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FEDERAL BUREAU OF INVESTIGATION (PART II)

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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FEDERAL BUREAU OF INVESTIGATION (PART II)

WEDNESDAY, APRIL 23, 2008

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:21 a.m., in Room 2141, Rayburn House Office Building, the Honorable John Conyers, Jr. (Chairman of the Committee) presiding.

Present: Representatives Conyers, Scott, Watt, Lofgren, Jackson Lee, Waters, Delahunt, Wexler, Cohen, Johnson, Sherman, Baldwin, Weiner, Davis, Wasserman Schultz, Ellison, Smith, Sensenbrenner, Coble, Gallegly, Goodlatte, Chabot, Lungren, Keller, Issa, Pence, Forbes, King, Franks, and Gohmert.

Staff present: Robert Reed, Majority Counsel; Perry Apelbaum, Majority Staff Director and Chief Counsel; Caroline Lynch, Minority Counsel; and Sean McLaughlin, Minority Chief of Staff and General Counsel.

Mr. CONYERS. Good morning. The Committee on the Judiciary will come to order. We are delighted to have the director of the Federal Bureau of Investigation, Mr. Robert Mueller, before us.

And we begin with some observations from our Members of the Committee, myself, Ranking Member Smith, Crime Subcommittee Chairman Scott and Judge Gohmert.

Federal Bureau of Investigation is the critical cog in our Nation's Federal law enforcement efforts. The Bureau has important powers that include the ability to combat crime, conduct surveillance on our citizens and initiate investigations.

These powers have grown exponentially since the tragedies of September 11, and the question is how wisely is the Bureau using its vast resources and how appropriately are they being employed.

With that in mind, the areas of my most concern deal with the use and misuse of National Security Letters. It is widely known that the Bureau has on numerous occasions issued National Security Letters without proper certification or approval memoranda and have improperly uploaded and retained information on private citizens. How do we deal with that?

It is also no secret that the Members of this Committee, on a bipartisan basis, have expressed serious concerns about the FBI wiretapping of Members of Congress, particularly in connection with the investigation of Member Renzi.

The surveillance of this nature raises serious constitutional questions that involve the speech and debate clause, and we should have a discussion about it.

There are similar questions presented in the case of the search of Representative Jefferson of Louisiana's office, and the circuit court was forced to intervene and overrule the department in that regard.

Whether the phone that is being tapped is public or private—whether it is or isn't, it behooves the department and the FBI to take constitutional issues seriously and develop protocols and procedures with the legislative branch that protect the interests of all sides.

I would also like to discuss here this morning the subject of several inmates held in solitary confinement in the maximum security Louisiana State Penitentiary at Angola for 36 years. And I have asked as a result that the FBI file on this matter be revealed—released to this Committee immediately.

And then, of course, we are still grappling with this question of the redaction of the notes related to the infamous Ashcroft hospital visit and the warrantless wiretapping program.

We got records, but they were so redacted that they make no sense coming or going. It seems to me that we can get a more understandable version without trying to go into the conversations between the President and the Attorney General or anybody else.

And so I would now like to yield to the gentleman from Texas, the Ranking Member, Mr. Lamar Smith.

Mr. SMITH. Thank you, Mr. Chairman. And, Mr. Chairman, like you, I welcome the director of the FBI to today's hearing.

For the last 7 years, the FBI has faced the task of balancing its expanding national security and counterterrorism responsibilities with its traditional law enforcement duties.

And although this task has presented challenges to the FBI, the success of the dedicated men and women of the Bureau is evident from one simple fact. The United States has not suffered another terrorist attack.

It is easy to assume that the terrorist threat has lessened or even disappeared because we have not had an attack since September 11, 2001.

It is easy to become complacent about the need for vigilant intelligence gathering because we rarely read in the paper or hear on the news about the number of terrorist plots that have been thwarted by the FBI and other law enforcement and intelligence agencies.

But the threat remains. And it is important that Congress ensure that our law enforcement and intelligence agencies are given the tools and the resources they need to protect us all. It is also important that Congress ensure that these are used properly.

One powerful tool is our ability to gather intelligence to learn what our enemies are planning before it is too late. The Foreign Intelligence Surveillance Act, FISA, provides the framework for gathering foreign intelligence. But as we learned a year ago, it is outdated.

Last August, Congress passed the Protect America Act to modernize FISA. In February, that law expired. And in August, so, too, will the surveillance authorized under the Act.

Congress has no greater or more urgent responsibility than to enact long-term common-sense legislation to modernize FISA and ensure that our Nation is safe from future attacks.

Our national security relies on other information-gathering tools as well, including National Security Letters. National Security Letters allow the FBI to request the production of records held by third parties and are generally used to obtain telephone billing records, credit reports or financial information.

Last year, the Department of Justice Inspector General issued a report citing significant problems with the FBI's use of National Security Letter authority from 2003 to 2005. Recently, the Inspector General has released a follow up to its March 2007 report.

According to this report, the FBI has made significant progress implementing the Inspector General's recommendations and in adopting other corrective actions to its national security authority.

The recent report is encouraging and shows that the FBI has taken strong action to ensure that its investigative efforts do not infringe on the privacy of individual Americans.

Despite the FBI's demanding counterterrorism efforts, we cannot lose sight of its traditional crime-fighting responsibilities. After a dramatic rise in violent crime that peaked in the early and mid 1990's, the most recent data reveals that the Nation's crime rates are decreasing.

Though violent crime is slightly down nationwide, trends in crime are changing. In the 1990's, gang violence was traditionally found in urban communities of major cities like Los Angeles and New York City. But now we are seeing a rise of gang violence in suburban communities.

The methods for committing a crime also are changing. The Internet has transformed traditional brick-and-mortar crimes into virtual crimes committed by faceless criminals with no borders or boundaries.

Identity theft, child pornography, organized retail crime, theft of intellectual property and even drug trafficking can now be committed with a few computer strokes.

Last year, I joined Chairman Conyers in introducing H.R. 4175, the Privacy and Cybercrime Enforcement Act of 2007. Our Nation has become increasingly vulnerable to cyberattacks as the U.S. economy and critical infrastructures grow more and more reliant on interdependent computer networks and the Internet.

Large-scale computer attacks on our critical infrastructure and economy could have devastating results. Personal data security breaches are being reported with increasing regularity. During 2006 alone, personal records for approximately 73 million people were lost or stolen.

I look forward to hearing from Director Mueller today about improvements in Bureau operation, the continuing need to pursue counterterrorism and traditional law enforcement, and the FBI's efforts to investigate the growing threat of cybercrime.

Thank you, Mr. Chairman, and I will yield back.

Mr. CONYERS. Thank you, Lamar Smith.

The Chair recognizes the gentleman from Virginia, the Chairman of the Crime Committee, Bobby Scott.

Mr. SCOTT. Thank you. Thank you, Mr. Chairman.

And I want to thank the FBI director for appearing with us today.

Like you, Mr. Chairman, I believe that while the FBI should be able to get whatever information is necessary for the fight against terrorism, there also needs to be meaningful oversight.

First, we need traditional oversight over the Bureau's NSL powers. At last year's oversight hearing, we heard about the Inspector General's findings of illegal and improper use of National Security Letters to obtain phone and financial records and that required reports to Congress were inaccurate.

Last month, the Inspector General released another report which noted the Bureau's own reviews confirmed numerous deficiencies in the process, including an almost 10 percent rate of unlawful violations which the Bureau should have reported to the President's Intelligence Oversight Board.

The next question, of course, is where is the oversight in this process. We have learned from the recent I.G. report that the Bureau has implemented internal policies and procedures, but it turns out that the checks and balances are presumably within the Bureau itself.

Checking with subordinates is not a check and balance. Some of us think that check and balance means that you check with another branch of government.

We always have to think about what would happen if such power, such as obtaining information pursuant to an NSL, is subject to political whims, and that concern is not just hypothetical.

Republican-appointed officials have accused this Administration of firing U.S. attorneys because they did not indict Democrats in time to affect an upcoming election. We have been unable to ascertain the truth of the allegation for several reasons.

First, high-ranking Administration officials questioned the credibility of the Attorney General's original response to the allegation. Another high-ranking Justice Department official quit. Another pleaded the fifth. And White House officials have refused to respond to subpoenas.

Second, we need to determine the necessity behind the broad NSL power itself. Some 140,000 NSL requests over the 3-year period may not have been necessary—140,000 requests. And all of these requests related to terrorism.

At last year's oversight hearing, the director testified that traditional FISA warrants would be too burdensome to acquire the information gained from an NSL. But are we bypassing traditional court oversight to engage in over-collection of information?

We now understand that the Defense Department may be using FBI NSL power to access records that ordinarily it could not be permitted to obtain.

And finally, we have been told that while the Bureau is asking to continue its broad power to fight against terrorism, it is losing critical information under the traditional powers it has.

The Inspector General found, for example, that some intercepted information acquired by FISA order was lost due to the failure of the FBI to pay its phone bill.

Finally, we have to determine how the Bureau is using the resources it has. If additional resources are needed to combat ter-

rorism, we should be coming up with new resources rather than transferring powers, sacrificing the fight against white-collar crime and violent crime.

We also need to make sure that other critical priorities and responsibilities are not left behind.

So I look forward to seeing what the Bureau is doing in the fight against consumer identity theft, the investigation of shootings of innocent civilians and the assault and rape allegations of Americans serving our country in Iraq.

Thank you, Mr. Chairman, and I look forward to the Bureau's responses.

Mr. CONYERS. Thank you, Chairman Scott.

The Chair recognizes the Ranking Member of the Crime Committee, Judge Louie Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman, and I appreciate your holding this important hearing.

The question I found myself asking back during my days as a district trial judge, when there were allegations of impropriety by a State of Texas law enforcement officer with whom the FBI had been working—who investigates the investigators when the FBI is involved and recuses itself?

We have heard stories of Attorney General Robert Kennedy authorizing wiretaps of Martin Luther King, Junior, which raises an issue of if there were probable cause to believe that the FBI were illegally wiretapping, then who can wiretap the FBI to find out? Frankly, I don't know.

We have learned in the recent past that when the FBI, as part of the executive branch, had concerns about someone in the legislative branch, the FBI believed it was appropriate to make an intrusion into a congressional office for the first time in over 200 years.

Speaking hypothetically, if there were probable cause to believe the FBI had violated some law which made an intrusion into an FBI office in Washington necessary, who would be in a position to do that?

These hypothetical questions should point out just how critical it is that our FBI get things right. It seems that since the judiciary branch and the legislative branches do not have trained undercover agents in them, it is very difficult to adequately bring a wayward FBI into line if we were to ever have that occur.

I am fortunate to have known and worked with so many FBI agents over the years with the different hats I have worn, and I have known them well enough to know that I would have no hesitancy whatsoever in putting my life in their hands. I trust them that much.

We also know that we have before us here testifying today the current FBI director, who is a Marine, a decorated Vietnam war hero, as well as a brilliant attorney and prosecutor.

We can learn an important lesson from the biblical account of King David, who was the only man ever said in the Bible to have had a heart after God's own. The lesson is this. Even the greatest people in the world, if left without adequate accountability, can give in to the temptation to abuse power.

That recognition was part of the brilliance of our Constitution, which tried to address the problem of accountability by creating the

three separate but supposedly somewhat equal branches, to help keep the other branches in check.

That is how we got this hearing to have the director of an independent agency over here testifying about what has gone right and what has gone wrong on some of these issues.

Former Attorney General Gonzales had testified, and during his testimony here on Capitol Hill last year, he had said that there were no known abuses of the dramatic investigative tool called the National Security Letter as far as he was not aware—because he was not aware of the Inspector General's report.

That I.G. report indicated that there had been basically some significant problems of abuse with the NSLs. I recall Director Mueller saying, back when the abuses of this very invasive tool were brought to light, that he would have to take full responsibility for the inadequate supervision and training that had led to such abuses.

To most Americans, the power of an FBI agent to simply send a letter without any court authority or warrant demanding private records in the possession of such person or entity pertaining to another individual is almost judicial in scope and probably was not anticipated by our constitutional forefathers under normal circumstances.

It is a bit frightening to most people to have such a demanding letter also state within the letter that that person in the letter's address would commit a Federal crime if he were to disclose that he even received the letter, the only exception being that he could discuss it with his attorney.

That is why such oppressive power must be used sparingly, with great discretion and oversight.

But we have also heard previously that the personnel policy that this director instituted includes a 5-year up-or-out policy.

Essentially, that program prevents agents in a supervisory capacity with many years of experience and training from using their experience and training in that capacity for more than 5 years, after which they must either move to Washington, D.C., retire or take a demotion from their position.

As I understand it, that policy has forced the loss of the FBI—of centuries of experience by those who simply would not move to Washington but chose to take their vast and valuable experience into the private sector or even be demoted.

In the last hearing with the director, I had understood him to say that because of that policy, though, he has been thanked by junior or younger agents who were made supervisors who never thought that they would have had a chance to move up so soon, and I have no doubt that that thanks is abounding by those younger agents.

I also note that if that policy of a 5-year limit on supervisory personnel were imposed on the director, it would mean the director would have retired as director back—September 4th of 2006, yet here we are.

In any event, last week we had a hearing in this very room. The director of the Georgia Bureau of Investigation testified. That is Vernon M. Keenan.

And I couldn't help but ask him about their experience with moving people around, and he said the following, "I have discussed with FBI officials before my belief that they would be much more effective if they left their supervisors in duty stations longer to build those relations. Law enforcement is based around personal relationships and partnerships, and you have to have a stabilized workforce to build those relationships. The FBI is a wonderful law enforcement agency. Our agents to be a GBI agent is the same requirements to be an FBI agent. We have found out over the years that our most productive agents, most effective agents, are those that live and work in a community that have an opportunity to build public trust and work with their counterparts, and that is relationships."

Some others have noted that perhaps the 5-year up-or-out policy should have been scrapped in 2005 along with the multimillion-dollar computer system called the Virtual Case File, or VCF.

The Justice Department's Inspector General, in a February 2005 audit, blamed the Virtual Case File's program's meltdown on poor management and oversight, design modifications during the project and bad I.T. investment practices.

The I.G. also apparently reported that rapid turnover in important senior positions have hurt the FBI's ability to manage I.T. effectively.

In any event, Director, you will now talk about my concerns in this area, but we are pleased to have a hero such as yourself, a true patriotic American, here testifying before us, and I look forward to your testimony.

Thank you, sir.

Mr. CONYERS. Thank you.

Does any other Member wish to bring a welcome to the director before we begin this morning?

Yes, sir—oh, Ms. Sheila Jackson Lee?

Ms. JACKSON LEE. Thank you.

Mr. CONYERS. The gentlelady is recognized.

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

Let me again welcome the director, and it is good to see you, and we thank the FBI for its service in particular, and I always want to make note of the Houston office. We have had a series of great special agents in charge, and we are obviously benefitting from that leadership again.

One of the principles of the FBI mandate or mission is to protect the civil rights of all Americans. And so in the course of this morning, and hopefully in the opportunity I may have to question, let me just make mention that I think we have had a series of harsh circumstances. I think we still have rising hate crimes in America.

I think one of the sadder tales of justice was Jena 6, and I would be interested in how quickly the FBI became involved when the actions were taken by the high school students who happened to be White and provoked the situation. And there seemed to be no intervention at that time.

And whether or not the relationship between the U.S. attorney and the FBI is the horse before the cart or otherwise, the FBI engaged in the investigation—if so, I think there was a great failure in that community.

I think the other question, of course, is how do we assess or how do we protect even persons who experience abuse in an incarcerated situation where their civil rights have been violated—prison abuse, for example.

It is notorious in the State of Texas. We have previously been under a Federal court order some many years ago. But we face a situation where there is either abuse or inadequacy, and my question is the collaboration or the interaction with the FBI or special agent in charge.

So I welcome you. I wanted to make note that my State in particular faces a number of, I think, serious issues that its youth commission—sexual abuse on children inside the juvenile system and, as well, the prison system, the State prison system.

I believe that the FBI is a better organization when they are out front fighting for the civil rights of all Americans. And I hope that we will have a chance to have that discussion.

With that, Mr. Chairman, I yield back.

Mr. CONYERS. Thank you very much.

Witness Robert Mueller III, director of the Federal Bureau of Investigation, has held this post since September 4, 2001.

He has a long and distinguished career in public service between Princeton and the University of Virginia Law School. He served as an officer in the Marines and was heavily decorated for his duties there. He has been an assistant United States attorney in San Francisco, in Boston and in Washington, D.C.

He served as assistant Attorney General for the criminal division in the early 1990's, returned to San Francisco in 1998 as the United States attorney, has served two stints in private practice as a partner in two prominent Boston firms, was called back to Washington early in 2001 to be acting deputy Attorney General, where he served until assuming his current post.

Director Mueller, we all welcome you. We will look forward to your comments.

TESTIMONY OF THE HONORABLE ROBERT S. MUELLER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

Mr. MUELLER. Good morning, and thank you for having me. Chairman Conyers, Representative Smith, Members of the Committee, it is an honor to be here.

I have submitted a written statement for the record, and I ask that it be made a part of the record.

Mr. CONYERS. Without objection.

Mr. MUELLER. Sir, as you are aware, the FBI's top three priorities are counterterrorism, counterintelligence and cybersecurity. These priorities are critical to our national security and to the FBI's vital work as a committed member of the intelligence community.

But important also are our efforts to protect our communities from the very real threat of crime, especially violent crime.

In the counterterrorism arena, al-Qaida and related groups continue to present a critical threat to the homeland. But so, too, do self-radicalized homegrown extremists. They are difficult to detect, often using the Internet to train and operate.

But here at home our domestic joint terrorism task forces and abroad through our legal attaches and our international partners, we together share real-time intelligence to fight terrorists and their supporters.

With regard to the counterintelligence threat, protecting our Nation's most sensitive secrets from hostile intelligence services or others who would do us harm is also at the core of the FBI mission. In furtherance of this, we reach out to businesses and universities. We join forces with our intelligence community partners. And we work closely with the military to help safeguard our country's secrets.

Cyberthreats to our national security and the intersection between cybercrime, terrorism and counterintelligence is increasingly evident. Today, the FBI's cyberinvestigators focus on these threats as we partner with others in government and industry.

One way we do this is through our sponsorship of a program called InfraGard, an alliance of more than 23,000 individual and corporate members who help identify and prevent cyber attacks.

I am mindful of your ongoing interest in the FBI's progress in building an intelligence program while combating these threats, and the FBI has made a number of changes in the last several years to enhance our capabilities.

Among them, today intelligence is woven throughout every FBI program and every operation, and then utilizing this intelligence we have successfully broken up terrorist plots across the country, from Portland, Oregon; Lackawanna, New York; Torrance, California; Chicago, Illinois; to the more recent Fort Dix and JFK plots.

We have increased and enhanced working relationships with our international partners, sharing critical intelligence to identify terrorist networks and disrupt planned attacks around the globe.

We have doubled the number of intelligence analysts on board and tripled the number of linguists. We have tripled the number of joint terrorism task forces from 33 in September of 2001 to over 100 now.

And these task forces combine the resources and expertise of the FBI, the intelligence community, military and State, local and tribal law enforcement.

And another critical and important part of the FBI's traditional mission is quite clearly our work against criminal elements in our communities, very often and most useful in task forces with our Federal, State and local and tribal partners.

I will say that public corruption remains the FBI's top criminal investigative priority. In the past 2 years alone, we have convicted over 1,800 Federal, State and local officials for abusing their public trust.

Similarly, our work to protect the civil rights guaranteed by our Constitution is a priority which includes fighting human trafficking as well as our focus on the Civil Rights Cold Case Initiative.

Gangs and violent crime continue to be as much a concern for the FBI as it is for the rest of the country. The FBI's 143 Safe Streets Violent Gang Task Forces leverage the unique knowledge of State and local police officers with Federal investigative resources.

We also sponsor 52 additional violent crime and interstate theft task forces as well as 16 safe trails task forces targeting crime in Indian Country.

The FBI combats transnational organized crime in part by linking the efforts of our Nation's 800,000 State and local police officers with international partners through the FBI's legal attache offices, of which we have currently over 60 all over the world.

And finally, major white-collar crime, from corporate fraud to fraud in the mortgage industry, clearly continues to be an economic threat to the country.

For example, in recent years, the number of FBI pending cases focusing on mortgage fraud, including those associated with subprime lending, has grown nearly 50 percent to over 1,300 cases. Roughly half of these have losses of over $1 million and several have losses over $10 million.

We will continue our work to identify large-scale industry insiders and criminal enterprises engaged in systemic economic fraud.

We recognize that for the past 100 years of the FBI's history our greatest asset has been our people, and we are building on that history with a comprehensive restructuring of our approach to intelligence training for both our professional intelligence analytical core as well as for new FBI agents coming out of Quantico.

We have and we will continue to streamline our recruiting and hiring processes to attract persons having the critical skills needed for continued success.

I also remain committed to ensuring our employees have the information technology infrastructure they need to do their jobs. This includes the continuing successful development of the Sentinel case management system as well as other I.T. upgrades.

I am very well aware of your concerns that we always use legal tools given to the FBI fully but also appropriately. After the Department of Justice reviewed the use of National Security Letters, we instituted additional internal oversight mechanisms to ensure that we as an organization minimize the chance of future lapses.

Among the reforms was the creation of a new Office of Integrity of Compliance within the Bureau to identify and mitigate such potential risks.

In closing, the FBI recognizes that it is, in some sense, a national security service responsible not only for collecting, analyzing and disseminating intelligence, but most particularly for taking timely action to neutralize threats to this country, either threats from a terrorist, from a foreign spy or from a criminal.

And in doing so, we also recognize that we must properly balance civil liberties with public safety in pursuing our efforts, and we will continually strive to do so.

Mr. Chairman, Representative Smith, Members of the Committee, I appreciate the opportunity to testify before you this morning, and I do look forward to answering your questions. Thank you, sir.

[The prepared statement of Mr. Mueller follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT S. MUELLER

Department of Justice

STATEMENT OF

ROBERT S. MUELLER, III
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

CONCERNING

"OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION"

PRESENTED

April 23, 2008

I. Introduction

Good morning Chairman Conyers, Ranking Member Smith, and Members of the Committee. I am pleased to be here today.

