Congress in determining how best to conserve and protect the nation's living marine resources and their essential habitats. Should you desire additional information, please contact James R. Chambers of the National Audubon Society's Living Oceans Program at (301) 949-3003. We appreciate your consideration of our comments.

PREPARED STATEMENT OF THE AMERICAN OCEANS CAMPAIGN, CAPE ARAGO AUDUBON SOCIETY, CENTER FOR MARINE CONSERVATION, COASTAL RESEARCH AND EDUCATION, INC., CONSERVATION LAW FOUNDATION, DEFENDERS OF WILDLIFE, ENVIRONMENT HAWAII, FISH FOREVER, GREENPEACE, GULF RESTORATION NETWORK, KODIAK COMMUNITY CONSERVATION NETWORK, NATURAL RESOURCE CONSULTANTS, NATURAL RESOURCES DEFENSE COUNCIL, NORTH CAROLINA CHAPTER SIERRA CLUB, SAFER WATERS IN MASSACHUSETTS, TRUSTEES FOR ALASKA

We request that this statement be included in the Senate Appropriations Committee's hearing record for the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Bill for fiscal year 1999. We urge, at a minimum, that the Committee fully fund Administration's request for the base activities and programs of the National Marine Fisheries Service (NMFS) for implementation of the Magnuson-Stevens Fishery Conservation and Management Act in fiscal year 1999. These programs and activities include the Resource Information, Fishery Management Programs, Regional Fishery Management Councils and the Enforcement and Surveillance portions of NMFS's budget request.

We greatly appreciate the funding levels this Subcommittee provided for fisheries management last year, but needed increases in Resource Information and Fishery Management Programs were eroded by the inclusion of Congressional earmarks. In general, many if not most of these additional activities have merit. We urge you, however, to provide additional funding for these earmarks beyond the level needed for the NMFS's core programs to restore and manage the nation's fishery resources.

The marine fishery resources of the United States are in serious trouble. According to NMFS, of the fish stocks under its jurisdiction, whose status is known, 36 percent are overutilized. There are significant costs to this depletion—both ecological and economic. Until our fisheries are better managed, our marine ecosystems will not recover, and fisheries will continue to produce far below their potential. NMFS estimates that restoring fisheries will have a potential \$25 billion total positive impact on the national economy.

These public resources must be managed on a sustainable basis and assessments must be completed (for exploited stocks in particular) and kept up to date. In 1996, you and your colleagues in Congress took the first step in rebuilding and conserving these public resources by enacting the Sustainable Fisheries Act which strengthened the Magnuson-Stevens Fishery Conservation and Management Act. Under the Magnuson-Stevens Act, the regional fishery management councils and NMFS are required to adopt or amend fishery management plans that: (1) identify overfished stocks and stocks approaching an overfished condition, and prevent or eliminate overfishing and rebuild overfished stocks; (2) avoid bycatch and minimize the mortality of unavoidable bycatch; and (3) identify, designate and protect essential fish habitat, including minimizing adverse effects on essential fish habitat caused by fishing and consulting with federal agencies proposing activities that may adversely affect such habitat.

#### *Resource Information*

NMFS has requested an increase of \$8.95 million and 10 additional FTE's over the current year including: \$3.07 million to conduct needed stock assessments as required under the Magnuson-Stevens Act; and \$5.88 million to restore base program funding needed to cover earmarks in the current fiscal year.

Congress provided a significant \$8 million increase for the program this year, but accompanied that increase with \$12.4 million worth of earmarks. As a result, the agency has curtailed ongoing stock assessment and data collection work.

We recommend funding the Administration's request of \$92.7 million for base program activities in Resource Information.

#### *Fishery Management Programs*

NMFS has requested an increase of \$8.65 million and 5 additional FTE's over the current year's funding level including: \$2.85 million for implementation of essential fish habitat provisions of the Magnuson-Stevens Act; \$1.45 million for new fishery management plan amendments to implement new overfishing, rebuilding and bycatch provisions of the Act; \$2.85 million to implement new fishery management plans; and \$1.5 million for restoration of funds to the base program used to cover this year's earmarks.

Last year, this Subcommittee demonstrated a recognition of the importance of restoring and managing the public's fishery resources. You went beyond the President's request for fisheries management programs by providing \$30 million. Unfortunately, your increase was not sustained in the Conference Committee with \$27.25 million being provided.

While an increase was still provided, NMFS received only half the additional funding needed to implement the Magnuson-Stevens Act. As a result, the agency is limited in its ability to implement the Act's new provisions relating to overfishing, bycatch and essential fish habitat. The reduction from the Administration's request also limits resources available for implementing fishery management plans developed by the councils.

We recommend that the Subcommittee, at a minimum, provide for the Administration's request of \$34.4 million in NMFS's base funding for fisheries management programs.

#### *Regional Fishery Management Councils*

NMFS has requested \$12.8 million, an increase of \$900,000 for next year.