After the attacks of September 11, 2001, the Federal Bureau of Investigation's (FBI) priorities shifted dramatically as we charted a new course, with national security at the forefront of our mission. The intervening six years have seen significant changes at the FBI, and we have made remarkable progress. Today, the FBI is a stronger organization, combining greater capabilities with a longstanding commitment to the security of the United States, while at the same time upholding the Constitution and the rule of law and protecting civil liberties.

The FBI uses an enterprise-wide approach to understanding our threats and strategically targeting our resources to dismantle those threats. To stay ahead of national security threats, the FBI uses intelligence not just to pursue investigations, but also to develop greater awareness of the threats we face. The FBI structures its investigations to maximize the intelligence that can be derived from them to ensure that we fully exploit all of the intelligence collected. We also use this understanding to deliberately and strategically decide where and when to take action using intelligence, law enforcement, and other tools to detect, penetrate, and dismantle threats.

Today, I want to give you a sense of the FBI's current priorities, the changes we have made to meet our mission, and the challenges we are facing. I want to touch on some of our accomplishments and discuss long-term strategy for continued improvement of our intelligence operations, our information technology, and our human capital.

II. Brief Update and Select Accomplishments by Priority and/or Division

National Security Branch

Since September 11, 2001, the FBI has implemented significant changes to integrate our intelligence and operational elements and to enhance our ability to counter today's most critical threats. We have built upon our capacity to collect information and improved our ability to analyze and disseminate intelligence. Development of the National Security Branch (NSB) has been another step in enhancing the FBI's mission as a national security agency.

The NSB comprises the FBI's Counterterrorism Division, Counterintelligence Division, the Directorate of Intelligence, the Weapons of Mass Destruction Directorate, and the Terrorist Screening Center. The NSB's mission is to lead and coordinate intelligence efforts that drive actions to protect the United States. Our goals are to develop a comprehensive understanding of the threats and penetrate national and transnational networks with the desire and capability to harm us. Such networks include terrorist organizations, foreign intelligence services, those that seek to proliferate weapons of mass destruction, and criminal enterprises.

To be successful, we must understand the threat, continue to integrate our intelligence and law enforcement capabilities in every FBI operational program, and continue to expand our contribution to the intelligence community knowledge base.

Under the leadership of the NSB, the FBI has continued to make tremendous progress integrating intelligence and investigative expertise. A veteran counterterrorism agent recently became Executive Assistant Director of our National Security Branch. He exemplifies the caliber of the FBI's national security management team, and has played an integral role in shaping the FBI's new enterprise-wide counterterrorism strategy. I am confident he will build on the great foundation laid by his predecessors and successfully lead the FBI's national security mission into the future.

Counterterrorism

The mission of the Counterterrorism Division is to lead law enforcement and domestic intelligence efforts to defeat terrorism.

In the past six years, we have dramatically strengthened our ability to combat terrorism, and have had great success identifying, disrupting, and dismantling terrorist networks and threats. Today, intelligence is woven throughout every program and every operation. Much of our progress has been the result of investigative expertise gained in our nearly 100 years of our existence. That experience has allowed us to build enhanced capabilities on an already strong foundation.

Operational Successes

Building on this strong framework, we have seen numerous operational successes through our Joint Terrorism Task Force (JTTF) partnerships in the fight against international terrorism. With them, we dismantled a terrorist cell plotting to attack John Fitzgerald Kennedy (JFK) International Airport and to ignite an underground fuel pipeline. We stopped a cell of six individuals plotting to attack a government facility, most likely the army base at Fort Dix, New Jersey. We stopped an individual who planned to attack a shopping mall in Rockford, Illinois, with hand grenades.

We also collaborated with our federal and foreign partners on several counterterrorism investigations, including a joint FBI-Immigration and Customs Enforcement (ICE) investigation that resulted in the indictments of 40 individuals; investigation of car bombs in London and at the Glasgow, Scotland airport; and disruption of a planned attack on U.S. targets in Germany.

The FBI continues to play a vital role in U.S. military operations overseas to protect the U.S. and its interests from terrorism. FBI intelligence derived from Iraq and Afghanistan led to numerous threat assessments and initiation of preliminary and full investigations.

The Weapons of Mass Destruction Directorate (WMDD) tasked field offices to conduct investigative activities on sources of possible WMD proliferation in the U.S. In 2007, the WMDD provided field offices with intelligence that led to more than 100 counterproliferation investigations. Other accomplishments include the indictment of a nuclear engineer suspected of mailing multiple WMD hoax letters; the indictment of a person responsible for an Internet-based threat to attack football stadiums with improvised radiological devices; and assistance to the United Kingdom in an investigation of the use of Polonium-210.

In addition, we have organized numerous international seminars and training conferences, and have worked to build relationships with our private and public sector partners. The WMDD also supported the Global Initiative to Combat Nuclear Terrorism, a joint U.S.-Russian initiative that seeks to enlist the support of willing partner nations to combat nuclear terrorism.

Law Enforcement Partnerships

Working with our federal, state, local, and tribal partners is key to our collective success. Three primary examples are set forth below, including our JTTFs, the Terrorist Screening Center, and the Foreign Terrorist Tracking Task Force.

Since 2001, we have tripled the number of JTTFs across the country, from 33 to more than 100. These task forces combine the resources of the FBI, the intelligence community, the military, and state and local police officers. With nearly 3,900 task force members, these JTTFs have been essential in breaking up terrorist plots across the country, from Portland, Oregon; Lackawanna, New York; Torrance, California; and Rockford, Illinois; to the recent plots in Fort Dix, New Jersey and at JFK Airport.

The Terrorist Screening Center (TSC) – now under the umbrella of the National Security Branch – manages the one, consolidated terrorist watchlist, providing key resources for screeners and law enforcement personnel. These include a single coordination point for terrorist screening data; a 24/7 call center for encounter identification assistance; access to a coordinated law enforcement response center; a formal process for tracking encounters; feedback to the appropriate entities; and a process to address misidentification issues.

The Foreign Terrorist Tracking Task Force (FTTTF) uses innovative analytical processes and unique proprietary technologies to find, track, and remove known or suspected terrorists by tracking their electronic footprints. The FTTTF collects and analyzes a wide range of FBI, U.S. Government, and public source data, from biometric data to travel records, to keep foreign terrorists and their supporters out of the United States, and, if necessary, to locate, detain, remove, or prosecute such persons. Participants in the FTTTF include the FBI, the Department of Defense, U.S. Immigration and Customs Enforcement, Customs and Border Protection, and other representatives from the U.S. intelligence community.

The FTTTF also works with foreign partners, including Canada, Australia, and the United Kingdom in this effort. To meet its mission, the FTTTF has put in place information sharing agreements among participating agencies and other public and proprietary companies to aid in locating terrorists and their supporters who are or who have been in the United States. The FTTTF also has access to more than 70 sources of data containing lists of known and suspected foreign terrorists and their supporters. The FTTTF shares data with the U.S. Intelligence Community and other government agencies to create a centralized data mart for use by trained FTTTF analysts.

Changes in Structure

As part of the FBI's efforts to develop an enterprise-wide understanding of threats and a strategic approach to dismantling those threats, the Counterterrorism Division has realigned its International Terrorism Operations Sections (ITOS). This realignment took effect on January 14,

2008, and will aid us in creating a comprehensive understanding of the threat environment, rather than just one aspect of a larger threat.

Instead of being structured by program (e.g., al Qaeda, Hizballah, Hamas), ITOS sections are aligned geographically to target comprehensive intelligence collection on terrorists and their activities. Two Strategic Operations Units – staffed with analyst and agent "Desk Officers" – will exploit subject matter expertise on the presence, nature, and scope of terrorist enterprises and their activities to drive operational activities against terrorist networks. Counterterrorism Desk Officers will work closely with Desk Officers from the FBI's Directorate of Intelligence, as well as from the intelligence community, to build a global understanding of terrorist enterprises and to target and dismantle these enterprises.

Today, we are focused on prevention, not simply prosecution. We have shifted from detecting, deterring, and disrupting terrorist enterprises to detecting, penetrating, and dismantling such enterprises – part of the FBI's larger culture shift to a threat-driven intelligence and law enforcement agency.

Counterintelligence

Foreign counterintelligence is a crucial component of the FBI's overall strategy, second only to counterterrorism. As a lead agency for foreign counterintelligence in the United States, the FBI has the responsibility to oversee the integration of U.S. law enforcement and intelligence efforts to mitigate this ongoing and daunting national security threat, consistent with our laws and policy.

Operational Successes

In Fiscal Year (FY) 2007, the FBI's counterintelligence efforts resulted in 24 convictions of persons seeking to do the United States harm by stealing our nation's most sensitive secrets.

Leandro Arangoncillo, a former FBI analyst and White House military staff member, was sentenced July 18, 2007, to 10 years in prison for espionage. He was arrested September 10, 2005, and pleaded guilty to three counts of espionage in a Newark federal court. While employed as an FBI analyst, Aragoncillo utilized FBI computer systems to search for documents pertaining to the Philippines, which he then downloaded and passed to Philippine political opposition figures seeking to oust the elected president. The investigation also determined that Aragoncillo's espionage activities had begun several years earlier, when he was a U.S. Marine assigned to the Office of the Vice President. Aragoncillo admitted to having passed material classified as high as Top Secret. Aragoncillo is believed to have stolen information from hundreds of documents belonging to the CIA, the Department of State (USDS), the Defense Department (DoD), and FBI.

In December 2006, Fei Ye and Ming Zhong pleaded guilty in the Northern District of California to economic espionage to benefit a foreign government – the first such convictions under the Economic Espionage Act of 1996. Both Ye and Zhong were arrested on November 23, 2001, at the San Francisco International Airport with stolen trade secrets in their possession. Ye and Zhong stole trade secrets belonging to Sun Microsystems, Inc., and Transmeta Corporation. Ye and Zhong had formed a company in The People's Republic of China (PRC) called

Supervision, Inc. to manufacture and market a computer microprocessor based on stolen trade secret technology. The city of Hanzhou and the province of Zhejiang in the PRC were government entities that had agreed to provide funding and share in the profits of the enterprise benefitting from the stolen technology. Ye and Zhong had also applied for funding from the National High Technology Research and Development Program of China, commonly known as the "863 Program."

In August 2007, a joint U.S. Immigration and Customs Enforcement and FBI investigation culminated in Xiaodong Sheldon Meng, a Canadian citizen and former Chinese national, pleading guilty to one count of economic espionage and one count of violating the Arms Export Control Act (AECA). Sentencing is scheduled for this year. Meng, a former employee of Quantum3D, Inc., in San Jose, California, stole numerous Quantum3D products designed for precision training of U.S. military fighter pilots in night vision combat scenarios. Meng passed the stolen technology for use by the Chinese People's Liberation Army Air Force, the Royal Malaysian Air Force, and the Royal Thai Air Force.

Counterintelligence Partnerships

The FBI also continues to work closely with its federal and private sector partners to coordinate activities and operations to counter foreign intelligence against intellectual property innovations that may impact national security.

The Domain Section of the Counterintelligence Division continues to expand counterintelligence outreach in all 56 Field Offices to state and local governments, universities and colleges, business communities, utilities and energy providers, as well as health, agricultural and other entities within any given territory.

For example, the National Security Higher Education Advisory Board provides a forum to discuss issues that affect not just the academic culture, but also the country, from campus security and counterterrorism to cyber crime and espionage. Presidents and chancellors from Carnegie Mellon, Penn State, NYU, UCLA, the University of Washington, and Iowa State, among others, share their concerns and their collective expertise. This group met three times this past year.

We also work closely with others in the Intelligence Community to address counterintelligence threats. We are part of a multi-agency effort to focus on one priority country's acquisition of sensitive technology. Through this effort, we are sharing intelligence with foreign allies and working cases together. To date, 27 persons have been arrested in connection with this ongoing investigation.

Through these and other investigations, programs, and partnerships, we will continue to ensure that all available means are brought to bear to identify, prevent, and defeat intelligence operations conducted by any foreign power within the United States or against U.S. interests abroad.

Directorate of Intelligence

The Directorate of Intelligence is responsible for intelligence policy, strategic analysis, and intelligence collection management within the FBI. The FBI's intelligence program is defined by enhanced analytical capabilities, state of the art information technology, and an integrated intelligence structure.

We have doubled the number of intelligence analysts on board, from 1,023 in September 2001 to more than 2,100 today. We have increased the number of onboard language analysts from 784 in September 2001 to more than 1,300 today. We integrated our intelligence program with other agencies under the Director of National Intelligence.

But these agents and analysts are not merely collecting intelligence, they are acting on the intelligence, and disseminating it to those who need it, when they need it. For example, in FY 2007, the FBI disseminated 8,238 Intelligence Information Reports, and produced 244 Intelligence Assessments and 297 Intelligence Bulletins. This represents an increase of 1,008 total unique intelligence products over the same period in 2006. Our analysts played a key role in the National Intelligence Estimate on the threat to the Homeland and are regular contributors to Intelligence Community products. The vast majority of our products are available on the various intranet sites established by the Intelligence Community, and a substantial number of products are placed on the Law Enforcement Online network for our state, local, and tribal law enforcement partners.

We also have established Field Intelligence Groups (FIGs) in each of our 56 field offices, combining the expertise of agents, intelligence analysts, language analysts, and surveillance specialists. These FIGs serve as the lens through which field offices identify and evaluate threats. Through the FIGs, field offices contribute to regional and local perspectives on criminal and terrorist issues. FIGs also provide the intelligence link to the JTTFs, the state and local fusion centers, FBI Headquarters, and the Intelligence Community at large. In addition, FIG personnel have been embedded in numerous fusion centers and multi-agency intelligence centers across the country.

We are in the process of restructuring our FIGs, so they can better coordinate with each other, with street agents, and with agents and analysts at FBI Headquarters. I will discuss this in greater detail below.

Cyber Division

Protecting the United States against cyber-based attacks and high-technology crimes is the FBI's third priority.

In 2002, we created the Cyber Division to handle all cyber-security crimes. Today, our highly trained cyber agents and analysts investigate computer fraud, child exploitation, theft of intellectual property, and worldwide computer intrusions.

We have reorganized the Cyber Division to improve its efficiency and effectiveness. We aligned the cyber intelligence program to identify and neutralize the most significant cyber

threats. We now review caseloads, statistical accomplishments, and the utilization of sensitive investigative techniques on a monthly basis to ensure we are properly allocating our resources.

As a result of this strong framework, we have achieved significant results in both computer intrusion investigations and cyber crime investigations, including child exploitation cases.

Computer Intrusions

For example, an ongoing cyber crime initiative between the FBI and the Department of Justice has identified more than one million potential victims of botnet cyber crime. The investigation, entitled "Operation Bot Roast," targets "botnets" – groups of compromised computers under the remote command and control of a computer hacker. To date, we have shut down numerous botnets and have arrested and charged several botnet hackers with computer fraud and abuse.

Increasingly, cyber threats originate outside of the United States. Our Cyber Action Teams travel around the world on a moment's notice to assist in computer intrusion cases, whether in government, military, or commercial systems. These teams gather vital intelligence that helps us identify the cyber crimes that are most dangerous to our national security and to our economy.

In 2005, for example, cyber teams comprising investigators and experts in malicious code and computer forensics worked closely with Microsoft Corporation and with law enforcement officials from Turkey and Morocco to find the criminals responsible for creating and spreading the "Mytob" and "Zotob" worms. We resolved this case within just weeks of the attack, in large part because of the intelligence we received from our international and private sector partners.

Innocent Images National Initiative

One of our most important cyber programs is the Innocent Images National Initiative (IINI). The IINI is an intelligence-driven, multi-agency investigative operation to combat the proliferation of Internet child pornography and exploitation. Unfortunately, there is no shortage of work in this arena. In the past 10 years, we have witnessed an exponential increase in our caseload, from just 113 cases in 1996 to more than 2,400 in FY 2007. In total, more than 6,800 child predators have been convicted since 1996.

We have ongoing undercover operations across the country, with hundreds of agents who investigate cases with their state and local counterparts. On any given day, these investigators may pose as children to lure online predators into the open. They may pose as collectors who seek to share images through peer-to-peer networks. They may coordinate with the National Center for Missing and Exploited Children to identify children and adults featured in child pornography. Or they may train police officers to investigate cases in their own jurisdictions.

Our collaboration on child exploitation cases is not limited to domestic activities. Many producers and distributors of child pornography operate outside of our borders. Police officers from Britain, Australia, Belarus, Thailand, and the Philippines, among others, work with agents and analysts on the Innocent Images International Task Force in Calverton, Maryland. Since its

inception, investigators from 19 countries have participated in the task force. Together, they have generated more than 3,000 leads that were sent to DOJ-funded Internet Crimes Against Children Task Forces, FBI field offices, and our international law enforcement partners.

Cyber Partnerships

In the past six years, we have made every effort to build on existing partnerships to combat cyber crime.

The Internet Crime Complaint Center (IC3) is an alliance between the National White Collar Crime Center and the FBI. The mission of IC3 is to address crime committed over the Internet. For victims of Internet crime, IC3 provides a convenient and easy way to alert authorities of a suspected violation. For law enforcement and regulatory agencies, the IC3 offers a central repository for complaints related to Internet crime, uses the information to quantify patterns, and alerts federal, state, and local law enforcement to current crime trends.

To date, the IC3 has received more than one million consumer-filed complaints. More than 505,000 of these complaints have been referred to federal, state, and local law enforcement. In 2007, the IC3 received more than 206,000 complaints primarily related to the Internet, from online fraud and computer intrusions to child pornography. IC3 referred more than 90,000 complaints of crime to federal, state, and local law enforcement agencies for further action, with a reported loss in excess of $239 million

The FBI's IC3 Unit analyzes and links the related information from the consumer complaints received and has referred more than 5,400 identified cases, with an accumulative loss in excess of $386 million to law enforcement, resulting in more than 1,200 known investigations. In 2007, the FBI's IC3 Unit referred 637 cases to law enforcement, with a reported loss of more than $132 million.

The Cyber Initiative Resource Fusion Unit (CIRFU) is another example of collaboration. CIRFU is a fusion center, combining the resources and the expertise of law enforcement and the private sector. One can think of CIRFU as a hub, with spokes that range from federal agencies, software companies, and Internet Service Providers, to merchants and members of the financial sector. Industry experts from companies such as Bank of America and Target sit side-by-side with the FBI, postal inspectors, the Federal Trade Commission, and many others, sharing information and ideas. Together, we have created a neutral space where cyber experts and competitors who might not otherwise collaborate can talk about cyber threats and security breaches.

The FBI's InfraGard program is a more localized example of our private sector partnerships. Members from a host of industries, from computer security to the chemical sector, share information about threats to their own companies, in their own communities, through a secure computer server. To date, there are more than 23,000 members of InfraGard, from Fortune 500 companies to small businesses.

Apart from these ongoing partnerships, we work with particular countries on isolated cyber issues. For example, we initiated a program focused on organized cyber crime groups in Romania, targeting victims both there and in the United States. In 2007, we coordinated the

FBI's first-ever joint Intellectual Property Rights investigation with law enforcement authorities in China. And we continued participation in the Cyber Working Group, a collaborative effort among Australia, Canada, New Zealand, the United Kingdom, and the United States to develop measures and relationships to address the most serious criminal threats faced by all member countries.

Finally, pursuant to a directive signed by President Bush in January 2008, the FBI's Cyber Division is participating in a U.S. government-wide cyber effort that will help to protect against a rising number of attacks on federal agencies' computer systems. We look forward to working with our partners in the federal government in this effort.

The FBI's Criminal Programs

To meet our national security mission, the FBI had to shift personnel and resources, but we remain committed to our major criminal responsibilities. While Americans justifiably worry about terrorism, it is crime that most directly touches their lives. Currently, we have roughly a 50/50 balance between national security and criminal programs. To make the best use of these resources, we will continue to focus on those areas where we bring something unique to the table and to target those criminal threats against which we have the most substantial and lasting impact.

In recent years, we have moved away from drug cases and smaller white collar crimes, but we have dedicated more agents and more resources to public corruption, violent crime, civil rights, transnational organized crime, corporate fraud, and crimes against children.

In FY 2007, the FBI's Criminal Investigative Division handled more than 53,000 cases, resulting in 17,728 arrests, 21,893 indictments, and 12,406 convictions. We maximized our resources by using intelligence to identify emerging trends and to target the greatest threats.

Public Corruption

Public corruption is the top priority of the Criminal Investigative Division. Public corruption erodes public confidence, and undermines the strength of our democracy. Investigating public corruption is a mission for which the FBI is singularly situated; we have the skills necessary to conduct undercover operations and the ability to perform electronic surveillance. More importantly, we are insulated from political pressure.

Today, there are roughly 680 Special Agents dedicated to more than 2,500 pending investigations. The number of pending cases has increased by 51 percent since 2003; the number of agents working such cases has increased by 62 percent. The number of convictions is high: in the past two years alone, we have convicted more than 1,800 federal, state, and local officials.

The Public Corruption Program also targets governmental fraud and corrupt practices. The number of Foreign Corrupt Practices Act investigations has increased dramatically in recent years, from 13 cases prior to 2004 to more than 75 today, with 33 new matters in 2007 alone. To combat international corruption, the FBI's Public Corruption Unit has created a number of target-specific programs. For example, the International Contract Corruption Initiative addresses growing corruption within the global community. The International Contract Corruption Task Force addresses the systemic, long-term multi-billion dollar contract corruption and procurement

fraud crime problem linked to the war and reconstruction efforts in Iraq and Afghanistan. This multi-agency task force combines the efforts of the FBI, the Defense Criminal Investigative Service, Army CID, the Special Inspector General for Iraq Reconstruction, U.S. AID, and the Department of State. We have agents on the ground in the Middle East, investigating nearly 60 cases.

Other key initiatives include the Hurricane Fraud Initiative, the Campaign Finance and Ballot Fraud Initiative, the Southwest Border Initiative, and the Capital Cities Initiative.

The Hurricane Fraud Initiative, for example, addresses contract and procurement fraud in the Gulf Coast region of the United States in the aftermath of hurricanes Katrina and Rita. To date, this initiative has resulted in more than 1,000 investigations, 150 indictments, and 88 convictions. More than 18,000 complaints have been screened, resulting in more than 600 indictments and informations in 20 states.