For the current fiscal year, the Senate recognized the increased demands placed upon the councils to implement the critical conservation provisions of the Magnuson-Stevens Act and went beyond the President in recommending \$13 million. While the Conference Committee provided \$11.9 million, this figure was still above the President's request and a needed boost in council resources.

We recommend that the Senate again provide for \$13 million, and at a minimum, no less than the \$12.8 million requested by the Administration.

#### *Enforcement and Surveillance*

NMFS has requested \$18.5 million for an increase of \$900,000 and an additional 5 FTE's.

The enactment of the new provisions of the Magnuson-Stevens Act will require greater enforcement effort from NMFS. The agency is intending to use the increased resources to expand efforts at voluntary compliance and vessel monitoring. These initiatives are being curtailed this as a result of not receiving an adequate increase for this year.

We recommend providing for the Administration's request of \$18.5 million and 5 additional FTE's.

We thank the Appropriations Committee for consideration of our recommendations. We feel it vitally important to the future of our nation's fishery resources, and the communities that depend upon them, that Congress at least provide for the Administration requests for base program funding to implement the Magnuson-Stevens Act.

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## SECURITIES AND EXCHANGE COMMISSION

### PREPARED STATEMENT OF THE INVESTMENT COMPANY INSTITUTE

The Investment Company Institute<sup>1</sup> appreciates this opportunity to submit testimony to the Subcommittee in support of the fiscal year 1999 Appropriations request for the Securities and Exchange Commission (SEC). The Institute would like to commend the Subcommittee for its prior efforts to assure adequate resources for the SEC.

Mutual funds are very important to middle class Americans seeking to save and invest. Today, more than 65 million investors, at least one in every three households, own mutual fund shares. Mutual fund shareholders have a median household income of \$50,000. These millions of average Americans receive and deserve vigilant regulatory oversight over mutual funds. Given the increasing importance of mutual funds to millions of investors, sufficient funding of the SEC should be a priority. The Institute urges Congress to provide appropriations at a level sufficient to ensure that the SEC may fulfill its regulatory mandate.

The Administration's fiscal year 1999 Budget proposes SEC funding at a level of \$341.1 million. The Institute supports this level of funding to support the SEC's operations, especially those of the Division of Investment Management, which regulates the mutual fund industry.

Adequate financial resources for the SEC are essential to continue effective regulatory oversight and afford important investor protection and awareness initiatives. Several important SEC initiatives portend an increase in the workload of the Division of Investment Management. First, the SEC has adopted rules to require the use of plain English in mutual fund prospectuses. Second, the agency has adopted

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<sup>1</sup>The Investment Company Institute (Institute) is the national association of the American investment company industry. Its membership includes 6,896 open-end investment companies ("mutual funds"), 436 closed-end investment companies and 10 sponsors of unit investment trusts. Its mutual fund members have assets of about \$4.505 trillion, accounting for approximately 95 percent of total industry assets, and have over 62 million individual shareholders.

substantial revisions to the required disclosure in mutual fund prospectuses, including the requirement that it be simplified to provide essential information about a particular fund in a concise, less technical manner. In addition, the SEC has adopted a rule that would permit mutual funds to use fund "profiles," which summarize key information about the fund in a concise, standardized form. The implementation of these important initiatives, which will benefit millions of American investors, will require additional staff to work with mutual funds as they revise their prospectuses and to review fund profiles. Adequate funding is also needed for routine inspections of investment advisers and fund companies, as well as special projects involving investor protection, such as monitoring the Year 2000 conversion project. It is for these and other reasons that Chairman Levitt is seeking additional staff in the Division of Investment Management.

Finally, adequate funding is essential to the SEC's efforts to educate this nation's investors. The SEC recently has instituted several unprecedented outreach programs, such as nationwide Investor Town Meetings and the upcoming "Facts on Saving and Investing Campaign" at the end of March. These programs assist investors and small businesses to understand capital markets and establish realistic expectations about market performance. This is an integral part of the agency's mission to protect investors.

In order to accomplish these worthy objectives and to continue to function as an effective regulatory agency, we support that the SEC be funded at the level requested by Chairman Levitt.

We appreciate your consideration of our views.

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#### RELATED AGENCIES

##### PREPARED STATEMENT OF WILLIAM P. FULLER, PRESIDENT, THE ASIA FOUNDATION

Mr. Chairman: Thank you for the opportunity to submit testimony on behalf of The Asia Foundation's fiscal year 1999 budget request. The Foundation has been grateful for the support that the Congress and this Committee have provided over the years.

Mr. Chairman, I want to discuss with you and the Committee the work The Asia Foundation is doing today, and our hopes and plans for future projects. We believe that we have many examples of how a small, independent organization can advance American interests in the Asia-Pacific region, particularly in light of the challenges facing Asia today.

We are pleased that for fiscal year 1999 the Administration has endorsed the work of the Foundation by requesting an appropriations level of \$15 million for the Foundation, \$10 million for programs in the Asia-Pacific region, and \$5 million specifically to advance the rule of law in China. During the course of the past two fiscal years, severe budget cuts have forced the Foundation to reduce significantly its programs in support of democratic development and economic liberalization. The funding level requested by the Administration will allow the Foundation to resume some of these program activities and expand its level of grantmaking in the region in support of broader American interests and more specifically, programs in China under the President's rule of law initiative.

Let me put the work of the Foundation into context. While the Asia-Pacific region has, for the past several decades, experienced extraordinary growth and development, we have seen over the past year how fragile economic systems can be that are not supported by adequate legal and political systems. As I said in testimony last fall before the House Subcommittee on Asia and the Pacific at a hearing on democracy promotion programs, experience in Asia has demonstrated that it is not enough to have a democratic ideal or democratic leaders. It is also important to help develop an environment of broad public support, an active and engaged civil society, predictable legal systems, responsible government and a strong private sector. Until recently, most of the emerging democracies in Asia have not been seriously tested economically. The recent declines in economic growth and the currency crisis in Asia is providing this test for several countries simultaneously. Serious economic downturn has led to dissatisfaction and unrest, and, if history is any guide, could lead to a slowdown in political reform or possibly in more extreme cases to a revived role for the military in government. Recent economic and political developments reinforce even more clearly the need for the United States to remain engaged and to continue to support the new democracies of Asia.

We believe that The Asia Foundation, building on its 44 years of experience on the ground throughout the region in the service of U.S. interests, has the capability to advance these interests.

The United States seeks an Asia-Pacific region which is increasingly democratic, with governments that are governed by the rule of law and are accountable to their people not only through free and fair elections, but through administrative processes that are open and transparent.

The United States also seeks an Asia Pacific region that harnesses its enormous indigenous economic potential to improve the well-being of its own people, certainly in part by pursuing open trade and investment policies which allow U.S. businesses to trade and invest in the region to the mutual benefit of Americans and Asians.

Finally, the United States seeks an Asia-Pacific region that is stable and free from military conflict and territorial aggression, where nations work together harmoniously within the region and in friendship with the United States.

Mr. Chairman, these are precisely the three programming priorities of The Asia Foundation: (1) democracy and the rule of law; (2) open trade and investment, and (3) peaceful U.S.-Asian and intra-regional relations.

The Asia Foundation has been operating in many countries for many years supporting the rule of law, democratic institutions, and nongovernmental organizations, including human rights, consumer and women's groups. Our purpose is to help local institutions and leadership and help develop appropriate and effective policies.

I want to emphasize that the Foundation remains a field organization that supports indigenous groups and projects. Our job is to strengthen capacity. We are not Washington based. We are organized around small but effective offices in thirteen Asian nations, including a presence in both China and Taiwan. Through those offices, we can identify and form relationships with individuals and groups who merit our help as they seek to advance the same goals and interests that we support.

We are not a research organization. We remain a grant-making organization, conscious at all times of the necessity of being efficient, committed to keeping our administrative overhead low and delivering financial and technical support to Asian projects. The Committee in the past has praised and encouraged that grant making role and we remain faithful to it. We make sequential grants to steadily build institutions, develop leaders and move policies forward. Foundation support is used for training, consultancies, technical assistance and seed funding for new organizations, all aimed at promoting reform and building in-country capacity. We can say with confidence that there is no other U.S. non-profit engaged on the ground for over forty years, that has the breadth of contacts and relationships or the trust and credibility that we have in Asia and the Pacific. This sustained involvement is the hallmark of the Foundation and its field presence in Asia.

We are seeking an appropriation of \$15 million because we have identified worthwhile and urgent programs in Asia that require that level of funding, particularly given the economic and political crisis facing many countries in the region of key interest to the United States. Furthermore, given the high level of attention and co-operation resulting from the recent U.S. China Summit Declaration on the Rule of Law in China, and the upcoming Presidential Summit scheduled for June 1998, opportunities exist as never before for programs that will likely have real impact in reforming the legal system in China.

Public funding is essential to us for many reasons. While the Foundation remains committed to expanding private fundraising, the credibility, flexibility and reliability that public funding lends to the Foundation's effort is critical. As an organization committed to American foreign policy interests in Asia, we can only be successful if potential private donors understand that the U.S. government continues to support our efforts in the region.

Private funding does not replace public funding, either in scale or flexibility. Private funding is almost always tied to specific projects (as are USAID contract funds for which the Foundation competes) and the Foundation does not solicit or accept private funds that might compromise our fundamental commitment to support overall U.S. interests in Asia. Further, U.S. government appropriated funding maintains the Foundation's flexibility to respond quickly to fast-breaking program developments and enables the Foundation to work in key countries that are of high priority to the U.S. but where USAID and other assistance do not exist. This has proven true in Pakistan, where the Foundation coordinates and operates the Pakistan NGO initiative in the absence of USAID. Also in Thailand over the past year, where the Foundation has been engaged for decades and it became clear that other U.S. assistance would not be available. In this respect, Foundation programs are also able to undertake initiatives that government programs cannot, such as address sensitive issues related to economic and political reform. The Asia Foundation continues to be a model of public-private partnership and is a resource which complements official foreign policy efforts.