The Campaign Finance and Ballot Fraud Initiative addresses ballot fraud and campaign finance crimes. In FY 2007, our efforts have resulted in more than 30 new investigations, more than 20 informations and indictments, and more than 20 convictions.

Civil Rights Program

In recent years, we have expanded our Civil Rights Program beyond police brutality and hate crimes, to include the Civil Rights Cold Case Initiative and human trafficking issues.

We are focusing more on the quality of our investigations, rather than the quantity, and this renewed focus is paying dividends. For example, 25 percent of cases initiated by the FBI's Civil Rights Unit resulted in arrests in FY 2007, compared to 19 percent in FY 2006. Of the cases initiated by the FBI in FY 2007, 22 percent resulted in a conviction, compared to just 16 percent in FY 2006. Today, there are approximately 141 Special Agents working civil rights cases. Last year, they initiated 936 investigations and worked 1,584 pending investigations, resulting in 238 arrests, 193 informations and indictments, and 189 convictions.

We are fine-tuning our administrative guidelines and our reporting requirements, to allow agents to spend more time investigating these vital cases. We are developing an internal database to house all incoming information on Civil Rights Program case initiations, so that we can better identify and analyze civil rights crimes trends and forecast those results to the field and to our state and local partners.

Two years ago, the FBI and the Department of Justice began to work with the NAACP, the Southern Poverty Law Center, and the National Urban League on the Civil Rights Cold Case Initiative. The Civil Rights Cold Case Initiative provides the FBI, as well as state and local law enforcement agencies, the opportunity to review civil rights-era cold cases, in an effort to bring closure to families and generations adversely impacted by these crimes.

As part of the Civil Rights Cold Case Initiative, the FBI asked its 56 field offices to re-examine their unsolved civil rights cases, and to determine which cases could still be viable for prosecution. Since this initiative began, 95 referrals have been forwarded to 17 field offices. To date, 52 cases have been opened, and of those cases, 26 are still ongoing. Agents investigating

the remaining 26 cases have provided preliminary investigative conclusions for review by the Civil Rights Unit and the Civil Rights Division of the Department of Justice, to determine if additional investigation is necessary. Each will need to be assessed for its investigative and legal viability, and for those cases in which we can move forward, we will.

In June 2007, for example, James Seale, a former member of the Ku Klux Klan, was convicted of the kidnapping and murder of Henry Dee and Charles Moore back in 1964. In 2005, Edgar Ray Killen was convicted for his role in the deaths of three civil rights workers in Mississippi in 1964. And in 2003, Ernest Avants was convicted for the 1966 murder of Ben Chester White.

With regard to human trafficking, the FBI has commenced a Human Tracking Initiative to address modern-day slavery and related violations. The trafficking of persons is a significant and persistent problem in the U.S. and around the world. The majority of the human trafficking investigations under the FBI's Civil Rights Program stem from international persons trafficked to the United States from other countries. Victims are often lured with false promises of good jobs and better lives, and are then forced to work in the sex industry. However, trafficking may also take place in labor settings, including domestic servitude, prison-like factories, and migrant agricultural work. Today, we have roughly 41 agents working human trafficking cases. In 2007, these agents opened 120 cases and investigated 227 pending cases, made 155 arrests, obtained 81 indictments and/or informations, with 57 convictions.

Transnational Organized Crime

Transnational organized crime continues to evolve with advances in globalization and technology. At the same time, organized crime continues to present a serious threat to American society, to the safety of our citizens, and to our economy. Currently, there are nearly 545 Special Agents working organized crime cases. In 2007, these investigations have resulted in 869 indictments and informations, 1,175 arrests, 762 convictions, 195 disruptions of organized crime activity, and more than $250 million dollars in forfeitures or seizures.

The FBI's successful investigations, including an 80-count indictment and the arrest of more than 60 alleged members and associates of La Cosa Nostra in New York City this past February, underscore this ongoing threat, and the importance of working with our international law enforcement partners. Of the 62 individuals arrested, 25 of them – all members or close associates of the Gambino family – are charged with racketeering conspiracy, with a laundry list of individual offenses, from murder and robbery to extortion, drug trafficking, and fraud, amongst other charges. Suspects arrested also included alleged members of the Genovese and Bonnano organized crime families. Cases like these serve as a reminder that the organized crime threat is real, and should not be relegated to the annals of history.

We are also actively investigating Eurasian, Albanian, Asian, and African organized criminal syndicates.

The FBI-Hungarian National Police Organized Crime Task Force has been up and running for more than six years, working to dismantle organized crime groups, with FBI agents permanently stationed in Budapest to work with their Hungarian counterparts.

The Albanian Organized Crime Task Force in Tirana, Albania, works to reduce the threat to American and Albanian societies posed by Albanian Criminal Enterprises operating in and around Albania. This recently formed task force already has located and arrested subjects in both FBI and Albanian National Police investigations.

The FBI's Criminal Division has also assumed administrative and operational responsibility from the Office of International Operations for the Southeast European Cooperative Initiative (SECI), which is headquartered in Bucharest, Romania. SECI serves as a clearinghouse for information and intelligence for member and observer countries, as well as supporting specialized task forces addressing such transborder crimes, including human trafficking, financial crimes, smuggling of goods, terrorism, and other crimes.

Recognizing the growing threat posed by transnational criminal enterprises throughout the world, the FBI, in conjunction with the Department of Justice, has assessed the worldwide organized crime threat. This collaborative effort between the United States, Great Britain, Canada, Australia, and New Zealand will enable us to focus resources internationally in order to neutralize those organized crime groups with the greatest impact and the longest reach.

Several weeks ago, I met with the Deputy Attorney General and several heads of other law enforcement agencies, including the Drug Enforcement Administration, U.S. Immigration and Customs Enforcement, and the United States Secret Service, and others, at the Attorney General's Organized Crime Council Meeting (the Council) to discuss the international organized crime assessment and the proposed strategy to combat such crime.

We all understand that no one agency can address the threats posed by global criminal organizations. It will take the unique expertise, talents, and international relationships of every agency on the Council, working together to target, attack, and dismantle these sophisticated groups. The FBI will dedicate the resources necessary to confront this threat and seek to make it a cooperative and consolidated mission. We must also continue to strengthen our working relationships with our foreign partners, both old allies and new partners alike.

To this end, the FBI has a Special Agent and an analyst assigned to the Joint Interagency Task Force West (JIATF West) in Honolulu, Hawaii. JIATF West provides U.S. and foreign military and law enforcement partners with the intelligence necessary to detect, disrupt, and dismantle drug-related transnational threats in Asia and the Pacific. Task force members include uniformed and civilian members of all five military services, as well as representatives from the Intelligence Community and from federal law enforcement agencies, including the FBI, the Drug Enforcement Administration, Immigration and Customs Enforcement, as well as officers from the Australian Federal Police and the New Zealand National Police.

In conjunction with this effort, an FBI contractor is embedded with the Royal Thai Police in Thailand, and is assigned to a task force responsible for building a criminal intelligence center in Bangkok. This intelligence center solicits intelligence regarding foreign transnational crime suspects from a multitude of police agencies around Thailand, including Cambodia, Laos, and Burma. Intelligence collected will be entered into computers provided by JIATF West. Intelligence analysts from the FBI and from JIATF West will provide training and guidance to their Thai counterparts. The Cambodian National Police have asked to participate in this effort;

we will coordinate their participation through our newly opened Legal Attaché office in Phnom Penh, Cambodia.

Together, we can identify links between organized crime in Southeast Asia and America. We can examine the means by which criminal enterprises utilize banking systems to move and launder proceeds. We can share information and expertise on human trafficking, narcotics, and child sexual exploitation cases. And we can develop long-term investigative and intelligence strategies for dismantling criminal enterprises in Southeast Asia.

Major White Collar Crime

The FBI routinely investigates large-scale financial crimes, including corporate fraud, commodities fraud, mortgage fraud, and health care fraud. Today, there are 1,180 agents working more than 15,400 cases.

Corporate & Securities Fraud

The number of agents investigating corporate fraud, including securities, commodities, and investment fraud cases, has increased 47 percent, from 177 in 2001 to more than 250 today. We have more nearly 1,750 pending corporate fraud cases, which is an increase of 37 percent since 2001.

In recent years, the FBI has handled a number of high-profile corporate fraud investigations, including Comverse, HealthSouth, WorldCom, Qwest, Hollinger International, and others. These names have been in the headlines for the past several years. Thousands of employees lost their jobs and their life savings; thousands of stockholders were defrauded. We have successfully investigated, prosecuted, and put away the persons responsible for these crimes.

In FY 2007, the FBI obtained 587 indictments and informations, and 489 convictions. In addition, FBI investigations resulted in 30 insider trading indictments against executives from firms including Goldman Sachs Group, Inc, Morgan Stanley, Credit Suisse Group, and UBS Securities. The average loss per case is more than $100 million.

The FBI also has opened investigations to address the fraudulent backdating of options grants by company executives to realize greater profits by circumventing accounting and disclosure requirements. Recent accomplishments include the conviction of Gregory Reyes, former Chief Executive Officer of Brocade Communications Systems, Inc. – the first person to be tried for such matters.

To maximize its resources in this area, the FBI stood up the Corporate Fraud Response Team, which leverages the financial expertise of agents, analysts, and forfeiture investigators in FBI field offices across the country. This team was recently deployed to the Tampa Field Office to assist in the search of a Fortune 1000 company. Team members assisted with the collection of evidence and helped case agents determine what evidence was relevant. In just one week, 11 team members reviewed more than 600 boxes of seized documents.

We also are members of the Corporate Fraud Task Force. FBI Special Agents work closely with investigators from the Securities & Exchange Commission, the IRS, the U.S. Postal

Inspection Service, the Commodity Futures Trading Commission, and the Financial Crimes Enforcement Network, among others. Together, we target sophisticated, multi-layered fraud cases that injure the marketplace and threaten our economy. Since its inception, the Department of Justice has obtained many corporate fraud convictions, including the convictions of more than 200 chief executive officers and presidents, and more than 50 chief financial officers.

Mortgage Fraud

In recent years, the FBI has seen a dramatic increase in the number of mortgage fraud investigations. To date, the FBI has more than 1,200 pending investigations, which is a 50 percent increase over FY 2006. Roughly half of these cases have losses in excess of $1 million, and several have losses greater than $10 million.

To date, the FBI has initiated sub-prime mortgage industry corporate fraud cases, in coordination with the Securities and Exchange Commission, on the basis of allegations of accounting fraud associated with sub-prime lenders, the securitization of sub-prime loans, and corporate investment in securitized sub-prime related investment products.

We also stood up a Mortgage Fraud Working Group with the Department of Justice and several federal law enforcement and regulatory agencies. Together, we will build on existing FBI intelligence databases to identify large-scale industry insiders and criminal enterprises conducting systematic mortgage fraud.

Health Care Fraud

The FBI has also seen an increase in the number of health care fraud investigations, with nearly 2,500 cases last year ranging from durable medical equipment to mobile testing fraud. The FBI is the primary investigative agency in the fight against health care fraud, and has jurisdiction over both the federal and private insurance programs.

The FBI currently has nearly 400 agents working health care fraud cases, with 625 convictions in FY 2007 alone, and an estimated loss of more than $60 billion. One noteworthy accomplishment is the southern Florida multi-agency Medicare strike force team, which, since May 2007, has indicted 74 cases and filed charges against 120 defendants who collectively billed the Medicare program more than $400 million.

Violent Crime

National crime rates remain near historic lows, thanks in large part to the courageous efforts of local, state, and federal law enforcement agencies. Several metropolitan areas continue to report decreases in the number of violent crimes in their communities, and the FBI's preliminary Uniform Crime Report (UCR) for the first half of 2007 showed a 1.8 percent reduction in the number of violent crimes nationally. Nevertheless, it is important to remain vigilant, as we were reminded when the FBI's UCR for 2006 showed a slight increase in the aggregate number of violent crimes in America.

To quickly and properly respond to the apparent rise in violent crime in 2006, the FBI hired the IDA Science and Technology Policy Institute, a research and analysis group, to conduct

a detailed study of violent crime trends across the nation. Although the study is ongoing, initial data suggests the violent crime increase between 2004 and 2006 occurred predominantly in a group of select cities, and while this increase did not constitute a nationwide trend, it remains a concern for the FBI and our federal, state and local law enforcement partners. The second phase of this study, which is currently under way, will determine the cause of the increase in violent crime in certain communities across the country.

In fighting violent crime, as in other areas, the Department of Justice and the FBI to strive to maximize our resources through partnerships and task forces. We have increased the number of Safe Streets Task Forces to 193, with more than 1,800 federal, state, and local investigators from more than 500 law enforcement agencies. We have more than 600 Special Agents serving on these task forces – an increase of 38 percent since 2000.

Of these task forces, 141 are dedicated to violent gang activity. Forty-three task forces are dedicated to violent crime; nine are dedicated to major theft. In addition, there are 16 Safe Trails Task Forces to cover crimes committed in Indian Country, such as homicide, rape, child sexual assault, and narcotics trafficking.

We also participate in state and local fusion centers across the country. More than 250 Special Agents, analysts, and linguists work side-by-side with their state and local counterparts, collecting intelligence, analyzing criminal trends, and sharing that information up and down the line, from federal and state officials to the officer on the street.

Violent Gang Activity

We also face significant challenges with regard to violent gangs, a nationwide plague that is no longer relegated to our largest cities.

Since 2001, for example, our violent gang caseload has more than doubled. Violent gang investigations increased by 11 percent in FY 2007 alone, for a total of 2,929 cases. The number of agents working such cases has increased by 70 percent since 2001.

In FY 2007, agents and analysts working violent gang cases saw significant results, including nearly 1,900 disruptions of violent gang activity, 533 dismantlements of neighborhood gangs, nearly 1,800 informations and indictments, more than 4,900 arrests, and 1,425 convictions.

We routinely work with our state and local partners to combat this pervasive threat. As noted above, there are 141 Safe Streets Violent Gang Task Forces across the country, dedicated to identifying, prioritizing, and targeting violent gangs. The Mara Salvatrucha (MS-13) National Gang Task Force supports FBI field office investigations of the MS-13 international gang, and coordinates investigations with other local, state, federal, and international criminal justice agencies. In FY 2007, the MS-13 National Gang Task Forces had 108 pending gang cases and 24 pending 18th Street gang cases in FY 2007. Their efforts resulted in 22 informations and indictments, 265 arrests, 80 convictions, and 19 disruptions.

In addition to our task force participation, we stood up the National Gang Intelligence Center (NGIC) at FBI Headquarters to support our law enforcement partners on the front lines. The NGIC shares information and analysis concerning the growth, migration, criminal activity,

and association of gangs that pose a significant threat to communities across the United States. The NGIC is co-located with GangTECC, the National Gang Targeting, Enforcement, and Coordination Center, which is the multi-agency anti-gang task force created by the Attorney General.

In support of the President's strategy to combat criminal gangs from Central America and Mexico, the FBI has forged partnerships with anti-gang officials in El Salvador, Honduras, and Guatemala, among other countries. We are working with the U.S. Department of State and the Department of Homeland Security to support the FBI's Central American Fingerprint Exploitation (CAFE) initiative, which collects gang members' fingerprints in the above-referenced countries, allowing the United States to deny entry to the country even if they utilize aliases.

Crimes Against Children

We are also working together to combat crimes against children. The Innocence Lost Initiative, a task force that brings together federal, state, and local entities, works to identify and disrupt child prostitution rings. Since its 2003 inception, the program has been expanded to 29 cities, with 23 dedicated task forces. Through this program, more than 300 children have been recovered and/or identified and 244 child predators have been convicted.

In addition, the FBI is currently developing the Innocence Lost Child Prostitution National Database, which will comprise more than 15,000 records of victims and subjects who are engaged in the commercial sexual exploitation of children. This information will be made available to assist federal, state, and local law enforcement throughout the nation in combating this crime problem and safely recovering children.

To address the pervasive problem of child abductions, the FBI created the Child Abduction Rapid Deployment (CARD) teams. There are currently 10 teams regionally dispersed to enable the rapid deployment of experienced Crimes Against Children investigators. These agents provide investigative, technical, and resource assistance to state and local law enforcement during the most critical time period after a child is abducted. Since April 2006, the CARD teams have been deployed 26 times. Thirteen victims have been recovered alive, and all but two investigations have been resolved.

Registered Sex Offender Locator Technology (ReSOLT) was developed and implemented to support the CARD teams and other investigators in matching and monitoring each state's Sex Offender Registry with public and proprietary databases. Investigators are able to retrieve address history and information related to relatives, associates, and other background details, as well as data concerning parks, schools, libraries, and other local establishments pertinent to sex offenders in the area of an abduction or mysterious disappearance of a child.

These many accomplishments in our criminal programs reflect the fact that we are doing more with less, and achieving strong results.

International Scope and Operations

I want to turn for a moment to the FBI's international operations.

In today's "flat world," our role cannot be limited to the domestic front. Just as there are no borders for crime and terrorism, there can be no borders for justice and the rule of law.

To respond to this new threat landscape, the FBI must be an international law enforcement and intelligence agency. We must create new partnerships and solidify old friendships with our counterparts around the world. Twenty years ago, the idea of regularly communicating with our law enforcement and intelligence counterparts around the world was as foreign as the Internet or the mobile phone. Today, advances in technology, travel, and communication have broken down walls between countries, continents, and individuals.

To that end, we have strengthened our relationships with our international law enforcement partners, and we have expanded our global reach, through our Office of International Operations (OIO). OIO has aggressively pursued expanding the Legal Attaché program to those areas prone to criminal and terrorist related activities.

The FBI now has Legal Attaché offices – called Legats – in more than 70 cities around the world, providing coverage in more than 200 countries. These Legats are the FBI's first responders on the global front, from assisting our British counterparts in the London bombings to finding the man responsible for the attempted assassination of President Bush in Tbilisi, Georgia. We train together; we work hand-in-hand on multinational task forces and investigations. We have assisted counterterrorism investigations from Saudi Arabia to Spain, and from Britain to Bali.

During FY 2007, the FBI opened Legats in Dakar, Senegal; Phnom Penh, Cambodia; and San Salvador, El Salvador. We opened sub-offices in Cape Town, South Africa; and Sydney, Australia. Our Legats passed more than 35,000 intelligence disseminations to foreign governments. They provided more than 3,600 instances of investigative support, and trained more than 865 foreign partners.

Together we are identifying people and groups that provide financial support to terrorists. We are collaborating closely with our counterparts in Russia, Eastern Europe, and Asia to combat global nuclear terrorism. We are working with the Italian National Police and the Hungarian National Police to investigate organized criminal syndicates that continue to immigrate to the United States. We are working with our foreign counterparts to cut off the proliferation of child pornography on the Internet. These international partnerships remain vital to our collective security.

III. Long-Term Strategy: Information Technology, Human Capital, and Intelligence Operations

These many accomplishments are supported by changes in structure and operation, many of which were based upon your recommendations. Yet we are also reshaping our internal organization to best support terrorist and criminal investigations, particularly in three areas: information technology, human resources, and the structure of our intelligence program.

Information Technology

For example, we have continued to upgrade our information technology systems, including new and improved case management and analytic tools, systems to facilitate information sharing, and automation to streamline business processes. Although the FBI's information technology systems have presented some of our greatest challenges, they have also resulted in some of our most significant improvements in the past six years.

Sentinel

Phase 1 of the Sentinel program was deployed Bureau-wide on June 15, 2007, providing a user-friendly, web-based interface to access information currently in the FBI's Automated Case Support (ACS) system. Information now is pushed to users and is available through hyperlinks, putting more information at their fingertips and moving employees away from dependence on paper-based files.

We are currently working with Lockheed Martin, the prime contractor, to plan the development and deployment of the next set of Sentinel capabilities. With Phase 1, we set the foundation for the entire enterprise. Phase 2 will add additional capabilities, such as electronic forms and electronic workflow, where agents and analysts can send cases and leads to supervisors for review, comment, and approval. Phase 2 is scheduled to be implemented in July 2009, with the final four-phases scheduled to conclude in May 2010.

Blackberry Deployment

Also in June 2007, we awarded a contract to Verizon Wireless to support a nationwide, enterprise-wide deployment of roughly 20,000 Blackberry devices to personnel at FBI Headquarters and field offices. This deployment commenced in August 2007, with much of FBI Headquarters and 53 of 56 FBI Field Offices complete. Blackberries are scheduled to be deployed to the remaining three Field Offices – Anchorage, San Juan, and Oklahoma City – in March 2008. We will then commence deployment to our Legal Attaché Offices, and to our Criminal Justice Information Services facility in West Virginia.

National Finance Center

To improve administrative business processes, we completed a successful migration of FBI payroll services to the National Finance Center, improving efficiency through various employee self-service functions. We also replaced the FBI's paper-based time and attendance system with a commercial off-the-shelf product giving employees an online, web-based system to record their time and attendance data.

These are just a few highlights of the many advancements we have made in our information technology structure.

Human Capital

Information technology is integral to our success, but people are the lifeblood of the Bureau. The FBI is a large organization with a global workforce and diverse needs. We are

focused on creating a full-service human resources capability that maximizes our efforts to attract the most talented people, promote personal development, and develop outstanding leadership abilities. In other words, we are focused on a "cradle to grave" human resources outlook, from recruiting to retirement.

Training Initiatives

The FBI's Training and Development Division has made significant improvements in curriculum across all programs. They have introduced a new intelligence training program, expanded leadership, sabbatical, joint duty, and advanced degree programs, developed a Special Agent Career Path program, and are working with the Directorate of Intelligence to create an Intelligence Career Service career path.

During the past three years, the FBI's New Agent Training Program has undergone radical and progressive change to ensure that all new agents are equipped to deal with today's investigative and intelligence challenges.

In April 2008, the FBI will launch a revised 20-week New Agents Training Program that will be intelligence driven. The new program will incorporate more than 150 hours of additional training in practical exercises in national security and cyber matters, including 50 additional hours in counterterrorism and 60 hours in intelligence.