In this discussion of what we are doing, I hope I can demonstrate the value to the United States of what we do and provide examples of what we would be able to do in programmatic terms with a \$15 million appropriations level.

#### DEMOCRACY AND THE RULE OF LAW

The Foundation strengthens parliamentary processes, supports democratic elections, fosters accountability within governments, promotes the rule of law and encourages a vibrant civil society. Our support goes beyond the formal structures of institutions by focusing on the performance of those institutions and their ability to enhance the lives of the public they serve.

Foundation programs have provided substantial assistance to parliaments in 16 countries in Asia, from technical assistance on specific legislation to training for members and staff, including facilitating interaction with the nongovernmental sector.

In the last year, the Foundation supported election programs in Bangladesh, China, Mongolia and Nepal. In Bangladesh, the Foundation coordinated international donor support, including Japanese support, for the Fair Election Monitoring Alliance (FEMA) which fielded 26,000 volunteers to observe the country's most peaceful and participatory election in history. In Mongolia, the Foundation helped establish the country's first Voter Education Center (VEC), which conducted extensive voter education programs and sponsored the first televised presidential debate. The Foundation continued to support local governance reform in China, which reaches over 100,000 villages nationwide, including training, production of videotapes on elections broadcast on national television, research on the role and structure of Villager Committees and county-level People's Congresses, and surveys of villagers' views of local governance.

In promoting the rule of law and legal systems that support a stable and just society, the Foundation has assisted in the reform of legal and judicial systems through the training of judges and lawyers in 13 countries aimed at improving the performance of the formal legal system and court administration programs to reduce case backlog. The Foundation also assisted in providing technical assistance for substantive law reform. The Foundation helped China's Bureau of Legislative Affairs to draft a new administrative law that protects the rights of citizens, enables them to sue government agencies in order to curb government agency abuses. In Sri Lanka, the Foundation supports over 200 mediation boards which handle an annual case load of around 350,000 as well as legal education programs reaching over 600,000 people.

The Foundation is the single largest supporter of the nongovernmental sector in all of the Asian countries in which we operate, supporting over 800 indigenous organizations since 1990. These organizations are essential for a vibrant civil society, encouraging public participation and transparency in the policy making process.

In Cambodia, despite extraordinary difficulties and an uncertain future, there is an active Cambodian nongovernmental community which we have helped build up over the last five years. The Asia Foundation is the single most active American supporter of key human rights organizations after the events of July 1997, including support for the Cambodian Institute for Human Rights and the Cambodian League for the Promotion and Defense of Human Rights. Grants have supported human rights training, education, and investigation of human rights violations. In politically sensitive circumstances, building democratic systems takes time, sustained commitment, resources and experience. Programs like the one in Cambodia are carefully calibrated and based on regular analysis by local staff on the ground.

Of great concern to the Foundation is the rapidly deteriorating situation in Indonesia. The growing nationalist sentiment in response to the conditions of the IMF, the continued effort to delink economic reform from political reformation and good governance, and the sharp decline in the economic status of the general population leading to a rising number of demonstrations and arrests, attacks on the Chinese minority and the growing increase in Islamic extremism are all critical problems for the country and of great concern to U.S. policymakers.

With a \$15 million appropriation, the Foundation would deepen its involvement in Indonesia, a country where it has maintained a program since 1955. Because of its long history and experience, the Foundation has been able to advance U.S. interests in important, yet sensitive public policy areas related to civil society development, including support for community development and conflict resolution activities of the Nahdlatul Ulama (NU) the largest nongovernmental, Islamic organization in Indonesia with over 30,000 members. The Foundation would expand its continuing program with Indonesia's moderate Islamic community to encourage support for peaceful community development; broaden its support for selected institutions in

East Timor, including the university and local press; and increase its programs to support alternative forms of conflict resolution; and strengthen laws related to business and economics.

The challenge to groups working in the field of human rights in Indonesia has increased in the wake of the worst economic crisis the country has faced in over three decades. Heightened social tensions resulting from the impact of the crisis such as increased unemployment, rising prices and greater social inequity have raised concern among nongovernmental organizations and institutions such as the Foundation-supported National Human Rights Commission about the potential negative impact in terms of human rights.

The Foundation plans to expand its support for the National Human Rights Commission, an organization that has demonstrated effectiveness in mediating disputes and handling politically sensitive issues in a fair, balanced and responsible manner. Its program will continue to focus on establishment of a network of educational institutions, NGO's and other target groups, including the police and military, in order to develop a human rights education system for the country. The Foundation is working with the Commission on database development for its monitoring and investigation work and to facilitate information dissemination.

#### OPEN TRADE AND INVESTMENT

The Asia Foundation supports programs that lead to open trade, investment and economic policy reform at the regional and national levels, and projects that work to spread the benefits of economic growth throughout Asian societies.

The Foundation supports regional organizations such as APEC and the private sector Pacific Economic Cooperation Council (PECC) that are committed to open trade and investment. In the past year, the Foundation participated in the PECC Trade Policy Forum and funded and contributed to the analysis and monitoring of APEC individual country action plans to keep the region on target to reach free trade by the year 2020. In the Philippines, the Foundation supported efforts to reduce tariffs and help open trade in the information technology (IT) and civil aviation sectors, and supported a cluster of activities to eliminate key policy barriers and increase market access and opportunities in information technology. Addressing concerns on the implementation of government policy in IT, the Foundation supported the Asian Institute of Management's Forum to draft a policy that established a National Information Technology Board with private sector leadership and worked with private sector organizations to develop consensus for the U.S.-backed Information Technology Agreement, to eliminate tariffs on IT products and services by 2000.

In Shanghai, China, the Foundation supported efforts to study the policy environment for liberalization of the insurance industry as a test case for wider opening of China's insurance market to foreign competition.

As a part of its market liberalization program, Vietnam seeks to become a member of the World Trade Organization and to enter a trade agreement with the United States. The Foundation has assisted Vietnamese officials and the business community to understand better the basic free trade principles central to WTO membership and bilateral trade agreements, and identify key regulatory changes necessary prior to the successful negotiation of any agreements.

The Foundation is helping to introduce a greater degree of predictability among major Asian economies by improving intellectual property rights protection, strengthening anti-corruption laws and establishing private commercial dispute resolution organizations. In Thailand, the Foundation focused on developing constituencies to promote sustained counter-corruption efforts by the government and civic sector through support for research on the political economy of corruption. This received widespread attention in the press and mass media.

The Foundation supports small enterprise development in Indonesia, Bangladesh, and the Philippines. In Indonesia, the Foundation has contributed to policies to address the impediments to small business development through its programs in support of small and medium enterprises (SME's).

As a result of the current economic crisis in Indonesia, the Foundation and its partner NGO's country-wide have actively approached the Indonesian government and the World Bank to recommend specific policies to assist small business, where the majority of the population are employed, at this critical time. Recommendations include creation of loan guarantee mechanisms to increase commercial lending for small and medium enterprises; specific deregulation; reduced corruption; dissolving certain monopolies and unfair practices affecting SME's; and speeding up the decentralization process. The Foundation's NGO partners are also developing plans to monitor implementation of deregulation efforts in accordance with the IMF package

signed in January 1998. SME's are receiving increased attention during this time of economic crisis and the Foundation is seen as a leading resource in this field.

#### INTERNATIONAL RELATIONS

The Asia Foundation organizes U.S.-Asian dialogues on issues such as democratization, human rights, civil society, regional economic policy, and the environment, and supports diplomatic efforts to address security issues. The Foundation also continued to pursue human rights programs on a regional basis, through an unofficial human rights working group that represents 16 countries in the region, including China and Vietnam. The Foundation will continue its support for the Council for Security Cooperation in the Asia Pacific (CSCAP) as a crucial vehicle for Track II dialogue on the evolving regional security structure in the region.

#### CHINA AND THE RULE OF LAW

Unique among U.S. non-profit organizations, The Asia Foundation maintains an active and mutually accepted programming presence in China, Taiwan and Hong Kong. With a legacy of trust, confidence and good-will developed over the years, the Foundation is able to work effectively with a wide range of actors, including government agencies, academic groups, emerging nongovernmental organizations and the private sector.

The Foundation's goals in China are threefold: to support increased citizens' participation in governance and in a growing NGO sector; promote the rule of law and its application in a rapidly changing economic and political environment; and encourage a more informed, diverse foreign policy community. At a time when engagement in China is critical to U.S. interests, the Foundation is at the forefront in supporting important efforts that encourage greater pluralism and citizen participation.

The U.S.-China Joint Declaration resulting from the Presidential Summit last November included a rule of law initiative to increase legal cooperation between the U.S. and China. China has made it clear that an internationally accepted legal system is important to its overall development and modernization strategy. Since 1994, the Chinese government has taken further steps in legal development, partly because of international economic requirements and partly as a result of decentralization which has been a key part of China's modernization effort. Between 1979 and the present, more than 300 laws have been enacted and nearly 4,000 State Council regulations issued, which define more clearly the functions of government, decentralize certain functions to provinces and communities and in some cases, provide standards for holding government accountable. Enacted within the past three years, this indicates an accelerated pace of legal reform.