In addition, we have created an entirely new 10-week basic intelligence course for analysts, including 30 hours of joint training with New Agent trainees. Sixteen intermediate and advanced intelligence courses are in development. We will continue to develop new courses and enhanced training opportunities in the years to come.

Career Paths

We have implemented a process by which all New Agents trainees at Quantico are designated into a career path before they report to their first field office. The five career paths are counterterrorism, counterintelligence, criminal, cyber, and intelligence. Within the next six months, we anticipate that all incoming Special Agents will be pre-designated to one of five career paths at the time they are offered a position with the FBI, prior to reporting to Quantico for training.

We are also in the process of designating current agents into specialized career paths. To date, more than 9,100 on-board agents have been designated into a particular career path. Career paths are also under development for more than 3,840 professional support employees, to include intelligence personnel, IT specialists, and security professionals.

Office of Integrity and Compliance

Finally, we have established an Integrity and Compliance Program and an Office of Integrity and Compliance (OIC) to implement that program. Notice of the resulting reprogramming has been submitted to Congress, with the concurrence of the Office of Management and Budget.

While many large corporations have compliance programs, few – if any –government agencies have analogous department-wide programs. Given the complex nature of the FBI's mission, as well as the number of rules, guidelines, and laws to which we are subject, we thought that now was an opportune time to start such a program. In developing our proposal, we welcomed the input of the Privacy and Civil Liberties Oversight Board, external privacy and civil liberties groups, and the private sector.

The OIC will develop, implement, and oversee a program that ensures there are processes and programs in place that promote FBI compliance with both the letter and the spirit of all applicable laws, regulations, rules, and policies. Through this program, we will cultivate an environment committed to these principles and assist FBI management at all levels to maintain a culture where ethics and compliance are paramount considerations in decision making.

The OIC will be headed by an Assistant Director who will report directly to the FBI's Deputy Director, providing direct access to the top decision makers within the FBI. The OIC will not target investigative problems and rule violations, but will assess potential risks of non-compliance in all operations, programs, and divisions of the FBI, and take action to mitigate those risks. FBI Executive Assistant Directors meet quarterly with OIC staff to assess potential risks within their divisions. Together, we will ensure that we have the control mechanisms in place – through policies, procedures, and training – to mitigate potential risks.

These comprehensive oversight and compliance programs will ensure that national security investigations are conducted in a manner consistent with our laws, regulations, and policies, including those designed to protect the privacy interests and civil liberties of American citizens. The FBI will do all that it can to uphold core values of integrity and accountability in order to maintain public trust and confidence.

Strategic Execution Team: Improvement of FBI's Intelligence Program

The President's Foreign Intelligence Advisory Board (PFIAB) has examined our efforts to enhance our Intelligence Program and has recommended ways to accelerate our efforts. At the urging of the PFIAB, we in the FBI began working with the consulting firm of McKinsey and Company. We have identified a number of areas where we need to accelerate our progress.

To that end, we have created a Strategic Execution Team (SET) of field and headquarters personnel to help drive implementation of needed changes across the organization. The SET team includes approximately 90 agents, analysts, and other professional staff, from FBI Headquarters and roughly 27 field offices. This team has focused its initial efforts on three critical areas: intelligence operations, human capital, and program management.

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

All FIGs will include a centralized strategic coordinating component. This will include a Chief Reports Officer who will be accountable for ensuring that field office intelligence production is timely, of high quality, and relevant to the requirements of our customers. It will include a Domain Manager who will work with investigative squads across all programs to construct a comprehensive operational picture of the field office territory, including its critical infrastructure, threats, and vulnerabilities. This component also will include personnel who will create a consolidated, prioritized list of the intelligence requirements the office must address, and produce collection plans and strategies.

To enhance our collection capabilities, we are taking a two-pronged approach. First, we must ensure we are taking full advantage of our current collection capabilities in terms of what we know through our case work, and what we could know if we asked our existing source base the right questions. Tactical analysts will work with investigative squads, in all program areas, to ensure that collection plans are executed, and to help squads identify opportunities to address the intelligence requirements of the office.

Second, to the extent we cannot develop a complete picture of a threat through our case investigations, the FIG will include a team of specially trained agents who will collect intelligence to meet requirements, conduct liaison with local partners, and focus on source development. The FBI is working with the Department of Justice to establish new guidelines to enhance and improve the administration and operation of the FBI's Human Source Program. The goals are to streamline, consolidate, and update all human source guidelines.

In terms of human capital, the SET has refined the Intelligence Analyst career path, including training, experiences, and roles that are required to develop a cadre of well-rounded and highly proficient analysts. The SET also established core intelligence tasks for all Special Agents, further defined the Special Agent intelligence career path, and tailored individual development plans for all agents. Finally, the SET developed and held recruiting events at select universities to hire additional intelligence analysts with targeted skill sets. We received hundreds of applications as a result of this effort.

* * *

We in the FBI are mandated by the President, Congress, the Attorney General, and the Director of National Intelligence to protect national security. For nearly 100 years, the FBI has used intelligence to solve cases; today, however, we rely on our agents and analysts working hand-in-hand with colleagues across the country and around the world to collect intelligence on multiple, interrelated issues. With the authority and guidance provided by the Intelligence Reform and Terrorism Prevention Act and other directives and recommendations, the FBI has implemented significant changes to enhance our ability to counter the most critical threats to our security.

Today, we are building on our legacy and our capabilities as we focus on our top priority: preventing another terrorist attack. It is indeed a time of change in the FBI, but our values can never change. We must continue to protect the security of our nation while upholding the civil rights guaranteed by the Constitution to every United States citizen.

When I speak to Special Agents upon their graduation from the FBI Academy, I remind each one that it is not enough to prevent foreign countries from stealing our secrets – we must prevent that from happening while still upholding the rule of law. It is not enough to stop the terrorist – we must stop him while maintaining civil liberties. It is not enough to catch the criminal – we must catch him while respecting his civil rights. The rule of law, civil liberties, and civil rights – these are not our burdens; they are what make us better.

Mr. Chairman, I would like to conclude by thanking you and this Committee for your service and your support. Many of the accomplishments we have realized during the past six years are in part due to your efforts. From addressing the growing gang problem to creating additional Legal Attaché offices around the world, to compensating our personnel, and, most importantly, to protecting the American people from terrorist attack, you have supported our efforts and our budget requests.

On behalf of the men and women of the FBI, I look forward to working with you in the years to come as we continue to develop the capabilities we need to defeat the threats of the future.

# # #

Mr. CONYERS. Thank you very much, Director Mueller.

The thing that bothers many of us most is the National Security Letters, a very large embarrassment to all of us.

What can we do to ensure that the field office directors share a commitment to rectifying the problems pertaining to the abuse of National Security Letters when it seems like at the top we always seem to work out agreements but they don't seem to drift down to the men and women in the field?

Mr. MUELLER. Well, let me review, if I could, what steps we have been taking since the first report came out a year, 1½ years ago. As I mentioned in my remarks, we established an Office of Integrity and Compliance.

We had procedures in place for addressing National Security Letters, but there were lapses throughout the country in those procedures.

We now have an Office of Integrity of Compliance that looks not just at NSLs but other requirements under the law, that red-teams it to assure that we identify the risks and find and identify and fix those risks before it gets—before somebody else, such as the Inspector General, comes and looks at it, so that we can identify our vulnerabilities and address them early on.

We have created new database and software for accurate reporting to Congress on the numbers of NSLs and the types of NSLs.

All of our National Security Letters are now reviewed by the counsel in each one of our offices.

We have barred the use of exigent letters, which created the problem that was found by the Inspector General.

And we have provided comprehensive guidance and training to our field offices in the last year.

I believe that in the testimony that was given before a Subcommittee of this Committee a week or so ago—and I will quote from the testimony given by Glenn Fine.

He says that, "We believe the FBI has evidenced a commitment to correcting the serious problems we found in our first report on National Security Letters and has made significant progress in addressing the need to improve compliance in the FBI's use of the NSLs."

Now, I will be quick to say he also said that the department's measures are not yet fully implemented—we are in the process of implementing all of those that I described—and that the I.G. will be looking to assure full implementation of those measures.

So in this case, I think we have taken the steps that are necessary to assure that this will not happen again, Mr. Chairman.

Mr. CONYERS. What about the Congressman Renzi, Congressman Jefferson intrusions, wiretap of Renzi's phone with other Members of Congress' conversations, and Congressman Jefferson's office being broken into?

Mr. MUELLER. Well, I would start with Congressman Jefferson's office. The search that was conducted of his office was done pursuant to a court order. The full facts were exposed to the district court judge. The judge issued the search warrant understanding all of the facts, and the search was done pursuant to that court order.

Now, that was reviewed by the circuit court, who in its opinion indicated that the protocols we followed were not adequate to preserve the privilege.

And so we are, with the Department of Justice, looking at protocols, and my understanding is the department is discussing with elements of the Congress appropriate protocols.

Mr. CONYERS. I see. Well, can every Member of the Congress and the United States Senate assume that we could still get broken into like Jefferson until this is resolved?

Mr. MUELLER. Well, Mr. Chairman, let me first say that I do not agree with the characterization as "broken into." This was a validly issued search warrant from a court, so it was the execution of a search warrant.

And in the future——

Mr. CONYERS. Well, okay. So your answer is yes, we can expect that we could get busted, too.

Mr. MUELLER. We understand that there has been an intervening circuit court opinion that requires us to follow protocols, although it is not clear what those protocols are, but we are very sensitive to not only the debate clause but also to the circuit court opinion that said that we did not have the adequate protocols in place.

Now, what those protocols will be is a subject of discussion between, my understanding, Congress and the department.

Mr. CONYERS. Well, I am glad you are sensitive. We are, too.

Mr. MUELLER. Also, with regard to the other question you asked in terms of the wire interception of a phone with regard to a recent investigation, this was an interception that was approved by a court, and it was an interception on a phone that was registered to a company in Phoenix, Arizona.

And while not being able to speak specifically about an ongoing investigation, an ongoing prosecution, I can say that that phone was a phone that was registered to a corporation in Phoenix, Arizona.

And that in order for us to intercept, we, again, have to go to a court, make a probable cause showing, and that any interception that is maintained by us is reviewed by the court generally every 10 days or 15 days, and there are minimization procedures that are——

Mr. CONYERS. What about the other congressmen, if there were any others, whose conversations were intercepted?

Mr. MUELLER. Well, when one does a wiretap, there is a statutory obligation to inform persons who may have been overheard. Although they may not be the target of the interception, there is an obligation that you notify those persons that they were overheard.

Mr. CONYERS. And has that occurred?

Mr. MUELLER. Yes.

Mr. CONYERS. Could you make me sleep more comfortably tonight by saying that also the conversations were redacted, were taken out, since the speech and debate clause, I presume, operates on personal telephones as well as government telephones?

Mr. MUELLER. Well, I am not certain what minimization procedures were in place, and I am not sure how they were applied in

that particular case. And even if I did know, because it is currently in litigation, I probably would not be able to discuss it in this forum.

Mr. CONYERS. But it is the obligation of the FBI to know. I mean, where do—do you have someplace else we can go to find out the answer to this question?

Mr. MUELLER. I would have to get back to you on that.

Mr. CONYERS. Okay.

Lamar Smith?

Mr. SMITH. Thank you, Mr. Chairman.

First of all, Director Mueller, I would like to congratulate you and other law enforcement agencies and other information-gathering agencies as well for what you have done to prevent another terrorist attack since September 11, 2001.

It looks like to me that you all are batting 1,000, having prevented any other terrorist attack, and I hope that that can continue as well.

My first question goes to a recent report by Fox News, and I would like to read you the beginning of the report and ask you to comment to the extent that you can. "The FBI has narrowed its focus to about four suspects in the 6½-year investigation of the deadly anthrax attacks of 2001, and at least three of those suspects are linked to the Army's bioweapons research facility at Fort Detrick in Maryland."

Now, that is an ongoing investigation, so I know you can't go into any detail, but can you tell us, for example, when that investigation might be concluded, whether it might be this year or not, or anything else you can tell us about it?

Mr. MUELLER. What I can say, and all I can say, about it—it is an ongoing investigation. We have a number of agents and postal inspectors assigned to it, as we have since the incident occurred back in 2001 and 2002. And we continue to push the investigation hard.

I cannot give you a time frame, however.

Mr. SMITH. Okay. I understand. Let me go to the subject of violent crime, which, as you know, has decreased slightly in 2007. I think violent crime is down 1.8 percent.

You mentioned in your testimony a few minutes ago that one of those reasons are the task forces that have been created. Usually in a slow economy, violent crime increases. To what do you attribute the slight decrease in violent crime that we see across the country?

Mr. MUELLER. I think what we have seen over the last year is some spikes in some cities, some decrease in other cities.

I do believe one of the most effective tools in addressing violent crime is having Federal, State and local task forces, and support of Congress of those task forces and of the participation of State and local law enforcement on those task forces.

We currently have a total of 182 violent gang crime task forces around the country, and I think to a one they are perceived to be effective not only by the Bureau and our other Federal partners, but also by State and local law enforcement.

And to the extent that funding has come through from the Federal side of the house, I am tremendously supportive of those funds

going to State and local law enforcement on condition that they be utilized in the task force arena, because I do believe we are most effective when we sit shoulder to shoulder and address these areas together, whether it be on joint terrorism task forces or on violent crime task forces.

I might also add, there are a number of factors that go into the rise or fall of violent crime in a particular region or a particular city. The extent of incarceration is one of those factors—drug abuse or usage, the prevalence of gangs.

There are a number of various factors that may result in a rise of violent crime in one community, whereas a community several miles down the road does not see the same type of spike.

Mr. SMITH. Okay. Thank you, Director.

One type of crime that unfortunately is on the rise is Internet child pornography, and we have passed a number of laws to address that, and I wonder if you have any suggestions for us as to any other legislation that might be helpful to you in order to prosecute the Internet child pornography.

Mr. MUELLER. A couple things about our capabilities in that regard. We currently have approximately 270 agents who are working what we call Innocent Images. We have a task force operating out of Maryland which is an international task force in which we have had agents from some 21 countries who are participating on this task force.

We recently had a takedown several months ago of almost 60 individuals who, over a period of 15 years, had over 400,000 images, pornographic images, child pornography, that they had encrypted and thought they were safe from the authorities.

And I think close to 60 persons were arrested in the United Kingdom, in Australia, in Germany and the United States as we busted that up.

I know the question that you asked at the end is what do you need or what will we need to be more——

Mr. SMITH. Are current laws adequate, or do we need to do more, correct?

Mr. MUELLER. And in each of these cases it is important that we have access to the records, and records retention by ISPs would be tremendously helpful in giving us the historical basis to make a case in a number of these child predators who utilize the Internet to either push their pornography or to lure persons in order to met them.

Mr. SMITH. Okay. Thank you, Director. That is helpful. I think a number of us may well follow up on that suggestion. The ability to retain those records sounds to me like it is crucial. Thank you.

Thank you, Mr. Chairman.

Mr. CONYERS. Crime Subcommittee Chairman Bobby Scott?

Mr. SCOTT. Thank you, Mr. Chairman.

And thank you to Director Mueller for being with us today. At our last meeting, we discussed the needs of the FBI in the area of linguistics, and you mentioned that you can get a breakdown of the needs of the FBI in this area—linguistics, languages.

And I do not think I formally asked for the breakdown, but could you give us some information on which languages you may have shortfalls in?

Mr. MUELLER. Well, we still have a shortfall——

Mr. SCOTT. And if you don't have it with you——

Mr. MUELLER [continuing]. In terms of Middle Eastern languages and Asian languages. I would say in those two areas——

Mr. SCOTT. I serve on the Education and Labor Committee, so if we could get a breakdown of that, and also the diversity numbers for all of your employees—I would appreciate it if you could provide that for us.

Mr. MUELLER. Happy to do that. Happy to do that.

Mr. SCOTT. Okay. What is being done with the allegations of sexual assault committed by persons working for contractors in Iraq. Are allegations of sexual assault by persons working as contractors in Iraq being investigated and, if appropriate, prosecuted?

Mr. MUELLER. I know we have a number of investigations going with regard to activities in Iraq. Ultimately, we are constrained in two areas.

The first area is by conducting investigations in an area where you can't assure the safety of our persons, you can't go out and interview witnesses as you would on the streets of the United States——

Mr. SCOTT. Well, let me just ask a shorter question. Are we doing the best we can to investigate and, if appropriate, prosecute those allegations?

Mr. MUELLER. Yes.

Mr. SCOTT. Okay. In the area of torture—I know these questions may require—you may not be able to answer in open session, and if that is the case, that is just the case.

Have you authorized torture by any FBI agents?

Mr. MUELLER. Can I or have I was the question?

Mr. SCOTT. Have you?

Mr. MUELLER. No. It has been our policy—it has been the protocol of the FBI traditionally not to use coercion in interrogating individuals or questioning individuals, and we have adhered to that protocol.

Mr. SCOTT. Okay. Now, apparently your agents have been trained appropriately along those lines, but to your knowledge, have FBI agents warned other Administration employees that those employees may be breaking the law by torturing people?

Mr. MUELLER. There have, over the years, been occasions where our employees have informed employees of other agencies that they believed their conduct was not appropriate.

Mr. SCOTT. Have any FBI arrests of U.S. citizens been made for torturing people?

Mr. MUELLER. I would have to get back to you. I do believe that there have been investigations, formal investigations, of torture by either contractors or members of another organization in which we are the investigating body.

And my belief is that in at least one case that has been brought back and the person successfully prosecuted here. I think it was in North Carolina. It may have been South Carolina.

Mr. SCOTT. Thank you. On I.D. theft, one of the problems when you have these major breaches in security and subsequent loss of identifying information is the fact that I.D. theft seems to be a crime that is rarely investigated and prosecuted.

What can we do to ensure that even run-of-the-mill I.D. thieves will be pursued?

Mr. MUELLER. Well, we pursue the larger breaches. The ability of hackers to steal information has grown exponentially over the last several years.

The Department of Justice has a task force concept in which we participate in which most, if not all, of the U.S. attorneys have come together with State and local law enforcement as well as ourselves participating to address identity theft.

But it is a substantial problem, a huge problem, and it takes tremendous resources—it would take tremendous resources to address every one of them. We have picked those that are the large intrusions, where there are substantial numbers and names that are stolen, and pursued those. That we do.

Mr. SCOTT. If you could get us some estimates of resources that would be needed to pursue even more cases, we would appreciate it.

Public reports reveal that the FBI had some phones cut off because of failure to pay phone bills. Is that true? And if so, what happened?

Mr. MUELLER. We did not have a financial system that assured throughout our 56 field offices, 400 resident agencies, that the phone bills were paid on time. There were five instances going back to 2002 in which apparently—where we had an interception. It was for a period of time disrupted until the bill had been paid.

We have focused on two. I think they were in 2002. Absolutely no harm came to the investigations, so that is as a result of the I.G. report that we—which identified five instances in which that may have happened.

Mr. SCOTT. Mr. Chairman, I know my time has expired. I would like to pose another question that I could get an answer in writing, since my time has expired, if that would be appropriate.

And the question is what is the FBI doing to combat human trafficking? You mentioned that in your opening statement—especially whether or not you are using our new legislation, which removed the necessity to prove force, fraud and coercion in the cases.

I know my time has expired. If you could get that information to us, we would appreciate it.

Mr. MUELLER. We will do it, sir.

Mr. SCOTT. Thank you.

Mr. CONYERS. The Chairman of the Judiciary Committee emeritus, Jim Sensenbrenner?

Mr. SENSENBRENNER. Thank you very much, Mr. Current Chairman.

During my 6 years as Chairman, Mr. Director, the FBI continuously frustrated the Committee's attempt to get to the bottom of the fiasco of the Virtual Case File.

How much money was wasted in that before you gave up on it?

Mr. MUELLER. Well, sir, we had tried to be fully transparent at what happened there. I had to make the decision to cut that loose because it was not going to be successful, and I believe we provided thorough briefings throughout the time that you were the Chair. I certainly tried to.

Mr. SENSENBRENNER. I want to know how much money was wasted.

Mr. MUELLER. There was, I believe, a lot of——

Mr. SENSENBRENNER. There was a lot of briefings but no figure.

Mr. MUELLER. I believe that there was $197 million that was put into that program, of which we could recover somewhere under $100 million of that, so at least $97 million, probably more, more likely $100 million.

Mr. SENSENBRENNER. Okay. Has that money been recovered yet?

Mr. MUELLER. No.

Mr. SENSENBRENNER. Why not?

Mr. MUELLER. There are a number of intervening entities that were, in part, responsible for that. And the advice of counsel is that we would not be successful if we attempted to go to court and recover it.

Mr. SENSENBRENNER. Okay. Now, this goes to an endemic management problem. The gentleman from Virginia, Mr. Scott, referred to the fact that there were phones shut off because the phone bill wasn't paid on time.

You know, now we hear about the fact that almost $200 million appears to have been lost in an unsuccessful attempt at the Virtual Case File. You and I both know that that was not the first attempt to provide the best information to agents available.

And we are now in the middle of implementing the Sentinel program, which I believe is the fourth attempt to do this. What is there that you can tell us that the fourth attempt is going to be more successful than the previous three?

Mr. MUELLER. Well, I am not familiar with the first two. I am very familiar with Virtual Case File, because that contract was entered in, I think, 2000, and it had a three-prong approach. It had the hardware. It also had the networks. And it had the software package.

Two of those prongs were very successful, the networks and the hardware. But the software package was not successful. When we decided that we could not effectively bring online Virtual Case File, we decided to cut our losses and start Sentinel.

The first phase of Sentinel was put in place June of last year. It was successful. It was on time, on budget. We are in the second phase. And my expectation is that that will be on time and on budget.

We have gone to a spiral development in which we have pieces that are pulled together and put in place as opposed to going phase by phase by phase, so we are advancing the capabilities in the course of administering this contract.

Mr. SENSENBRENNER. Now, what management techniques have you learned from the fact that the Virtual Case File effort went off the cliff and the taxpayers got stuck with a pretty significant bill that you are applying to make sure that this doesn't happen with Sentinel?

Mr. MUELLER. There are probably three things, I would say. One is you need a chief intelligence officer infrastructure. You need an architecture. You need the persons capable of managing contracts such as this. You need the expertise. We had none of that in 2001.