Since 1979, The Asia Foundation has given priority to the development of the rule of law in China. During the early years of China's opening to the West, the Foundation sponsored exchanges for Chinese law faculty and legal officials, particularly in economic fields, to take advantage of openings and support reformers where few existed. Over time, as opportunities and space for reform increased, the Foundation focused more on supporting broad legal education and institutional capacity building. This included training opportunities, technical support for law faculty and officials, law curriculum development, the distribution of legal materials, exchange programs for judges, and substantive law, including human rights, and legal drafting, especially in the administrative law area which governs the rights of citizens to seek redress for official government actions when rights have been violated.

Given the high level of attention paid to legal reform by the leadership and the commitment through the Joint Declaration, the time is right for expanded programming in promotion of law and legal reform in China. Planned reforms in legal education, judicial training and expansion of administrative and commercial laws are all areas in which The Asia Foundation has been actively engaged, and has a record and history of programs and relationships. In fact, the Foundation has been asked by a range of Chinese institutions and asked by the U.S. government, specifically the Department of State, to take the lead on programs under the rule of law initiative. But with resource constraints, the Foundation has not been able to respond adequately. With additional resources, the Foundation would be able to increase its law and legal reform projects in China at this opportune time.

It is The Asia Foundation's intention to expand its programs related to law and legal reform in China in a way that is consistent with the continuing concerns about human rights and the state's relations with citizens, and the desire to expand economic relations with China on the basis of free and fair trade. It is clear that progress will be gradual and there will be challenges, but it is important to bear in mind that the large majority of the reforms are less than three years old, underscoring an increased pace of reform today. We should take advantage of the open-

ings that exist and an expanded Foundation program now would maximize the opportunity to do so. Such expansion will build upon nearly 20 years of Foundation work in promoting rule of law in China, and has the potential to advance the Presidential initiative agreed upon at the U.S. China Summit.

#### CONCLUSION

In closing, Mr. Chairman, I have attempted to outline some of the program activities which the Foundation hopes to undertake throughout the region with special emphasis on the expanded programming in the rule of law in China. We hope and believe that these programs are at the core of U.S. interests in the region and that they merit an appropriation at the level of \$15 million for fiscal year 1999, consistent with the President's request.

As you and your colleagues know, the budget constraints of recent years have compelled significant reductions in the Foundation's annual appropriation. As a result, we at the Foundation have worked hard to reduce our budget, cut staff and expenditures, and increase our efficiency as well as diversify our funding sources. During this difficult period, we have worked to maintain our regional presence through our 13 offices in Asia, and to put the maximum possible amount of appropriated dollars toward on the ground program activity. I pledge to you that if the Congress appropriates the full \$15 million request, The Asia Foundation will use those funds efficiently and effectively for program activity in the region as I have just described. Thank you for your attention and consideration.

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#### PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS

The American Association of Retired Persons (AARP) appreciates this opportunity to comment on appropriations next year for the Legal Services Corporation (LSC) and on the issue of telemarketing fraud—a crime which is targeted primarily at older citizens. Our recommendations concerning telemarketing fraud comprise the second part of this statement.

AARP supports the Administration's recommended increase next year (from \$283 million to \$340 million) for the Legal Services Corporation (LSC). Part of the increase would provide a cost-of-living adjustment for the local legal aid programs which provide assistance to low-income persons throughout the nation. Additional resources would also be targeted to special initiatives which address domestic violence and the unmet legal needs of children. The need for legal services continues to be overwhelming. The Corporation reports that almost one in every five Americans is potentially eligible for such aid. In 1996, the number of cases closed by LSC was approximately 1.5 million. More than 1.6 million cases would be resolved next year under the Administration's proposal.

LSC is a lifeline for vulnerable Americans of all ages, especially the largest beneficiary group: children living in poverty. These services often represent the only means available to protect their rights and defend their best interests. This is also the case with older Americans, including poor minority and disabled persons, who confront substantial legal issues beyond those of the general population due to their unique health, income and social problems. These include nursing home abuse, abuse by family members, obstacles in obtaining public benefits such as Social Security and Medicare, problems involving consumer fraud, denial of pension benefits and age discrimination.

Legal services programs help solve a variety of problems for older Americans. In the past they have: helped a destitute client overcome an erroneous denial of Medicaid coverage; secured information under pension plans about clients' rights to pension benefits; prevented nursing homes from arbitrarily discharging immobile and indigent patients; and corrected clients' Social Security earnings records to establish their eligibility for benefits.

While nationally there are 20 lawyers for every 10,000 people, the Legal Services Corporation Act embodies a goal of "minimum access", which is defined as two staff attorneys for every 10,000 people who are at or below the official poverty level. The Corporation has been able to implement this goal only once due to budgetary constraints. AARP believes it is critical that the Federal government continue to ensure that poor Americans have access to civil justice so that their fundamental rights may be protected.

Telemarketing fraud is a major concern to the Association because of its impact on older persons, who are victimized in disproportionate numbers. In earlier testimony before the Subcommittee at its hearing on Telemarketing Scams, we reported that older consumers were the single largest group of individuals specifically targeted by fraudulent telemarketers. More than half of all victims are over 50 years

old—an age group which represents only 36 percent of the total population. Once victimized, a person is at the greatest risk of being caught in the “trap” again. These criminals will target their “marks” repeatedly until all assets are gone. An estimated \$40 billion is lost each year as a result of such scams.

There is a continuing need for a consistent, large-scale education campaign to warn potential victims. The Association will continue to press even harder next year with its own efforts in this regard. These include working with law enforcement agencies and hundreds of volunteers, including victims of telemarketing fraud, to get the message out to a broad cross-section of the public. AARP applauds the attention telemarketing fraud is receiving both in and out of government. The hearing held by this Subcommittee has helped to intensify public awareness of the crime and the scam artists who prey on vulnerable Americans. The hearing also underscored the advantages of establishing a 1-800 telephone hotline by the Federal Trade Commission. AARP strongly urges the Subcommittee to provide the necessary resources for such an effort in the Commission’s fiscal year 1999 appropriation. Hotlines are the best source of information on emerging new scams and telemarketing pitches and provide an enormous service to individual consumers, law enforcement, and to the fraud-fighting agencies that help them.

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PREPARED STATEMENT OF DOREEN DODSON, CHAIR, STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS, AMERICAN BAR ASSOCIATION

I am Doreen Dodson, a practicing lawyer in St. Louis, MO, and the Chair of the ABA Standing Committee on Legal Aid and Indigent Defendants of the American Bar Association. I appear here today at the request of our President, Jerome J. Shestack, to voice the Association’s views with respect to the Legal Services Corporation and its fiscal year 1999 appropriation.

The ABA recommends that the Legal Services Corporation’s funding be restored to its fiscal year 1996 funding level of \$415 million. In any event, the appropriation should not be less than the \$340 million figure requested by both the Corporation itself and the Administration.

We commend the leadership of the Corporation for the responsible and diligent manner in which it has been carrying out its duties, commendation which is particularly appropriate in light of the sweeping changes in this program mandated by the 104th and 105th Congresses. We believe the Corporation’s new leadership deserves your confidence and support and urge that increased funding be provided to allow the program to carry out its important mission.

This program is an important component of our democratic system of government. Justice and fairness are bedrock principles of our democracy. President Washington wrote that “The due administration of justice is the firmest pillar of good government.” But the justice system cannot retain the respect and popular support so essential to its functioning if it is apparent that access to justice is dependent upon one’s wealth or place of residence. A comprehensive, national system providing civil legal services to the nation’s poor must be maintained and strengthened.

Federal dollars, channeled through the Legal Services Corporation, account for about 60 percent of the funding utilized by the LSC-funded local programs to address the legal needs of the poor. The remaining 40 percent comes from a wide variety of sources—lawyer contributions, foundation grants, court filing fees, and, most significantly, IOLTA (“interest on lawyer trust account”) programs. In addition, the private bar has made an enormous “in kind” contribution in the form of donated, or “pro bono”, legal services. Some 150,000 lawyers participate in formal pro bono programs affiliated with local legal services offices, and many thousands of others contribute their time through other means.

But collectively, these resources are able to provide legal services to only about 20 percent of those who need them each year, as shown by numerous state and national statistically-sound surveys. Local legal services offices are functioning much like hospital emergency rooms, engaging in legal triage as they attempt to cope with the enormous unmet legal needs.

The situation will become even worse if a challenge to the constitutionality of IOLTA programs is upheld by the United States Supreme Court. The case of *Washington Legal Foundation v. Texas Legal Access to Justice Foundation* was argued before the Court January 13 of this year, and a decision is anticipated by June. An adverse ruling by the Court would result in over \$50 million of funding for local LSC recipient programs disappearing overnight—or more than 10 percent of the total legal services funding nationally.

But even if the ruling is favorable, the nation will still be faced with the reality that 80 percent of the legal needs of the poor will remain unmet. It is in the interest

of all of us to see that these legal needs are resolved in a peaceful manner and that respect for the rule of law is strengthened. "Liberty and justice for all" is our proud national credo, but it is empty rhetoric without the resources administered by the Legal Services Corporation.

In fiscal year 1981, the Corporation was funded at a level of \$321 million. In real dollars, and adjusted only for inflation and not the interim growth in the poverty population, an appropriation in fiscal year 1999 of more than \$600 million would be required just to "stay even."

As noted above, Congress appropriated \$415 million for LSC in fiscal year 1996. Congress has now made changes in the program which have addressed concerns about particular activities of legal services grantees. The Corporation has demonstrated its commitment to and ability to carry out the new Congressional charter for this program. We believe, under these circumstances, it would be appropriate and desirable to restore funding to the \$415 million level. At the very minimum, we urge you to provide the \$340 million in funding requested by both the Corporation and the Administration.