We have built a substantial chief intelligence officer capability and contract management capability.

Secondly, one of the lessons I learned is that you cannot just turn to the experts in technology and say, "Build something."

What you need is a combination of those who are familiar with the business practices to be integrated with the technicians to assure that what you are going to build will actually work and actually will move the organization ahead.

And you have to do it in a combination of setting down firm requirements so that both you and the contractors know what you are going to build to——

Mr. SENSENBRENNER. And are those requirements in place?

Mr. MUELLER. Yes.

Mr. SENSENBRENNER. Okay.

Mr. MUELLER. Yes.

Mr. SENSENBRENNER. And how often do you personally review whether things are on track?

Mr. MUELLER. Every week, generally. Now, I will miss a week or two, but I generally meet on Sentinel with all of the players once a week.

Mr. SENSENBRENNER. Okay. That sounds good, and I wish you good luck. And I hope that we don't see you back here with a report like the Virtual Case File reports that we got during my chairmanship.

I thank the Chairman.

Mr. CONYERS. The Chair recognizes the distinguished gentleman from North Carolina, Mel Watt.

Mr. WATT. Thank you, Mr. Chairman.

Mr. Director, would you agree that it is a violation of international law to render any person to a secret detention without a trial?

Mr. MUELLER. I would have to—I have not looked at international law and have not had an opportunity to apply the law to any particular set of facts.

Mr. WATT. Well, I am not asking you to apply it to any set of facts. I am just asking you to acknowledge that the rendition of a person to secret detention without a trial is a violation of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, the Universal Declaration of Human Rights, the International Convention of Civil and Political Rights, the Geneva Convention?

So I mean, that is not a trick question. I am just asking——

Mr. MUELLER. Well, I am not familiar with——

Mr. WATT [continuing]. Do you acknowledge that that is a violation of international law?

Mr. MUELLER. It may well be.

Mr. WATT. Okay. Do you acknowledge that if the captives were tortured that it would be a violation of Federal law, 18 USC section 2340?

Mr. MUELLER. It may well be.

Mr. WATT. And if you had a contractor in North Carolina, for example, assisting with transporting people, rendering people, out of the country, what would the FBI be doing about that if they knew about it?

Mr. MUELLER. Sir, if there were an allegation of a violation of the Federal law, we presumably would be participating in that investigation.

Mr. WATT. Are you aware that the North Carolina Attorney General has referred such a matter to you about a company called Aero Contractors in North Carolina?

Mr. MUELLER. I am not. I would have to get back to you about that investigation.

Mr. WATT. Okay. Well, what I would like to know is what you all know about—what the FBI's involvement with this investigation is. The Attorney General of North Carolina has notified 22 State legislators that the matter was referred to the FBI.

And apparently a public prosecutor in Munich, Germany has issued arrest warrants for three of the company's employees, all of whom are residents of North Carolina. I would like to know what the FBI is doing in this investigation, whether it is doing anything, and I would be happy to have it in writing.

In fact, it would be better to have it in writing. We maybe don't need to discuss it in a public venue. But I would like to know what is going on with that investigation, if there is an investigation, what the status of it is, whatever you can legitimately tell me without violating whatever constraints you have.

Mr. MUELLER. I am not personally familiar with the investigation. I will have to get back to you on the——

Mr. WATT. Okay. Will you do that?

Mr. MUELLER. We will do so, yes, sir.

Mr. WATT. Okay. Aero, A-E-R-O, Contractors, Johnston County, operating out of the Johnston County Airport near Smithfield, North Carolina.

Mr. MUELLER. Okay.

Mr. WATT. Okay. Now, there was an allegation that—actually, I guess you all have acknowledged that a National Security Letter was inappropriately issued with reference to a North Carolina state university student. Are you familiar with that?

Mr. MUELLER. Yes. It was inappropriately issued.

Mr. WATT. Tell me what happened and why it happened.

Mr. MUELLER. What I understand is that an agent believed that NSL was the appropriate vehicle and served an NSL on the particular university. I can't remember which one it was.

The counsel for the university indicated that it was inappropriately issued, and I believe a grand jury subpoena followed up.

Mr. WATT. So that was one of how many cases where NSLs were inappropriately issued?

Mr. MUELLER. I am not certain. I would have to get back to you on that.

Mr. WATT. Okay. Can you specifically get back to us on that, too?

Mr. MUELLER. Yes. We did a 10 percent audit of our offices. Ten percent of the NSLs had been issued during a period of time after this came to light, and I can, I believe, get you the facts on how many NSLs may have been inappropriately issued in that same category.

Mr. WATT. How soon do you think we might expect the specific responses to both of those issues, the Aero——

Mr. MUELLER. Within a week.

Mr. WATT. Okay, thank you. I appreciate it.

Mr. Chairman, I yield back.

Mr. CONYERS. Thank you.

The distinguished Ranking Member of the Intellectual Property Subcommittee, the gentleman from North Carolina, Howard Coble?

Mr. COBLE. Thank you, Mr. Chairman.

Director Mueller, good to have you on the Hill today, and thank you for your service. I would like to talk to you, Director, about mortgage fraud and intellectual property.

I feel strongly that the growing crisis in subprime mortgages is a result of a predatory lending epidemic which seems to have reached about every portion of the country.

What is the FBI's role in investigating mortgage fraud? And do you all have the resources and support from other law enforcement agencies to effectively pursue these cases as they continue to emerge?

Mr. MUELLER. As I indicated in my remarks, we have more than 1,300 cases that have grown substantially over the last couple of years involving mortgages. We have 246 agents that are working on this.

Approximately 160 are looking at brokers, appraisers, buyers, lenders and the like. We have another almost 90 that are looking at larger corporations, the possibility of misstatements and the like. We have 19 relatively large cases in this category.

We are participating in 33 task forces. And last year, we had over 370 indictments in this class of white-collar crime.

But it is fair to say that as these mortgage cases grow, as the investigations proceed, that we are going to need additional resources to address this problem and to bring to justice those who are responsible for fraudulent activities in the subprime mortgage arena.

Mr. COBLE. And you know, Director, lenders and borrowers, probably both, are at fault in this case. If a borrower knows that he or she is not going to be able to comply, perhaps backing off would be in order, and then the same thing would apply to the lenders, I would say. Do you concur with that?

Mr. MUELLER. Well, all the way up the chain there have been—may well have been misrepresentations or allowable misrepresentations, and we would investigate through it.

We have to pick, quite obviously, those cases that have the most impact and bringing to justice those most responsible for the defalcations that may have occurred in this——

Mr. COBLE. Mr. Mueller, put on your intellectual property hat, if you will.

Mr. MUELLER. Yes, sir.

Mr. COBLE. Given the extent of I.P. criminal activity and the FBI's own acknowledgment that no FBI field special agents are assigned full-time to the investigation and pursuit of intellectual property rights matters, do you concur that we need more agents dedicated to anticounterfeiting and piracy investigations, A?

And B, are our international field offices adequately equipped to assist in these investigations?

Mr. MUELLER. Well, worldwide, with the advance of technology, the ability of persons to counterfeit, whether it be CD-ROMs, or

software packages, or music CDs, or pull it off the Internet, it is a burgeoning problem, and no one agency has the resources to address it.

Now, we address it when they are relatively large cases. I am sure you are familiar with a case that we brought down several months ago involving a joint operation with China, People's Republic of China.

But we take the largest cases, but quite obviously, with more resources, we could do more.

Mr. COBLE. I thank you, Mr. Mueller. Thank you for your service.

Mr. Chairman, I yield back my time.

Mr. CONYERS. Thank you very much.

The distinguished gentlelady from California, Maxine Waters?

Ms. WATERS. Thank you very much, Mr. Chairman.

Thank you, Mr. Mueller, for being here today. I want to follow up on the questions about the mortgage subprime crisis that we have now.

This has been going on for quite some time, and it appears, just looking, that less than 10 fair lending cases have been filed between 2002 and 2007. Could you tell us exactly what you are doing now? How many cases do you have under active investigation?

Mr. MUELLER. Over 1,300. In fact, the latest total, to be specific, is 1,337.

Ms. WATERS. Have you identified any of the institutions that have been involved in serious fraud?

Mr. MUELLER. We have investigations into 19 large institutions. We have had a number of indictments, as I said. Last year, we had 320 (sic) indictments or informations in this arena.

Ms. WATERS. You had how many indictments?

Mr. MUELLER. Three hundred and seventy.

Ms. WATERS. For mortgage fraud?

Mr. MUELLER. For mortgage fraud.

Ms. WATERS. Could we get more information on that?

Mr. MUELLER. Yes, you can. We will get that to you.

Ms. WATERS. Go ahead.

Mr. MUELLER. Well, as I said, we have over 1,300 cases. We have a total of almost—we have got 246 agents working on mortgage fraud around the country. We participate in 33 task forces with the Securities and Exchange Commission, with other Federal, State and local entities.

The Department of Justice has a coordinating committee that is specifically addressed to issues relating to the subprime mortgage arena. And so a great deal is being done there, but I will say that the cases are growing each year.

Ms. WATERS. Have you made the indictments public?

Mr. MUELLER. Yes.

Ms. WATERS. Is that public information?

Mr. MUELLER. It should be, yes. There may be one or two in there that are still sealed, but I would venture to say that most of them are public. We can get you a list of them.

Ms. WATERS. Would you please get me a list of those? Because we have not seen—I have not seen that, and the public is, you know, very, very upset about the fact that we don't appear to be

doing anything to deal with this massive fraud that has taken place in this country, so we need to understand exactly what you are doing.

Having said that, let me go on to gang violence. You have all of these task forces. This gang problem has been going on for many, many years. I know you have only been here for so many years.

But it doesn't appear that you are successful in breaking up gangs and stopping violence in the greater Los Angeles area. It is rampant.

What are you going to do about gang violence? And how are you going to tackle this issue to get some real success?

Mr. MUELLER. I think if you talked to Bill Bratton and others in Los Angeles, you will see that we have a very close partnership with their office and——

Ms. WATERS. No, no, no. I don't have to talk to Mr. Bratton. I am witnessing the drive-by shootings and the killings that are going on. I know what Bratton is doing. I don't have to talk to him. I want to know what you are doing.

Mr. MUELLER. Well, we are working very closely with Bratton, Bill Bratton, and the LAPD, and the sheriff's office on task forces. Also, given the prevalence of the 18th Street Gang, the MS-13, we have entities not only in Los Angeles but in El Salvador.

We have a task force down in El Salvador. We have LAPD officers that are working on it. We are bringing El Salvador officers up to Los Angeles.

We have in the countries that—where you have MS-13 prevalent, whether it be Guatemala, El Salvador, Honduras, Mexico, we are working with them to put in place fingerprint efforts so that we can identify gang members who come in and out of the country and utilize those countries outside the United States as safe havens.

We are complementing Bill Bratton and the sheriff's office in terms of addressing MS-13, the 18th Street Gangs and the other gangs that you have in Los Angeles.

Ms. WATERS. Well, let me just say that I am not satisfied. Most of the elected officials are not satisfied. I would like to know if you would be willing to come to Los Angeles and be a part of a meeting with Chief Bratton, Chief Baca, all of the elected officials in the affected area, and talk about what you are doing now, what can be done better, and how can we depend on your task forces to solve some of these problems.

We cannot continue to witness the murders, the drive-by shootings and the devastation to our communities any longer. Would you be willing to do that?

Mr. MUELLER. Yes, ma'am. Six months ago I went and stood on the street corner with Mayor Villaraigosa, with Bill Bratton, with the sheriff, and did exactly that, and I followed up with each of those individuals with more personnel, with contributions to the task force. And of course I would be willing to do that again.

Ms. WATERS. Well, this is something that I will follow up on. It is not necessarily stand on the street corners, but it will be to sit down with the elected officials and the police officers in that greater Los Angeles area so that we can talk about the devastation to our community and see if we cannot figure out, with you, how we

are going to address this issue with a combination of law enforcement and social services.

Mr. MUELLER. Yes, ma'am.

Ms. WATERS. Thank you.

Mr. CONYERS. The Chair recognizes Steve Chabot, the distinguished gentleman from Ohio.

Mr. CHABOT. Thank you, Mr. Chairman.

Director Mueller, as you know, cybercrime is a rapidly growing problem in this country, and you referred to it as one of the top priorities that you are dealing with, and it costs as much as $100 billion a year.

In a speech that you gave last week, you were reported as saying, "The simple truth is we do not protect cyberspace to the same degree we protect our physical space. We have, in large part, left the doors open to our business practices, our sensitive data and our intellectual property."

Your chief of the computer intrusion section went on to say, in the same article, "We, the FBI, do not have the right amount of resources or training in place."

What additional resources does the FBI need to close those doors that you mentioned remain, unfortunately, too wide open?

Mr. MUELLER. Well, part of it is not—I would say before I get to FBI resources, part of it is the open doors are by reason of the Internet. One of the items I indicated in that speech is that we don't look at the Internet in the same way we look at our physical security, where we have a door we can shut.

The fact of the matter is that people are utilizing the Internet, and with inadequate security a person could lodge on your machine an entity that can—to take down the strokes and push it out, and push the information out. And people don't think of that in the same way.

Part of it is giving adequate security to the nets, whether it be .gov, .net and the like.

The other aspect of it—in terms of what we are doing in addressing cybersecurity—we have, and started last year, a National Cyber Investigative Joint Task Force, which includes persons from the FBI and other Federal players—DOD, NSA and the like.

And that we have stood up along with other entities to address—whether it be individual hackers, government hackers, those who want to utilize the Internet to disrupt facilities and the like.

We have put in—back to your last question in terms of resources. In our 2009 request, we are requesting an additional 211 positions and $39 million. I testified to that before the Appropriations Committee, I guess Senate and House Appropriations Committee, in the last several weeks.

So that will enhance our capabilities if we were able to get those 211 positions and that $39 million.

Mr. CHABOT. Thank you. Also, Director Mueller—and my colleague Mr. Coble referred to this issue already, but I am going to come at it a little differently—and that is relative to the subprime mortgage crisis and the predatory lending aspects of that.

The State that I happen to represent, Ohio, ranks sixth in the number of homes that have been the subject of foreclosure, with only—well, with one in every 58 homes being foreclosed upon.

The city of Cincinnati that I represent witnessed an increase in the number of foreclosures in 2007 placing it among the top 30 cities in the Nation with a foreclosure problem.

And a primary reason for the foreclosure fallout, as Mr. Coble mentioned, is predatory and lending practices. There are other things as well, but that has certainly been a part of it.

And many of those things were occurring up until late 2006. Could you describe what assistance with State and local law enforcement investigations that the FBI is involved in?

You don't have to go into specifics, obviously, for obvious reasons, but how do you cooperate with the local entities when it comes to these investigations?

Mr. MUELLER. Well, to the extent that either the State or the local entities or local jurisdictions have an entity that is addressing this, we try to work in task forces.

We have white-collar crime squads. This is a substantial element of most of our white-collar crime squads around the country at this point. And they reach out to the insurance or the property departments of either the State or the locality to both gather information and conduct joint investigations.

To the extent that there is expertise, accounting expertise, financial, analytical expertise, in these entities, again, we will work together in task forces.

As I say, we have 33 formalistic or formalized working groups or task forces around the country, and my expectation is those will expand as we find more of these issues.

I think we had something like several thousand suspicious activity reports from banks in the last several years, and that is going up to tens of thousands of suspicious activity reports reported by banks of activities that perhaps should be investigated.

So this problem is growing bigger, not smaller, and as it grows bigger we are going to have to enlist the resources of State and local law enforcement if we are to jointly be successful.

Mr. CHABOT. Thank you very much.

Mr. CONYERS. The Chair of the Immigration Subcommittee, Zoe Lofgren?

Ms. LOFGREN. Thank you, Mr. Chairman.

I want to talk a little bit about the interface between the FBI and the Department of Homeland Security as it relates to the FBI's role in name checks.

When you appeared before this Committee last fall, I asked you where we were on that, and you indicated, according to the transcript, that we were bringing the Sentinel system online.

However, subsequent to that, we have had a hearing in the Immigration Subcommittee with the Department of Homeland Security on this issue, and they are reporting that although in a 90-day period for permanent residence applications, if they don't hear from the FBI, they simply proceed, they are not doing that when it comes to naturalizations.

I don't quarrel with that judgment, but there are still many cases where apparently the name check function takes many, many months—I mean, even years. And I am wondering where we are on that.

I mean, we actually had one of the Members—he is not here today—but Howard Berman explained that one of his constituents popped up on a name check because he had gotten a security clearance, and somehow they could never get—I mean, he was good enough to get a security clearance, but they could never clear it through the FBI.

Where are you on that whole venture?

Mr. MUELLER. Well, the problem in the backlog that we had is attributable to—it goes back to 2002 when, in the wake of September 11, USCIS resubmitted 2.7 million names which got us behind the eight ball.

Nonetheless, in the past, they have completed 70 percent of them within 30 days, but that left the other 40 percent that was taking substantially longer.

We have recognized this. We have taken a number of steps. We have raised the fees. We have revised the criteria to eliminate certain categories of records that have to be researched. We have prioritized the workload. We have built a central records complex. And most importantly, we have hired over 200 contractors to work along with 40 FBI employees.

As a result of that, our expectation is by July of this year we will have eliminated the backlog beyond 2 years. And by November of this year, we will have eliminated the backlog beyond 1 year.

And by June of next year, 98 percent of the record checks will be done within 30 days.

Ms. LOFGREN. Well, if I may, most of the name checks are done instantaneously because of——

Mr. MUELLER. Yes.

Ms. LOFGREN [continuing]. The computer, so that is nothing new. I mean, right now, we have got—according to the information I have received from DHS, 46,000 cases are pending for more than 2 years.

Mr. MUELLER. It may be. I am not certain. I am not certain of those statistics, but it may be.

Ms. LOFGREN. So you think by June the 2 years will be cleared out?

Mr. MUELLER. Yes.

Ms. LOFGREN. And we had 130,000 that had been pending for more than 6 months. Will those be cleared out by June as well?

Mr. MUELLER. Those who have been pending for more than 1 year will have been cleared out by November of this year.

Ms. LOFGREN. Let me ask you, in terms of your computer efforts—I know Mr. Sensenbrenner also explored this. But it seems to me that until we move into this century, we are really never going to get ahead of this whole game—not only the computer system, but digitizing your existing records.

Can you tell us where you are in implementation on that, on Sentinel?

Mr. MUELLER. Yes. Let me just explain for—a records check—in most cases, you can come back and—and you get a records request from customs or State or what have you, and a check—and a computer check will show you—it shows up in one file or no files at all, and you can get it back.

What happened back in 2002—it was determined that whenever a name shows up in a file, you have to go find that file. Our files, paper files, for years and years and years, are resident in the various 56 field offices around the country.

And if your name pops up as a witness, or somebody who was called to a grand jury, or somebody——

Ms. LOFGREN. No, I understand that. When are we going to digitize those records?

Mr. MUELLER. We cannot. It is inefficient to go ahead and digitize all of those. Whenever we have a record check that requires us to pull out a file, we are digitizing it and putting it into the computer database.

Ms. LOFGREN. So you are just doing it as you go along?

Mr. MUELLER. Well, no, we have got, I think, records from 10 years forward. We are doing it in particular offices. We are doing the backlog. I would have to get you the exact records retention digitization——

Ms. LOFGREN. Well, I would like a report on that, Mr. Director, because obviously digitizing a 30-year-old record doesn't have the same priority or urgency, but it seems to me if Google can digitize, you know, Stanford University's library in a few months, the FBI should be able to digitize its current records in an equivalent time if it were a priority.

Mr. MUELLER. We have prioritized it. It is really a function of personnel and capability. And for the last 5 years, we have prioritized and gone throughout our country and digitized as many records as we could, given the personnel.

And what will be tremendously important is the records retention facility that we are currently completing.

Ms. LOFGREN. Well, it seems to me—and I know my time has expired, Mr. Chairman—this is a force multiplier. I mean, if you digitize these records, you are going to actually enhance the ability of your agents to perform——

Mr. MUELLER. Absolutely.

Ms. LOFGREN [continuing]. And therefore it is worth an investment to enhance the capability of your entire workforce to be more effective. And so I would like—I don't know if you have done a cost-benefit analysis, but it seems to me clear that if you move into the modern age, your agents are going to be optimized in terms of their performance.

Mr. MUELLER. I think that is right, and I will give you an example of prioritization. We have digitized every counterterrorism, every terrorism file, every terrorism record.

We do a lot of civil work, though, and there are—civil files that are, you know, very big, as you would understand, that go back for a number of years that are on sort of the back end of when it will get digitized.

So we have prioritized. We have put emphasis on it particularly in those areas where we need to have access to those records digitally immediately.

Ms. LOFGREN. Mr. Chairman, I know my time has expired, but I would hope that we could get a full report on where we are on the computer system and on digitizing these records, what remains

to be done, and, if it is not a priority, why. You know, I would just like to know more than I currently do.

Mr. MUELLER. Happy to do that.

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you.

The able gentleman from California, Mr. Dan Lungren?

Mr. LUNGREN. Thank you very much, Mr. Chairman.

Director Mueller, thank you for being here and your service. Let me go back to the National Security Letters for a moment, if I might.

Believe it or not, at one of my last town hall meetings, I had people who were concerned about the Federal Government spying on them, and they mentioned the Patriot Act, and I had no problem defending that and defending our efforts in the area of FISA.

When they start talking about National Security Letters, I had to admit to them that we had some problems, the FBI had some problems there, that there were, as a result of the Inspector General's report, instances of the failure of the FBI to act properly, to have its supervisors understand what they were supposed to do, have the agents understand what they were supposed to do.

And so subsequent to your last appearance before us, we have had the I.G. report that covered the year 2006, as required by legislation passed by this body and started by this Committee. That latest report showed that the mismanagement of the National Security Letters continued into 2006.

You have talked about the various things you have done to try and change this. The I.G. report said that there was a lack of understanding the NSL legal requirements in the field. How have you specifically addressed that? And have you made any training mandatory for all employees who are involved with NSLs?

Mr. MUELLER. Let me start by saying yes, the latest I.G. report covered a period up to 2006 because it was not included in the previous report. It was terminated at some point in time. So it reflects that point in time before we put into place these new practices.

Once the new practices were put into place, and we changed the procedures—as I indicated, our chief division counsel has to review every NSL. We provided training across the board. Let me make certain—let me just check on one thing.

We have instituted mandatory training—I wanted to make certain that it was mandatory; it was mandatory—in the meantime for anybody who handles National Security Letters.

Mr. LUNGREN. The reason this is so important is that I believe the National Security Letters play an indispensable part in the area of protecting us against terrorism.

At the same time, we have legislation introduced by a distinguished Member of this panel that I believe would make it very difficult, if not impossible, for you to use in terrorist cases in a timely fashion—that is why it is so important that we are able to give a statement of confidence to the American people that the FBI has reformed itself and that we will carry this out.

And one of the questions I have is accountability. If these mistakes have been made in the past, has anybody been held accountable, number one?

And number two, the I.G. report says that your Office of Integrity and Compliance, which you referred to earlier in your answer, needs more staff to carry out its oversight role.

Do you agree that more oversight staff may be needed? And do you have the right, again, computer systems to improve the way you issue and track NSLs so that you don't have to come up here next year—or your successor, if you decide to return to the private sector where you don't have to answer to us, has to answer these same questions?

Mr. MUELLER. Well, let me start on the computer systems. Yes, we have the computer software package that is requisite for issuance of a National Security Letter. That will go a long ways to shaping and ensuring that the particular protocols are followed in the issuance of a National Security Letter.

I am comfortable and confident that what we have put into place will address this issue. I agree with you that it is tremendously important that we maintain the capability of issuing National Security Letters with the current standard, because I will point out at the outset it does not request content.

It does not get content. It gets information relating to records, most often toll records——

Mr. LUNGREN. Which allows you time to get the probable cause so that you can go on to get content if appropriate, is that correct?

Mr. MUELLER. Absolutely essential to provide the foundation for getting probable cause to get content down the road. And absent that, we would be severely hampered.

I do have a disagreement—I think it is really a minor disagreement—with the Inspector General. We have put into place the compliance office. My expectation is that it will grow. But I believe that the people I put in charge and the people that are currently working in that office are sufficient to the task right now.

And as we look at different areas of vulnerability, it will shape the growth of the office. He believes we should have made a more substantial initial investment in personnel in the office. I believe we can grow to where he expects us to be.

Mr. LUNGREN. Would you give up NSLs for broader administrative subpoena authority? Would that be a tradeoff that would be better for the FBI?

Mr. MUELLER. I would have to consider that, depending on what that administrative authority would be. There would be some substantial benefit in the sense that it would simplify the process. The NSL capability come through four different statutes.

If there were one statute that would focus on it and be fairly clear in terms of the standards, then it might be a benefit.

What I would not want to have tampered with, however, is the standard for issuance of the NSL, which is akin to the standard for the issuance of a grand jury subpoena in a criminal matter.

Mr. LUNGREN. Thank you very much.

Thank you.

Mr. CONYERS. The able gentleman from Florida, Robert Wexler?

Mr. WEXLER. Thank you, Mr. Chairman.

Mr. Director, in January of 2006, the *New York Times* reported that the NSA warrantless wiretapping program had produced thou-

sands of leads each month that the FBI had to track down but that no al-Qaida networks were discovered.

During a July 17, 2007, briefing, FBI Deputy Director John Pistole indicated that the FBI was not aware of any al-Qaida sleeper cells operating in the United States.

In August of 2007, Congress passed the Protect America Act giving the intelligence community greater access to electronic communications coming into and out of the United States.

I have two questions in this regard. Has the FBI found any sleeper cells yet, one? Two, has the NSA's warrantless wiretapping programs, either before the Protect America Act or after, led to the prosecution and conviction of any terrorist in the United States?

Mr. MUELLER. Well, as to your first question as to whether we have found affiliates or, as you would call them, cells of al-Qaida in the United States, yes, we have.

Again, I cannot get into it in public session, but I would say yes, we have.

With regard to the relationship of a particular case or individual to the terrorist surveillance program, again, that is something that would have to be covered in a closed session.

Mr. WEXLER. All right.

Mr. Director, an L.A. Times article from October 2007 quotes one senior Federal enforcement official as saying, "The CIA determined they were going to torture people and we made the decision not to be involved."

The article goes on to say that some FBI officials went to you and that you, "pulled many of the agent back from playing even a supporting role in the investigations to avoid exposing them to legal jeopardy."

My question, Mr. Director—I congratulate you for pulling the FBI agents back. But why did you not take more substantial steps to stop the interrogation techniques that your own FBI agents were telling you were illegal?

Why did you not initiate criminal investigations when your agents told you the CIA and the Department of Defense were engaging in illegal interrogation techniques?

And rather than just simply pulling your agents out of these interrogations, shouldn't you have directed them to prevent any illegal interrogations from taking place?

Mr. MUELLER. I can go so far, sir, as to tell you that our protocol in the FBI is not to have been—not to use coercion in any of our interrogations or our questioning, and we have abided by our protocol.

Mr. WEXLER. I appreciate that. What does the protocol say when the FBI knows that the CIA is engaging or the Department of Defense is engaging in an illegal technique? What does the protocol say in that circumstance?

Mr. MUELLER. We would bring it up to appropriate authorities and determine whether the techniques were legal or illegal.

Mr. WEXLER. Did you bring it up to appropriate authorities?

Mr. MUELLER. All I can tell you is that we followed our own protocols.

Mr. WEXLER. So you can't tell us whether you brought—when your own FBI agents came to you and said the CIA is doing some-

thing illegal, which caused you to say, "Don't you get involved," you can't tell us whether you then went to whatever authorities——

Mr. MUELLER. I will tell you that we followed our own protocols.

Mr. WEXLER. And what was the result?

Mr. MUELLER. We followed our own protocols. We followed our protocols. We did not use coercion. We did not participate in any instance where coercion was used, to my knowledge.

Mr. WEXLER. Did the CIA use techniques that were illegal?

Mr. MUELLER. I can't comment on what has been done by another agency and under what authorities the other agency may have taken actions.

Mr. WEXLER. Why can't you comment on the actions of another agency?

Mr. MUELLER. I leave that up to the other agency to answer questions with regard to the actions taken by that agency and the legal authorities that may apply to them.

Mr. WEXLER. Are you the chief legal law enforcement agency in the United States?

Mr. MUELLER. I am head of the—I am the director of the FBI.

Mr. WEXLER. And you do not have authority with respect to any other governmental agency in the United States? Is that what you are saying?

Mr. MUELLER. When the authority is given to me to investigate, yes, we do.

Mr. WEXLER. Did somebody take away that authority with respect to the CIA?

Mr. MUELLER. Nobody has taken away the authority. I can tell you what our protocol was and how we followed that protocol.

Mr. WEXLER. Did anybody take away the authority with respect to the Department of Defense?

Mr. MUELLER. I am not certain what you mean.

Mr. WEXLER. Your authority to investigate an illegal torture——

Mr. MUELLER. There has to be a legal basis for us to investigate, and generally that legal basis is given to us by the Department of Justice. Any interpretations of law is given to us by the Department of Justice, generally the OLC.

Mr. WEXLER. But apparently your own agents made a determination that the actions by the CIA and the Department of Defense were illegal, so much so that you authorized—ordered your agents not to participate. But that is it.

Mr. MUELLER. I have told you what our protocol was. And I have indicated that we have adhered to our protocol throughout.

Mr. WEXLER. My time is up. Thank you very much, Mr. Director.

Mr. CONYERS. Thank you.

The Chair recognizes the distinguished gentleman from Florida, Ric Keller.

Mr. KELLER. Thank you, Mr. Chairman.

And, Director Mueller, I want to limit my questions to two subject areas—the FBI's efforts to capture online predators and also results from the safe streets task force to go after violent crime.

The bottom line in my area of Orlando, Florida is that the results of the FBI's task force in going after online child predators have been spectacular. The results from the other task force dealing

with violent crime have been less than spectacular. And I just want to walk through both.

First, with respect to online child predators, one out of seven children in this country are sexually solicited online. My home state of Florida ranks fourth in the volume of solicitations and child pornography.

It is so bad that an FBI agent logged on in central Florida into a chat room as a 13-year-old girl and, within 1 minute, he received 15 sexual solicitations. And within 5 minutes, a man turned a video camera on himself and performed an explicit sexual act that I can't describe in public.

Fortunately, we have a local agent, FBI agent, named Nick Savage, who heads up the Innocent Images task force, and he has really been wonderful in addressing this.

I am so concerned I have had five town hall meetings across my district to let parents know some of the tips they can do to protect their children against online child predators, and he has been right there with me to educate them.

The convictions of his task force are up 25 percent, and he and other FBI agents work very well with our local and State authorities.

In response to a question from Lamar Smith, you said that if there is one thing we could do with respect to helping you go after cybercrime and child pornographers, it is to work with the ISPs on access to records. That is correct?

Mr. MUELLER. Yes.

Mr. KELLER. Is the challenge them not cooperating or them not keeping their records long enough?

Mr. MUELLER. It is a question of having a standard against which you retain the records. The European Union has a standard now for ISPs that generally can go up to 2 years. And some of the concerns are the storage. Some of the concerns are developing the software that would allow you to keep the requisite records.

But from the perspective of an investigator, having that backlog of records would be tremendously important if somebody comes up on your screen now and you want to know and make the case as to the past activity of that individual.

If those records are only kept 15 days or 30 days, you may lose the information you need to be able to bring the person to justice.

Mr. KELLER. Are you suggesting a 2-year guideline comparable to other countries?

Mr. MUELLER. I believe that would be helpful, yes.

Mr. KELLER. Okay.

Next, let me turn to the issue of the Safe Streets task force. Orlando's murder rate went up 123 percent in 2006, the third largest increase in the country.

I then went in early 2007 to meet with Attorney General Gonzales and said, "We need help. I know crime is mostly a local problem, but we need help from Federal crime-fighting teams. We need technology. We need more cops."

And he responded. On June 1st of 2007, he announced that there would be a violent crime impact team sent down from ATF as well as a new Safe Streets team to tackle violent crime and gang violence in Orlando.

ATF then promptly surged an additional five agents. They worked very closely with local law enforcement and have got the worst of the worst off the streets.

The FBI folks, I learned from local law enforcement, didn't add any new agents whatsoever. And I ride around with the police at night, and so I know that to be true.

I then went and met with the local head of the FBI named Chris Davis in the Orlando office. I couldn't be more impressed with him. I am super respectful of him. I hope he gets promoted. But he confirmed to me that there is no new agents.

And it is my view, at minimum, that the FBI should have sent in at least five new agents for at least a surge of 90 days like the ATF did. And I just want to ask you why no new agents to the city that has the third biggest increase in violent crime.

If you have got 180 task forces out there, surely the number three worst problem should get some more agents. And what, if anything, can we do to get you to send more folks to an area like Orlando?

Mr. MUELLER. Well, the first answer is I am not certain what the circumstances were that we did not participate and at least put agents on for a surge, and I would have to talk to the special agent in charge down there to see what the circumstances are.

And the second answer is resources. Resources. And we have a number of programs. Mortgage fraud is burgeoning now, and it is, to a certain extent, a zero-sum game. I think in the 2009 budget we have a request in for additional resources on the violent crime side.

But the fact of the matter is with our national security responsibilities, I have had to move agents from the criminal side of the house to the national security side of the house, almost 2,000 agents since 2001. So it is really a function of additional resources generally.

Mr. KELLER. Well, thank you.

Mr. Chairman, if you would indulge me just as a follow up, I know you can't know the details of every particular special agent's task force and how many folks they have.

But I would just ask respectfully that you would chat with a special agent there, because your folks are well respected, and when you put a Federal charge on the worst of the worst, we never see them again and would love your help if you would follow up with that.

Mr. MUELLER. Thank you, sir.

Mr. CONYERS. Thank you.

The able gentleman from Tennessee, Steve Cohen?

Mr. COHEN. Thank you, Mr. Chairman.

Director Mueller, Mr. Wexler was asking you about some illegal tactics that the FBI did not engage in, and you said you followed the protocol. Does the protocol include informing other agencies that you believe what they were doing was illegal?

Mr. MUELLER. Excuse me just a second.

Mr. COHEN. Can this time not be counted against me?

Mr. MUELLER. I am sorry, go ahead. I am sorry. What was the question again, sir?

Mr. COHEN. Stop the clock.

You say you wouldn't engage in torture, but when you find out that other agencies may be engaged in torture that you believe is illegal, does your protocol include informing those agencies that you believe their actions are illegal?

Mr. MUELLER. Yes.

Mr. COHEN. Who did you inform in that situation?

Mr. MUELLER. At points in time, we had reached out to DOD and DOJ in terms of activity that we were concerned might not be appropriate—let me put it that way.

Mr. COHEN. And you informed both the Department of Defense and the Department of Justice?

Mr. MUELLER. During the period of time in question, after 2000, say, to 2002, there have been times when we have done that, yes.

Mr. COHEN. And can you supply us with copies of those letters or memoranda?

Mr. MUELLER. I would have to get back to you on that.

Mr. COHEN. We would appreciate it if you would. I would like to request you to do that.

And what was their response to you?

Mr. MUELLER. Again, I am not certain to what extent this is classified. I would have to get back to you on that in any event.

Mr. COHEN. Well, if you could give us a response to this as well, I would like to know which agencies did not listen to you, Director, and engaged in torture. I think that would be very important for this Committee to know, if there are departments—of defense or justice or any—or CIA that don't listen to the director of the FBI.

Mr. MUELLER. Well, another factor that I think is important to recognize in this—what constitutes appropriate behavior under circumstances for other agencies is subject to legal opinions from the Department of Justice.

Mr. COHEN. Yes, sir, I understand that. I agree with you.

Mr. MUELLER. And so we would over a period of time say, "Look, we have noticed behavior that may be questionable," and report it to the agency. That particular agency may be governed by legal opinions that are not applicable to us.

Mr. COHEN. Yes, sir. But I would listen to your opinion first.

You have a great agent in Memphis, My Harrison, and she has done a phenomenal job. She has convicted or brought prosecutions and juries and judges found guilty many public officials, many of whom were African American.

You say 1,800 officials have been prosecuted over a period of time.

Mr. MUELLER. Two years.

Mr. COHEN. Do you have statistics to show that there is not a racial bias?

Mr. MUELLER. Do not.

Mr. COHEN. Do you have a racial breakdown——

Mr. MUELLER. I am not certain we keep that—I would be surprised if we kept any such statistic.

Mr. COHEN. Is there any statistic that shows how many were Democrats and Republicans, to show there is no political bias?

Mr. MUELLER. We don't keep that. We are non-political. I think if you are fair and look across, you will see that regardless of polit-

ical affiliation, you have any number from various parties in that 1,800 figure.

Mr. COHEN. Agent Harrison was able, through very outstanding work, to have an indictment brought against a man in Tennessee who had killed a Shelby County codes enforcement officer named Mickey Wright.

The circumstances of his death were such—and the proof—that the Attorney General pled to a second-degree murder or manslaughter, 15 years, and that was not sufficient for taking this man's life.

Through her diligent work, she was able to charge a hate crime, because he was a government official. But if he weren't a government official, she couldn't have gotten the U.S. attorney to present to the grand jury and for them to return an indictment of a hate crime, where there is the possibility of additional punishment for this man's murdering Mickey Wright.

Are you a supporter of the hate crime legislation that went through that would give you more power to enforce hate crimes?

Mr. MUELLER. I would have to look at the particular legislation before I give an opinion as to whether we could support it or not.

Mr. COHEN. It is the one that has already passed the House.

Mr. MUELLER. Pardon?

Mr. COHEN. It is the one that has already passed the House, gave more power to the Federal Government to go after hate crimes.

Mr. MUELLER. I would have to specifically look at it before I could render an opinion.

Mr. COHEN. Okay. If a person takes a corpse across State lines to avoid prosecution or avoid discovery of the crime, and the facts otherwise don't constitute a Federal crime as they wouldn't here, except for My Harrison's work, would it be helpful to the FBI to have a Federal law to make it illegal to transport a corpse across State lines for the purpose of avoiding detection of the crime?

Mr. MUELLER. I would have to look at the circumstances and see whether there wasn't a Federal jurisdictional——

Mr. COHEN. Let's assume there isn't.

Mr. MUELLER [continuing]. Angle to start with, and then——

Mr. COHEN. Well, let's assume there isn't, and a person took a body from, you know, New York to Giants Stadium, or they took it from Memphis to Arkansas. Wouldn't it be helpful?

Mr. MUELLER. Again, that is something I would have to look at. Off the top of my head, I would really like to think about it before I render an opinion on that as well.

Mr. COHEN. Thank you for that.

Mr. SMITH. Would the gentleman from Tennessee yield briefly——

Mr. COHEN. Yes, sir.

Mr. SMITH [continuing]. To the gentleman behind you? I just want to point out for the record that while many of us today have used the word "torture"—I think most of us have used it—that you, Director, have never said that the FBI ever engaged in torture. You have used the word coercion, which is far different.

And I just don't want the imputation to be allowed to stand that the FBI has ever engaged in torture, even though I and others have used the word today.

Mr. SCOTT. Well, will the gentleman yield?

Mr. SMITH. It is not my time.

Mr. COHEN. I will yield once removed.

Mr. SCOTT. I thought it was clear that the FBI made it clear that they do not torture, although some other agencies may not be able to answer the question the same way.

Mr. MUELLER. What I have said throughout is we do not engage in coercion in any form, and my saying that meaning, quite obviously, do not engage in torture, but coercion in any form in the course of our interrogations.

Our protocol and our policy is to generally develop rapport as the mechanism of obtaining the information we need in the course of an investigation, and I will say it has served us well.

We operate in the United States. We operate within the court framework of the United States with the expectation that if we find a crime, develop the evidence, that it will then have to be presented in the courtroom.

Mr. CONYERS. Thank you.

The able gentleman from Virginia, Bob Goodlatte?

Mr. GOODLATTE. Thank you, Mr. Chairman.

And, Director, welcome. We are glad to have you with us today. I want to ask you about the problem we are having, and very serious growing problem in this country, with gangs and gang violence.

We see it in virtually every corner of the country—in my congressional district, which is smaller cities and rural areas in western Virginia, the Shenandoah Valley and the Roanoke Valley. We see increasing numbers of gangs and increasing problems with local law enforcement dealing with them.

And I would like to ask how the FBI is dedicating resources to fighting street gangs.

Mr. MUELLER. Well, as I have indicated in my remarks, we have a number of—well over 100 task forces that are spread throughout the United States in which we work with Federal, State and local counterparts to address the gang violence.

We participate in the National Gang Intelligence Center here in D.C., which we lead, with a number of contributing agencies. We have a separate MS-13 gang task force headed here in Washington.

And across the probably more than 40 States now that have an MS-13 problem, we have a coordination function. And we are working very hard in Los Angeles, in that area, which is basically the headquarters of a number of the gangs, MS-13 being one of them, but Crips and Bloods and others.

In Chicago and elsewhere in the northeast we address the Latin Kings.

Mr. GOODLATTE. Let me interrupt you, sir.

Mr. MUELLER. So looking at the panoply of gangs that you have, we have adapted structures to address those gangs both here in the United States as well as overseas.

Mr. GOODLATTE. Have you seen any changes in the nature of this threat?

Mr. MUELLER. I think the biggest change is the acquisition by certain gangs in certain places of automatic weapons, and the growth of the threats to law enforcement, particularly local law enforcement, by the acquisition of this heavy weaponry.

I know, in talking to my counterparts around the country, particularly in places like Miami, this has become a substantial concern.

Mr. GOODLATTE. And do you need additional resources to fight these gangs?

Mr. MUELLER. We can always use resources, additional resources, and so could State and local law enforcement.

Mr. GOODLATTE. And I understand that—you may have just encompassed this under a different name, but I understand that you have an antigang coordinating committee working, and how is that working?

Mr. MUELLER. Well, we have the National Gang Intelligence Center, and that works exceptionally well, and DOJ I know has structures that coordinate the placement of resources, whether it be our resources, ATF, Marshals Service and the like in a coordinated fashion around the country, and that may be the coordinating mechanism to which you advert.

Mr. GOODLATTE. All right.

Let me switch gears and ask you some questions about Internet gambling, which is also a serious problem, but we have made some headway in this area in recent times, thanks in part to work by the FBI.

Are you still dedicated to vigorously enforcing our Nation's laws against illegal online gambling transactions?

Mr. MUELLER. Yes.

Mr. GOODLATTE. And do you still believe online gambling is used as a method for money laundering by criminal enterprises?

Mr. MUELLER. Yes.

Mr. GOODLATTE. And have you found——

Mr. MUELLER. Yes.

Mr. GOODLATTE [continuing]. Evidence to support that?

Mr. MUELLER. Yes.

Mr. GOODLATTE. And do you agree with the now, I think, approximately 45 State attorneys general who oppose Federal legislation to legalize currently illegal online gambling transactions?

Mr. MUELLER. I am not familiar with that legislation, so I really can't opine on it.

Mr. GOODLATTE. Are you familiar with the concern that a number of State attorneys general have with the problem of online gambling in general?

Mr. MUELLER. Yes.

Mr. GOODLATTE. And you share their concern about that?

Mr. MUELLER. I share a concern about online gambling and the uses to which it can be put, yes.

Mr. GOODLATTE. Great.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you.

The Chair recognizes the distinguished gentlelady from Texas, Sheila Jackson Lee.

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

Thank you, Director Mueller, for again your service. I wanted to pursue the line of questioning that I had raised early in my opening remarks and then briefly try to address questions that may require you and staff to come back on, because they are specific to my State and my congressional district.

I would like to hear from you your assessment of the FBI's work in hate crimes. I know that there are statistics that the DOJ likes to offer regarding the increasing amount of hate crimes, but I am very interested in whether or not there is a targeted unit that focuses on those crimes.

I think expertise is important, because there is a question of knowing when to move in and to make the appropriate intervention that may not always result in an arrest.

And I bring to our attention again the facts of Jena 6 that you know generated an enormous outpouring, response, emotion, and realistically so. Young men, six of them, who happened to be African Americans, were penalized for what has been interpreted as a schoolyard fight for some and others a brutal attack.