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PREPARED STATEMENT OF GEORGETOWN UNIVERSITY

Mr. Chairman and Members of the Committee: We are Father William L. George, S.J. and Father T. Byron Collins, S.J., Assistants to the President of Georgetown University, the Rev. Leo J. O'Donovan, S.J. We appreciate the opportunity to submit this testimony to the Subcommittee on the development of a Non-invasive Technology for the Testing of Medications for Children and the Non-Invasive Coronary Angiography Program.

*Non-Invasive Technology for the Testing of Medications for Children*

The Senate Committee on Commerce, Science and Transportation and the Appropriations Subcommittee on Commerce, Justice, State, The Judiciary and Related Agencies have expressed interest in the development of new technologies to improve the safe use of medications for children of the United States. We are requesting the appropriation of \$8 million in fiscal year 1999 for a consortium of Georgetown University and Columbia University Medical Schools to develop non-invasive medication testing methods for children.

Over 70 percent of all drugs that are prescribed by pediatricians for children have never been formally tested and approved by the Food and Drug Administration for use in children. For serious illnesses such as cancer, it approaches 95 percent of drugs. The Food and Drug Administration has encouraged companies to perform studies in children after new drugs are marketed but few companies have done so, usually citing the difficulties, dangers and potential litigation that might result from evaluation of the effects of their drugs on children. In 1997 the FDA attempted to enforce a resolution that would have required that all new drugs having potential value for children be tested in children. This met with strong opposition from the pharmaceutical industry and was abandoned. Subsequently, the FDA announced that it would compromise and lower the requirement for approval of drugs for use in children. Instead of the usual requirement of two controlled clinical trials demonstrating the safety and effectiveness of a drug, the Agency would accept data that identified the dosage for children required to match the plasma concentrations previously associated with a positive response in adults. In the last few months of 1997, the FDA Modernization Act was passed and included a major incentive for the testing of drugs in children. New drugs that are evaluated in children can now be given a six month patent extension.

While all of these efforts are laudable and seek to correct a serious problem (i.e. our ignorance in how to treat our children when ill), they are not based on a sound understanding of pediatric clinical pharmacology and human development pharmacology. These efforts assume that children are simply small adults and that we can use the same methods to evaluate and test drugs in them that we use in adults. Unfortunately, the limited data that we have available indicate that this is unlikely to be true. For example, a normal dosage and plasma concentration of digoxin, a drug used to strengthen the heartbeat in a child, even when reduced for the smaller size of a child, has no relationship to that required for the adult. Research in animals indicates that this is likely to be true for many other drugs. These proposals also assume that we can simply stick children with needles and draw blood samples every hour or so for up to 12-16 times a day to measure the amount of the drug in a child's plasma. Even if the data were to be valid, the amount of blood required, the pain, and the risk of infection make this approach unethical.

What is needed is research to apply modern techniques such as nanofabrication, chip technology and nanofluidics to develop new, less invasive (or non-invasive) techniques to measure the amount of drug in the child's plasma and more importantly to assess the beneficial effects of drugs. For example, Dr. Carl Peck, Director of the Georgetown Center for Drug Development Sciences, has demonstrated that the concentration of the asthma drug theophylline in plasma can be estimated by simply measuring the amount absorbed through the skin using a simple charcoal filled gel skin patch on the back. Dr. John Currie, a physicist and Director of the Georgetown Advanced Engineering Laboratory, has the expertise and a newly built nanofabrication lab capable of engineering other modern effective and humane techniques for assessing the actions of drugs in children. Without new and appropriate methods specifically designed for children, we will be gathering data that is likely to be worthless and therefore misleading or even worse, endangering children participating in these trials. We are requesting appropriation of funds to conduct a demonstration program for the humane and scientifically sound development of medication for children.

*Non-Invasive Coronary Angiography Program*

Robert Ledley, DDS of the Georgetown University Medical Center, will design and construct a safe screening procedure using a specialized x-ray unit capable of viewing detailed images of the coronary arteries.

At present, coronary angiography is performed only when there is an indication of a problem, such as angina or pain during exercise, an abnormal electrocardiograph, or negative results from a tread mill test, etc. The question naturally arises: Why not do coronary angiography as a screening test on presumed normal individuals? The answer is that arterial coronary angiography, where the catheter is placed into the aorta, and pushed to the heart, has a mortality risk. This risk is due to the fact that the catheter can break off debris or pieces of atherosclerotic plaque from the lining of the arterial wall, which then is carried by the arterial blood directly to the brain or other body organs potentially resulting in serious damage. This risk is very small, but nevertheless real, and therefore, arterial coronary angiography is done only when there is a distinct medical need for doing it.

Cardiologists have been waiting for a safe method for imaging the coronary arteries that could be used for screening normal, apparently healthy individuals. Robert Ledley, DDS of the Georgetown University Medical Center will rapidly develop such a safe method. The brain and other body organs will not be at risk and the procedure will enable a clear image of the coronary arteries to be seen, just as clear as that of arterial angiography.

The requested funding for this program is \$1 million for fiscal year 1999.

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