We know that the gentleman who was attacked—we don't condone those actions—but was released the same day and was functioning.

We also know that White students at a high school were alleged to have hung a noose or provoked students at that school.

And we know that parents came to the school, African American parents, and asked for intervention, which I think would have been the stopgap for what ultimately generated into that issue.

We know that a gun was pulled on Black students at a store. As we said, we knew that hanging nooses came about. And frankly, I don't know anything that a hanging noose represents other than a hateful act.

That is the first question. So I would like to know the energy behind prosecuting hate crimes or the FBI intervening either in local law enforcement to be able to be a stopgap, even though I know that your job is prevention. But when I look at the civil rights issues, those are civil rights.

The other one is we have two issues in the State of Texas where allegations have been proven where there has been abuse in a juvenile system detention facility.

We have found in the Harris County Jail 120 deaths over 10 years, the denial of medicine and legal services, and religious leaders in the Harris County Jail have been denied entrance not to proselytize but to interact with their members and constituents.

So let me just stop for a moment for those two questions. And I know that my time is short, and I do have one or two others. Thank you, Mr. Director.

Mr. MUELLER. Well, as to the first incident to which you refer, as soon as we were notified of that incident we had agents who responded along with the locals and monitored the situation.

We had discussions, I know, with you as well as with the Department of Justice to determine what, if any, investigation was warranted on our part, and that is typical of the process that we follow.

Whenever there is an allegation of a hate crime or a civil rights abuse, we immediately do what is called a preliminary investigation to determine whether further investigation is necessary.

In the civil rights arena, that is coordinated with the Department of Justice and a determination is made what, if any, additional investigation is warranted by the Department of Justice or the FBI, and we follow that procedure.

Ms. JACKSON LEE. And, Director, my time is short. Can I get a chronology in writing so I won't have to pursue it any further here on just what happened and how that intervention——

Mr. MUELLER. I believe that is possible. We have to get back to you.

Ms. JACKSON LEE. I appreciate it.

Mr. MUELLER. In terms of Harris County and what happened——

Ms. JACKSON LEE. Yes.

Mr. MUELLER [continuing]. With the jails or juvenile facilities, again, if there are allegations, we write up the allegations. We look at the report. And we coordinate with the Department of Justice to determine what additional investigation we should conduct to determine whether or not there are Federal charges that should be brought.

Ms. JACKSON LEE. Well, I am going to engage your office. I know that it is a DOJ partnership, but let me say that I think more work needs to be done.

I want to quickly move to—you, I think, have come in in 2001, I believe, to this position. And I was wondering whether you were aware, quickly, of your deputy general counsel at the FBI as relates to the Guantanamo Bay, who brought to the attention the questions of abusive interrogation and whether or not anything was done when your own person on the ground offered that point.

Mr. CONYERS. The gentlelady's time has expired.

Ms. JACKSON LEE. And I will look forward to getting that question answered in writing.

Mr. CONYERS. Well, you can answer the—you can finish the question and receive an answer.

Mr. MUELLER [continuing]. We received allegations from our people, if we received allegations from our people, it was then, over a period of time, passed on to the authorities responsible for the investigation of such allegations, which at Guantanamo would have been DOD.

Mr. CONYERS. Thank you very much.

The able gentleman from California, Darrell Issa?

Mr. ISSA. Thank you, Chairman.

Director, there isn't enough time in 5 minutes to open and close the subject of the cyber initiative, but this Committee is going to, in my opinion, be the lead Committee on the actual effectiveness of that initiative.

As we both know, it is compartmented, highly classified, but I would like to concentrate just on what laws or changes that you would need from this Committee if you were to do the following—and I will set out a scenario.

If you go into a place and there is a crime actively being committed—we will say there is a bookie joint and there is tens of

thousands of illegal transactions going on every minute. And you know that, and you have proof of that. You don't question your ability to go in and to harvest the fruit of all the activities in there. Is that correct?

Mr. MUELLER. Correct, you know, with a search warrant, quite obviously.

Mr. ISSA. With a search warrant. Today, every ISP is being maliciously attacked—and this goes beyond the .mils and .govs, but I think that is the important reason that we approach it today.

Every ISP is being attacked maliciously both from in the United States and out of the United States by those who both want to invade people's privacy but, more importantly, they want to take control of computers. They want to hack them. They want to steal information.

This is also true of the .mils and .govs. Every one of our congressional offices every day is under attack.

Every portal leading out of the United States—some of them going in and out of the United States, but talking only about your jurisdiction in the United States—every portal coming into this country is being attacked by those who would harvest information, both national security secrets and just the common information of private companies and private individuals.

That crime is going on every day on a single entity known as the Internet. What authorities do you need in order to monitor, looking for those illegal activities, and then act on those both defensively and either yourself or certainly other agencies offensively in order to shut down a crime in process?

Now, I am a civil libertarian. I was with Bob Barr arguing some of the elements of the Patriot Act that we still don't agree should have been there.

But when I set up that crime scenario, how is it that you are going to get the right to react when today, people would say that if they—if you are addressing an action from an American person, you don't have that right?

How are you going to do it, and how can we help you do it appropriately and constitutionally?

Mr. MUELLER. I think legislation has to be developed that balances, on the one hand, the privacy rights of the individuals who are receiving the information but, on the other hand, given the technology, the necessity of having some omnibus search capability utilizing filters that would identify the illegal activity as it comes through and give us the ability to preempt that illegal activity where it comes through a choke point, as opposed to the point where it is diffused on the Internet.

And it is a question of the legislation catching up to the technology, understanding these crimes are being committed every moment, but then identifying the ability—identifying our ability to focus on the particular criminal elements as it is coming through and preempt that criminal element, whether it be .mil, .gov, .com, whichever network you are talking about.

Mr. ISSA. Okay. And one follow-up question, because I—or two follow-up questions. I know we are not going to get it all resolved today.

One, can you have somebody on your staff designated to work with Members of Congress on trying to craft that legislation? I would appreciate being able to work with that person.

Mr. MUELLER. Yes.

Mr. ISSA. And secondly—and this goes to a legal opinion you may or may not be able to help us with today, but I would like you to try to work on it—if ISPs or other private entities—a Lockheed Martin on one hand and my old company, Directed Electrons, on the other—if they consented to participation voluntarily in being, in fact, defended in a cyber initiative—and that includes ISPs who hypothetically got consents from every single person that signed up to operate under their auspices—if that consent were granted, do you believe the current laws either can or reasonably easily could be made to protect them?

In other words, a voluntary program that would begin allowing Federal agencies to counterattack and to defend on behalf of those who waive current possible restrictions in that sense? And that is probably my most important question to try to get this Committee to think of.

Mr. MUELLER. I think that is going to require some thought, because an individual company can say, "Okay, I consent to have somebody protect me," but if the filter is inappropriately placed, just protecting that particular company, you may have to be one or two or three institutions or ISPs off, and that is where you would have a problem.

And whether it be—I forget which company you mentioned—Lockheed Martin saying, "Okay, I am willing for somebody to protect me," but the protection may be two or three companies off, and Lockheed Martin has no mechanism in order to affect the company that is two or three off, if you see what I am getting at.

Mr. ISSA. Thank you.

And thank you, Mr. Chairman. Hopefully 163.33.33.0 will be protected if they ask to be, whoever they are.

Mr. CONYERS. As you wish, Mr. Issa.

Mr. ISSA. Mr. Chairman, I do hope that when we look at the cyber initiative we view ourselves as the primary Committee that has to clear the way for appropriate action on behalf of our government, all branches.

Mr. CONYERS. The Chair is now pleased to recognize the able gentleman from Georgia, Hank Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Director Mueller, it is good to have you here today. Jose Padilla, a United States citizen, was seized in Chicago on a material witness warrant and moved to the Navy brig in South Carolina where he was held in solitary confinement, denied access to an attorney and subjected to a host of harsh interrogation techniques, including days of sleep deprivation, during which time the Department of Justice defended his detention before various courts.

He has also alleged that he was subjected to mind-altering drugs. Now, the FBI did participate in the interrogation of Mr. Padilla, did it not?

Mr. MUELLER. Yes.

Mr. JOHNSON. And you were kept informed about the nature and the results of the interrogation, is that correct?

Mr. MUELLER. Me personally?

Mr. JOHNSON. Yes.

Mr. MUELLER. No, not specifically. I mean, I may have been, upon occasion, informed that he was being interrogated. I don't think I was informed of what information had come out of him.

Mr. JOHNSON. Did you know that he was being subjected to days on end of sleep and sensory deprivation?

Mr. MUELLER. No, and I am not certain that I understand the question, but by answering the question I am not—I don't mean to affirm that that is exactly what happened. I am not certain that——

Mr. JOHNSON. Well, let me restate the question. Now, you have testified that you were aware that the FBI participated in his interrogation and that while you were not directly informed about the nature and the results of the interrogation, that you may have had some discussions about it. Is that correct?

Mr. MUELLER. I know he was at a brig in South Carolina. I knew that he was probably being interrogated. The specifics of it I did not know.

Mr. JOHNSON. You did not know anything about the sleep deprivation—you were not informed about that?

Mr. MUELLER. I did not know.

Mr. JOHNSON. You were not informed of any use of mind-altering drugs?

Mr. MUELLER. No. And again, Congressman, I am not certain that that is accurate. I know Mr. Padilla was charged and convicted in court in Florida, if I am not mistaken, and many of the assertions and allegations were raised in the course of that prosecution.

But I do believe he was successfully prosecuted and was recently sentenced.

Mr. JOHNSON. I am aware. Did you ever express any disagreement with the policies surrounding the detention and interrogation of Mr. Padilla?

Mr. MUELLER. No, but again, I go back to I did—the specifics in which you allude I was not aware of.

Mr. JOHNSON. Thank you.

In your Senate testimony, sir, you admitted that the FBI is no longer vigorously fighting white-collar crime and drug cases. For example, you mentioned that 800 agents have been shifted off of fighting white-collar crime and 10,000 cases are not being done as a result.

And you also mentioned that 900 agents were shifted off of drug cases. With violent crimes on the rise, what else besides money do you need to pump up our internal crime-fighting capability?

Mr. MUELLER. Let me clarify one thing. What I said was that we shifted 800 agents, I believe it was, from smaller white-collar criminal cases, and generally those are cases under a certain dollar amount which we could not handle.

We quite clearly have addressed the Enrons, the Worldcoms, the HealthSouth—the larger white-collar criminal cases—as we are addressing the subprime mortgage cases, but we have to prioritize. We did shift 900 agents from doing narcotics cases over to national security.

To backfill, we would quite obviously need the agents, almost 2,000 agents, to backfill those that have been moved over.

But it also takes the infrastructure, the training facilities, the information technology, the associated intelligence analysts that go with building up that capacity on the criminal side of the house.

Mr. JOHNSON. So have those potential capabilities been requested, those assets?

Mr. MUELLER. Over the years, we have requested additional resources. And in many cases, we have gotten those resources, but generally they have been—they have been accorded on the national security side of the house.

Mr. JOHNSON. What performance measures does the FBI have to assess its progress in implementing its counterterrorism policy and the effects of this priority on its traditional law enforcement crime-fighting mission?

Mr. MUELLER. Well, in terms of—we look at a number of metrics when it comes to counterterrorism. The most obvious metric is the stopping of any terrorist attacks.

But also, the number of individuals that are under investigation; the number of cells that may have been disrupted, although it may not be public; the number of agents and analysts and the caseload they have.

Most importantly is our work with our counterparts on the joint terrorism task forces, how those joint terrorism task forces are doing and the contributions of State and local to those task forces as well as overseas, our relationships with our overseas counterparts, whether it be in Denmark, or Germany, or the U.K., or Spain, or places like Pakistan, Saudi Arabia, all of which contribute to our ability to protect the country from additional terrorist attacks.

We look at the number of IIRs, intelligence information reports, that we disseminate on a daily, weekly, monthly basis to the rest of the intelligence community. Our participation in the National Counterterrorism Center, to the extent that we have analysts participating in that.

Those are just to mention a few of the metrics that we look at in terms of our war against terrorism.

Mr. JOHNSON. Thank you, Director Mueller.

And my time has expired. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you.

The distinguished gentleman from Virginia, Mr. Randy Forbes?

Mr. FORBES. Thank you, Mr. Chairman.

And, Mr. Director, thank you for being here. I want to first compliment your good judgment going as far as back as your selection of a law school to attend.

I also want to go back to September 11, 2001. I was the newest Member of Congress, and I still remember us gathering in the command headquarters in D.C., and Members of Congress coming in there, and you walking in. You had only been on the job for 1 week, as I recall, at that particular point in time.

I remember the looks on Members of Congress' faces, many of them sitting on this panel today, and we were looking outside, and we saw smoke coming up from the Pentagon, jets flying over D.C., streets vacant except for people with guns for security there.

And I remember us looking at you then and saying, "Mr. Director, do what you have to do to keep our country safe and protect our citizens from terrorists."

And for almost 7 years, you have done an incredibly good job at doing that, and we just want to thank you for that. You only had to blink one time. You only had to miss one, and I couldn't say that, but we can today.

The other thing I want to tell you is, as you can hear from testimony here today, no good deed goes unpunished. And based on the success we have had there, we seem to have turned our attacks inwardly.

And one of the concerns I have today, if you listen to the press, if you listen to a lot of law enforcement across the country, if you listen to some members of the public, they have developed this kind of "gotcha" mentality toward elected officials, business leaders, religious leaders, where it is almost as if there is a view that all of them are corrupt or at least corruptible.

And my questions for you today are these. First of all, what do you do as director to make sure all of the stuff that you hear, all this "gotcha" stuff, you know, that is going on doesn't permeate your agents, and so we don't have hunts to get the bad guys, but we have instead investigations to determine who the bad guys are, if they are?

And the other question I have for you is regarding something that I think is far greater concern to the country, and that is the issue of Chinese espionage. And I know some of that is classified, but much of it is open source.

How significant is that problem today? What is the extent of the threat? And what can we do to stop it?

Mr. MUELLER. Let me start by saying that to the extent that the country has been protected from terrorist attacks over the last 6½ years—because of the men and women in the FBI, but most particularly men and women who work in the—the 800,000 State and local law enforcement officers around the country, many of whom—I should say, actually, many of their agencies work on joint terrorism task forces.

It also is attributable to the relationships with our counterparts overseas.

With regard to what you call the "gotcha" mentality, it is discouraging for the men and women of the FBI to—who every morning wake up with one goal in mind—that is, what do we do—how do we do the right thing to protect the American public, whether it be from crime, from terrorism, from counterespionage, to have persons not necessarily understand that we are human, we do make mistakes? When we make mistakes, we admit to them and move on.

But the reputation of the Bureau, whether it is in the United States or outside the United States, I think is very good. We have a 100-year track record of capability. And I do believe that that is acknowledged.

Turning to the second question you had with regard to the espionage or efforts by the PRC to gather our secrets, most of what I could say could not be said in open session.

What is public is a series of successful prosecutions recently in which individuals had worked with particular companies or, in a

recent case, in a university, and there have been a number of cases in which the evidence has shown that they were stealing secrets with the expectation of that information going back to the PRC.

So there is a public track record indicating—where it has been proven that the PRC has individuals in the United States who are looking to steal some of the Nation's most sensitive secrets.

Mr. FORBES. Thank you, Mr. Director.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Thank you.

The Chair is pleased to recognize the able gentlelady from Wisconsin, Tammy Baldwin.

Ms. BALDWIN. Thank you, Mr. Chairman.

And thank you, Director Mueller, for your time today. Hopefully I will have time to get to two distinct lines of questioning, both regarding issues of great interest to my constituents in my home State of Wisconsin.

As you know, our Committee has spent considerable time looking into the termination of the nine U.S. attorneys and the question of politically motivated prosecutions.

One such prosecution occurred in the State of Wisconsin, and I assume that you are aware that a public servant, Ms. Georgia Thompson, was wrongfully sent to a Federal prison amidst serious allegations that political considerations may have influenced the exercise of prosecutorial power.

As you recall, when Ms. Thompson's conviction was overturned, the appeals court released her immediately upon ruling on the case, calling the evidence beyond thin. And the State of Wisconsin is taking the very unusual move of repaying all of her legal fees and expenses.

Now, we know that the FBI was involved in investigating the Georgia Thompson case, because Special Agent Terry Sparacino testified during her trial that he had found—and I quote, he had "found no evidence during his investigation to support the prosecution's contention of wrongdoing."

Now, did the FBI agents who were involved in the investigation of this case ever consult you directly or indirectly via superiors to discuss their concerns about the investigation or the prosecution, despite what they were uncovering or not uncovering during their investigation?

Mr. MUELLER. I am familiar with the facts that you indicate, but no, I was not consulted in the——

Ms. BALDWIN. You were never involved in——

Mr. MUELLER. No.

Ms. BALDWIN. Okay. Thank you. The other line of questioning I want to pursue relates to some concerns that have been raised in my district by constituents.

I have a very politically active district. People vote in high numbers, communicate with their elected officials and sometimes protest or demonstrate when they are unhappy with governmental policies—sit-ins, marchings and demonstrations.

Recent news reports that antiwar protesters have been added to the watch list and have been denied entry into Canada, for example, have—these news reports have been read and discussed among folks in my constituency.

And I am hearing concerns about how decisions are made, so I thought I would just ask you a series of questions about the terrorist screening database and the watch list.

First of all, can you tell me anything about what the criteria are for the FBI nominating somebody to that list?

Mr. MUELLER. Well, there are a number of criteria. We would have to get that to you. But I will say that we are very careful not to focus on individuals who are exercising their first amendment rights as a protester, to in any way inhibit that or utilize that as a reason to open an investigation. We are very careful about that. We understand the sensitivity of that.

Where that crosses a line in terms of damage or violence and the like, then we have, quite obviously, a responsibility to follow up. But we are very sensitive to that line.

And in my mind, none of the criteria applicable to the terrorist screening center would allow a person to be put on that list purely for exercising their first amendment right to protest.

Ms. BALDWIN. If I understand the news reports, the individuals who were denied entry into Canada, for example, for being on the watch list had been convicted of misdemeanors but in completely nonviolent contexts—for example, sit-in and not leaving someplace voluntarily and so being arrested as they were leaving.

Is there a way that a person can inquire whether they are on a list and appeal their presence on the list if they feel that there has been an improper placement on the list?

Mr. MUELLER. There is an office where you can make the request. They may or may not—they probably will not tell you if you are on the list, and I am not certain what response they give, but you can—it will be pursued.

I might also say it may not be the terrorist watch list that they are on. There may be some other reason they have been barred from going to Canada.

Ms. BALDWIN. The news reports we heard was specifically that they were on the watch list. How many people are on the watch list?

Mr. MUELLER. That is something I can't give in open session.

Ms. BALDWIN. Okay.

Mr. MUELLER. It also differs, I might say, because there are a number of names, different records, as opposed to individuals. I mean, one individual can have five, 10 or 15 different aliases and identifiers, so—but it is not something I can give in open session.

Ms. BALDWIN. And the watch list is shared with foreign governments?

Mr. MUELLER. Upon occasion, yes, pursuant to agreements.

Ms. BALDWIN. Okay. Do we know how many such agreements exist——

Mr. MUELLER. Yes.

Ms. BALDWIN [continuing]. In terms of——

Mr. MUELLER. That is, again, something that is not—I can't speak to in open session.

Ms. BALDWIN. All right. Well, we will have to pursue this in a time that we can exchange information more readily. Thank you.

Mr. CONYERS. Thank you.

The Chair recognizes the distinguished gentleman from Iowa, Steve King.

Mr. KING. Thank you, esteemed Chairman. I appreciate the opportunity to be recognized.

And, Director Mueller, I much appreciate your service to this country over these very difficult years. And I think history will record this as a very effective directorship that you have conducted here over these years.

The first question I have is do you detect, as we approach an upcoming presidential election, and everything gets more and more politicized—and we may have noticed that actually here today.

Do you detect, as the gentlelady from Wisconsin mentioned, politically motivated prosecutions? Do you detect any reluctance on the part of justice to bring indictments that might be construed as politically motivated as we approach this election?

Mr. MUELLER. No.

Mr. KING. If you did, what would you consider your duty to be?

Mr. MUELLER. I would raise it with the Attorney General.

Mr. KING. Thank you. I appreciate that very concise and direct answer.

Now, there was also the issue raised by the gentlelady from California, Ms. Waters, about gang problems, particularly in L.A., but across this country, especially in our inner cities.

And we have had testimony from that table before the Immigration Subcommittee of this full Judiciary Committee about the percentages of gang membership that are illegals. And, in some cases, 75 percent to 100 percent of some of these gangs, being people that are unlawfully present in the United States, MS-13 would be in particular.

If by some stroke of the magic wand all of the folks that are in the United States unlawfully woke up in a country that they lawfully could be in, how much might that reduce the problem of addressing gang activity in the United States?

Mr. MUELLER. That is difficult to give an answer to. I do believe that certain gangs have probably higher percentages of persons illegally in this country. But it is, I would say, somewhat difficult to ascertain.

Mr. KING. Would you concede that if we controlled our borders, stopped the bleeding there, so to speak, that that would be a great step in the right direction to help alleviate the pressure that is on you to control gang activity in the United States?

Mr. MUELLER. Well, certainly some of the gangs, one of which you have alluded to, MS-13, that is known, quite obviously, as having very close ties to El Salvador and individuals who move back and forth between El Salvador, Guatemala, Mexico, Honduras, and the like, and certainly to the extent that we can identify in coming through the border would assist us, in terms of addressing that particular challenge.

Mr. KING. I thank you. And the gentleman from Virginia, Mr. Scott, asked you for a report on the diversity numbers within your department.

Mr. MUELLER. Yes.

Mr. KING. And so that brings for me the question of, if you have to choose between diversity and merit when it comes to hiring em-

ployees and building out the personnel that you manage, how do you make that decision?

Mr. MUELLER. I think you can do both.

Mr. KING. And if you have to come down between the two, is it merit or diversity that prevails?

Mr. MUELLER. Merit and diversity prevail.

Mr. KING. Okay, Director——

Mr. MUELLER. I am not going to——

Mr. KING. Let me take another——

Mr. MUELLER [continuing]. Both, so I see no reason to——

Mr. KING. You know, I could ask you a hypothetical that would describe otherwise, but I think I will move on to something that this Congress will want to review, as well, and that is that you use part of your resources in foreign countries. And we recognize that.

And as the testimony that has come out here on FISA, as the final part of FISA expires, and the director of national intelligence has testified a significant percentage of our access to intel goes away, has gone away, and will go away, as we move forward with FISA, doesn't that put the responsibility back on you and your department to be the last line of defense against terrorists here on the homeland and the United States?

And if it does, then are you at some point, if we don't renew FISA, going to need to come back to Congress and ask for a lot more resources to protect Americans?

Mr. MUELLER. Well, I think everyone, ourselves included, want the resolution to the impasse with regard to FISA and the bill that was passed last August.

It is important that we have clarity. It is important that the communication carriers have clarity as to what the law is. And to the extent that that could be done swiftly, I think it is in all of our interests to do so.

Regardless of what happens there, we maintain our vigilance 24 hours a day, 7 days a week. And we will use to the fullest all the tools that Congress has given to us.

And we cannot do it alone. We have to do it with our counterparts in the intelligence community, as well as our counterparts overseas. And consequently, our hope is that there will be a FISA bill soon and it will benefit both us, as well as the intelligence community.

Mr. KING. Director, if Congress fails to act on FISA, do you believe that you will need more resources domestically to protect the American people?

Mr. MUELLER. Perhaps, but it would be very difficult, if we go to August, and the bill and the certifications that are already in place are allowed to lapse. Quite clearly, steps will have to be taken in a number of agencies to fill that gap, and presumably ours, as well.

Mr. KING. I thank you, Director. Appreciate your testimony.

Mr. Chairman, I yield back.

Mr. CONYERS. Thank you very much.

The Chair is pleased to recognize the able gentleman from Alabama, himself a former assistant U.S. attorney, Artur Davis.

Mr. DAVIS. Thank you, Mr. Chairman. May I ask permission to trade my time with Ms. Wasserman Schultz, who has to Chair a Subcommittee hearing?

Mr. CONYERS. This is highly usual, but yes.

Mr. DAVIS. It is, indeed. If I didn't love her so much, I wouldn't do it, Mr. Chairman.

Mr. CONYERS. All right.

Ms. WASSERMAN SCHULTZ. I thank the gentleman and the Chairman for his indulgence.

Director Mueller, I just have a couple of things that I wanted to go over with you, a lot of which is what I talked to you about last year at the hearing on online child predators.

But I did want to make you aware that overnight there was a fire that is suspected arson in the Chabad synagogue, the Chabad shul on Miami Beach. And it is being investigated as arson as we speak.

It is the second suspected arson in a synagogue in Miami Beach in 6 months. And there were—obviously, we are in the middle of Passover, which is a sacred Jewish holiday, so it makes it all the more disconcerting and tragic.

And I would hope—and if you would, at my request, if you would look into whether or not the FBI could investigate this as a potential hate crime, I would very much appreciate it.

Mr. MUELLER. We will do that.

Ms. WASSERMAN SCHULTZ. Thank you very much. ATF is on the scene, as well, but obviously it is starting to be more than troubling.

I do want to acknowledge the presence of Ed Smart, who is with the Surviving Parents Coalition, here today and who has been the champion for advocating on behalf of children and who have been victims of online sexual predators and children who have been victims, period.

And I want to differ with my colleague from Florida, my good friend, Mr. Keller, because, with all due respect, I don't think that the FBI is doing enough to pursue online child predators. I mean, it was clear in October when we had our hearing here that we are—there are about 500,000 known online child pornographers, people trading these images—these are depictions of sexual acts that are actually happening, crime scene photographs.

And you do acknowledge that, even though I know you said in your testimony that you are investigating—that you have convicted more than 6,800 since 1996, which is 12 years, that is still less than 2 percent of what we know is out there, correct?

Mr. MUELLER. I am not certain of those figures. I would defer to you on that.

Ms. WASSERMAN SCHULTZ. Well, the testimony of James Finch, the assistant director of the FBI's cyber division, who wrote a letter in response to Senator Biden, he indicated in that letter that the FBI's Innocent Images Unit had a total of just one unit chief, 13 special agents, 10 analysts, and nine support staff. I mean, there are Internet blog sites that have larger staffs than that.

Mr. MUELLER. Well, I will say that we have almost 270 agents working nationwide, but I am not going to tell you that that is sufficient to address this. As I have indicated to you before, it is tre-

mendously important. It is an issue that is deserving of more resources.

We put in a request for and did receive additional resources in 2008. We got an additional $2.4 million and 14 positions. But that is, I will tell you, a drop in the bucket. It is a huge, huge issue.

Ms. WASSERMAN SCHULTZ. Do you still have more than 2,000 investigators for white-collar crime, as compared to a couple of hundred for child exploitation?

Mr. MUELLER. I am not certain on the white-collar crimes. But certainly on violent crimes, for instance, I know we have something like 2,200. And white-collar crimes, it may be that high.

Ms. WASSERMAN SCHULTZ. Last year, when we had testimony from your staff, they did testify that there were more than 2,300 investigators dedicated to white-collar crime and only about 232 dedicated to investigating child exploitation. Why is there such a disproportion in commitment, if you verbally are saying that you are committed to trying to ferret out child exploitation?

Mr. MUELLER. Well, because we are facing, have faced, and continue to face substantial white-collar criminal issues. We have got a—as I testified before, the subprime mortgage challenge. We have over 1,300 cases that have come to us.

In the past, we have had Enron, HealthSouth, Qwest, any number of large, white-collar criminal cases. The white-collar criminal program also encompasses civil rights. It encompasses public corruption.

Ms. WASSERMAN SCHULTZ. Okay. But you couldn't possibly compare the harming and sexual exploitation of children and the rape of children being more important, that white-collar crime would be more important than that? I mean, you are certainly demonstrating that it seems to be by the disparate commitment and the commitment of staff.

Mr. MUELLER. Congresswoman, we agree. This is a huge problem. It is a question of resources.

Ms. WASSERMAN SCHULTZ. So if you agree——

Mr. MUELLER. I have put in requests and I have gotten additional resources. But——

Ms. WASSERMAN SCHULTZ. But you know what? The testimony that we had in October was that you were actually diverting resources from the Innocent Images program to other priorities. Can you at least commit that you will stop diverting funding from the Innocent Images program to other priorities in the Department of Justice?

Mr. MUELLER. Well—I will continue to look at our resources and try to adjust the priorities as I think——

Ms. WASSERMAN SCHULTZ. So you won't even commit that you will stop diverting funding from the Innocent Images program?

Mr. MUELLER. I will look at our resources over a period of time and do what I can on this priority.

Ms. WASSERMAN SCHULTZ. What specific FBI resources and personnel do you believe are worth diverting from their current use to rescuing children from child exploitation? Is there something you can identify?

Can you commit to identifying other things that maybe aren't as high a priority, moving those resources to the hundreds of thou-

sands of children that are being victimized online today? I mean, actions speak louder than words, Mr. Director.

Mr. MUELLER. I think if you look at our actions in the cases we have made, we have made substantial cases. I had referred earlier to the case that we made back in the fall, where we—or, actually, it was several months ago, where we took off 60 individuals who had, for a period of 15 years, been passing child pornography in an encrypted state. We did with our counterparts in the U.K.

Ms. WASSERMAN SCHULTZ. Mr. Director, my time has expired, and children need more than words. They need action. These are children that need to be rescued. We have the ability to rescue them if we ask for and pursue and get commitment from our leaders. &&&

Mr. MUELLER. I am happy to work together with you to get the resources we need, Congresswoman.

Ms. WASSERMAN SCHULTZ. And you said that last year, and it is still the same.

Mr. MUELLER. And I am still saying it.

Ms. WASSERMAN SCHULTZ. Okay. Well, now, if we could back it up with action, that would be great.

I yield back the balance of my time.

Mr. CONYERS. Thank you.

The Chair recognizes the Ranking Member of the Constitution Subcommittee, the gentleman from Arizona, Mr. Trent Franks.

Mr. FRANKS. Well, thank you, Mr. Chairman.

Thank you, Director Mueller.

Director Mueller, you have had a pretty challenging day here already, but I want you to know that I certainly laud your commitment to protecting this country and to trying to do everything that you can.

And it is always astonishing to me when we have people like you come forward, and we can't get our act together on FISA, which puts a double challenge upon you.

And so I want to start out by saying how much I appreciate your service to the country, and that is certainly heartfelt. Now, you know when someone compliments you like that that they have a rather negative follow up sometimes, don't you?

Mr. MUELLER. Yes, sir. I am waiting for the other foot.

Mr. FRANKS. Yes, and I, quite honestly, had these questions before I heard the last questioner, so I want you to know that. But I am going to have to follow up here, because I used to be the director of the Governor's Office for Children there when I was in Children's Department and wrote most of Arizona's child pornography legislation. So it is something that I continue to be very concerned about.

And with that in mind, I guess the first thing I want to give you is the chance to answer the question: Do you think the FBI is making it a priority to investigate Internet child pornography and child exploitation? In your mind, are they making that a priority?

Mr. MUELLER. Yes, it is. But it is not amongst the 10 top priorities in this juncture. It is a priority in our cyber arena, and cyber is number three. But in cyber, we include intrusions, we include hackers, as well as the Innocent Images project.

Mr. FRANKS. Well, is it true that you have really got the manpower right now to investigate about 1 percent of the leads that you discover? Is that an accurate thing? Or is that something——

Mr. MUELLER. I will have to get back to you on that. I am not certain that is accurate.

Mr. FRANKS. Are you able to—I know sometimes companies overseas are the biggest challenge. Are you able to partner with other countries to try to triangulate and zero in on these companies that do this from, "safe harbor" from other countries?

Mr. MUELLER. Since October of 2004, we have had an international task force operating out of Maryland. Over that period of time, we have had 47 investigators from 21 different countries that have participated in that task force.

But the spread of child pornography on the Internet is not limited to any one State. It is not limited to any one country. It is worldwide.

And in order to be effective, we have to do it internationally and do it in an international task force. And this task force has been exceptionally effective, not only in bringing cases, but also educating and training others to cooperate with us when they go back to their home countries.

Mr. FRANKS. Do you think we are winning or losing that battle?

Mr. MUELLER. We are losing.

Mr. FRANKS. We are losing?

Mr. MUELLER. We are losing. It is growing on the Internet. Exponentially is probably too strong a term, but just about every crime there is has gravitated to the Internet and, in certain cases, the Internet has provided the vehicle for expansion that otherwise would not be there, and that is certainly true with child pornography.

Mr. FRANKS. Well, let me just say I know that you are very concerned about it, as well. But I will tell you, you know, sometimes in times when I used to give speeches on this subject I would remind people, as the poet did, that there comes a time in every child's life when the door to childhood quietly closes forever. And after that, no mortal power on Earth can ever open it again.

And I would just—I guess my final question here to you, along those things, is that this is something that is profoundly important. What can we do with you to help you, number one, with the legal mechanisms?

And in some States, you know, they don't have the statute that is necessary to prevail. Ancillary evidence rules, all kinds of things make it difficult for us to actually win in court. What legislative mechanisms do you need to make this a priority so that we can go from losing to winning? And what funding needs do you have so we can help you make this happen?

Mr. MUELLER. I do think that this is not something for just one agency to undertake. My own view, and, again, it relates to task forces, the necessity—we have ICAC task forces around the country, but they need to be funded, State and local law enforcement—focus initially on violent crime, need to develop the expertise, the resources to participate on these task forces.

We need to grow the task forces within the United States and develop the relationships with similar task forces overseas. I men-

tioned that investigative mechanisms that will enable us to obtain the records that are necessary from ISPs, from credit card companies——

Mr. FRANKS. Do you need additional legislation to that effect?

Mr. MUELLER. Well, again, it goes to records retention. I do believe that records retention would be of assistance in terms of addressing these problems.

It is not just one agency. It is a number of Federal agencies, the State and local law enforcement, all to be integrated in addressing what is an increasing problem.

Mr. FRANKS. Well, Mr. Chairman, maybe the gentleman would supply this Committee with some ideas as to what we might do in that regard. From his perspective, as an investigator, as leading to prosecutions, and let's try to work together in a bipartisan area, because if child pornography is not bipartisan, then I think maybe it is time for us all to walk out of here.

Mr. CONYERS. That would be most welcome.

Mr. FRANKS. Thank you, Mr. Director.

Mr. CONYERS. Thank you.

The Chair recognizes the gentleman from Alabama, himself a former assistant United States attorney, Artur Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. Mueller, I have a couple of questions or two sets of questions on the national security front. Let me turn to Mr. King's questions and the questions of some other Members regarding FISA.

In your last set of comments regarding FISA, you indicated the importance of Congress reauthorizing the Act or coming to some kind of an agreement around the Act by August. And I assume that was a very deliberate choice of words on your part.

As you know, there has been some controversy over the impact of the Protect America Act expiring back in February. So let me ask you directly: Has the expiration of the Protect America Act imperiled any efforts by the Bureau to conduct intercepts since its expiration?

Mr. MUELLER. I cannot speak to a specific case. I can say that there is uncertainty in the legal counsel's office of communications carriers as to the current State. And it——

Mr. DAVIS. Is there any——

Mr. MUELLER [continuing]. Affects our ability to get information as fast and as quickly as we would want.

Mr. DAVIS. Is there any instance when you or the Bureau has attempted to put an intercept in place since the expiration of the Protect America Act and you have been denied because of the expiration?

Mr. MUELLER. I believe there has been a delay attributed to it, yes.

Mr. DAVIS. Has there been a single instance when the Bureau's request to conduct an intercept has been denied because of the expiration of the Protect America Act?

Mr. MUELLER. Not that I am aware of.

Mr. DAVIS. The President of the United States conducted a press conference shortly after the expiration of the Protect America Act, and the President made the representation that lives were being threatened, that lives could be lost. Do you, Mr. Director, know of

a single life that has been compromised or threatened in the interim between the expiration of the Act and today?

Mr. MUELLER. I am not familiar with those comments, but——

Mr. DAVIS. Would they be accurate?

Mr. MUELLER. I do not know the basis upon which a statement was made, if, indeed, it was made.

Mr. DAVIS. Do you know of a factual basis that would permit the President to make that statement?

Mr. MUELLER. I am not myself personally familiar with that statement or the basis for which the statement was made.

Mr. DAVIS. Do you know of any factual basis that would permit that statement to be truthfully made?

Mr. MUELLER. I will say that my great concern is the uncertainty that we currently have in terms of——

Mr. DAVIS. Do you know of any factual basis——

Mr. MUELLER [continuing]. In terms of——

Mr. DAVIS. You have made that point, yes.

Mr. MUELLER [continuing]. Communications carriers——

Mr. DAVIS. Yes, you have made that point, and I accept it. I will leave the topic if you will just give me a yes or no. Do you know of any factual basis for the President or anyone saying that lives have been threatened or compromised or lost because of the expiration of the Act?

Mr. MUELLER. And I think I answered it, saying I am not certain of the statement, but I personally am not aware of the basis upon which it was made.

Mr. DAVIS. All right. I will take that as you know of no factual basis and move on to my next area.

During the very beginning of your tenure, Mr. Mueller, during the first years of your tenure, after we adopted the color-coded terror alert system, with some regularity the Administration would raise the terror alert level. When is the last time the terror alert level has been raised?

Mr. MUELLER. I can't recall.

Mr. DAVIS. Well, can you turn to your staff and just give me a ballpark as to the last time it has been raised? Because there is an objective answer to that. I know it has been so long we have been at one color.

Mr. MUELLER. Probably a couple of years ago. That is the best we can come up with.

Mr. DAVIS. All right. It has been a while.

Mr. MUELLER. It has.

Mr. DAVIS. So I guess we can conclude one of two things from that, that we have not faced a level of threat that arise or level of imminent threat that would cause the alert system to be raised or that the alert system has been abandoned as a practical matter. Which of those is accurate?

Mr. MUELLER. Well, let me say, I can't remember—in August of 2006, where there were individuals in the U.K. who contemplated bringing liquid explosives on as many as 8 to 10 planes and blowing them up across the Atlantic.

Mr. DAVIS. We remember that.

Mr. MUELLER. That was certainly an area where we——

Mr. DAVIS. So that would be——

Mr. MUELLER [continuing]. Substantial threat. I am not certain whether we raised the level then.

Mr. DAVIS. Right.

Mr. MUELLER. I think what happened is we raised the level at airports——

Mr. DAVIS. Right.

Mr. MUELLER [continuing]. But not across the country.

Mr. DAVIS. Let me—because my time is limited—I don't actually believe that we raised the alert then. I think there was some discussion about it. I think—and since no one contradicts me, I will speak to my memory—I don't think that, frankly, we have raised the alert level since 2004.

And I am happy to accept contradiction if anyone in the room wishes to provide it, but I believe it was 2004.

So I would ask you, going forward——

Mr. MUELLER. Yes, sir.

Mr. DAVIS [continuing]. There will be a new President, one of three individuals, and you will serve for some period of time under that President, I believe. Will it be your recommendation to the next President that we continue the color-coded system?

Mr. MUELLER. I haven't given some thought to that. Again, my recollection is, is that we may have—selective raising of the alert level during that period of time, but not a countrywide—we will have to get back to you on that, though.

Mr. DAVIS. And I would just end, if I can, on this observation, Mr. Mueller, is I think you get the point that I am driving at. In some circles, there is a belief that the Administration was quick to raise it during the run-up to the 2004 presidential elections. That political imperative, having been secured, it has not been raised since then.

That is something that does bother some of us, because it does raise a practical question, which of two things happened? Is it that we pretty much abandoned the system since the 2004 election and you all haven't bothered to tell us? Or is it that we have not had a level of threat rise to the level of imminence that would justify the alert level going up?

Either one of those things would strike me as being relevant to this Committee from a policymaking standpoint.

Mr. MUELLER. I know there is a belief out there that Administration officials would raise the concerns at a particular point of time for political reasons. I personally have never seen that.

In each case in which there has been information put out, it has been based on viable information that had caused us——

Mr. DAVIS. And understand I am in no way questioning your integrity. I am simply making a point that it is a fact that it has not happened since the 2004 election cycle and it does raise questions going forward as to whether it has been abandoned or whether we just haven't had an imminent threat in 4 years.

Mr. MUELLER. I would say, again, that the contradictory fact on that is the fact, in summer of 2006, in August of 2006, where we had that—again, I am not certain where the level was raised, but I can tell you that the—I remember being in a press conference with Michael Chertoff and the rest, so the country became very much aware of that threat——

Mr. DAVIS. Certainly.

Mr. MUELLER [continuing]. Whether the level was raised or not.

Mr. DAVIS. Well, but my whole question went to the viability and the reasonableness of our continuing to have the color-coded system. And, frankly, I think you made my point.

If a threat that you believe wasn't an important one, did not justify, or for whatever reason didn't militate on the level being raised, it may tell us something about the lack of viability of the color-coded system.

Mr. CONYERS. Thank you.

The Committee recognizes the Ranking Member from Texas, Judge Louie Gohmert.

Mr. GOHMERT. Director, I want to follow up on the FISA issue some. Is it the FBI that is the primary agency that would do wiretapping of foreign terrorists on foreign soil?

Mr. MUELLER. No.

Mr. GOHMERT. Who would that be?

Mr. MUELLER. NSA.

Mr. GOHMERT. All right. So that obviously would be a different agency?

Mr. MUELLER. Correct.

Mr. GOHMERT. That is not one you control and are here to testify about, correct?

Mr. MUELLER. That is correct.

Mr. GOHMERT. Now, I am intrigued, though. Here we have not renewed FISA. We have cut the ability of our intelligence community to gather information about what terrorists are doing on foreign soil.

Then we bring the FBI director in here and want to know from him, since you are no longer able to gather this intelligence in the same way you did before, what have you missed? Well, if you are not gathering the intelligence, how would you know what you have missed? That is my point.

You had said a while ago that the FBI, one of your three missions was counterintelligence. But the longer I am here in Congress, the more I think maybe that is the number-one mission in Congress, is to act counter to intelligence.

But, anyway, I want to ask you about Ramos and Compean case, though. Is there any post-conviction investigation that is going into the facts of that case that might help the President to determine whether or not to give a pardon?

Mr. MUELLER. Not to my knowledge. But I don't know—that was a Department of Homeland Security case, so I am not certain what——

Mr. GOHMERT. So the FBI didn't work that case?

Mr. MUELLER. I do not believe so.

Mr. GOHMERT. All right, thank you.

And let me go to the NSL letters. There had been a lot of discussion about that. You had mentioned earlier about the concerns, the abuses of the exigent letters.

Has the FBI terminated use of exigent letters or are those still being used?

Mr. MUELLER. No, they are not being used.

Mr. GOHMERT. And I think my friend, Mr. Lungren, had alluded to it, but would you—or one of my colleagues. How would the tradeoff of the NSLs for broader administrative subpoena authority be better for the FBI? I really don't—I am curious.

Mr. MUELLER. The only one area that I could see that would be beneficial would be putting in one statute, combining in one statute the authorities which would eliminate some of the confusion and eliminate some of the complexity of knowing the appropriate basis and use of particular NSL. That would be one benefit from it.

But I would hate to have lose—again, have the standard change to back what it was before September 10 or September 11, before September 11, in the course of devising a new mechanism for issuing of that paper.

Mr. GOHMERT. I think you have got the impression that we are all extremely concerned about potential abuses there, so whatever we can do to help diminish that possibility.

When you were here before, last year, we have gotten into this some, but with regard to Representative Jefferson's case—I know it is an ongoing case, and obviously you can't discuss anything that might compromise that—but I had previously understood Deputy Attorney General Paul McNulty to say he was aware that there were secured copies of the documents in Jefferson's office that could be made available to him, but he wanted the originals, not the copies.

Are you aware of the existence of copies at the time of the raid on his office?

Mr. MUELLER. No, sir.

Mr. GOHMERT. Let me ask you about the terrorist surveillance program. What is the status of that and its operation under FISA?

Mr. MUELLER. Again, I would defer to my counterparts in other agencies on that. And, also, it is classified, so I couldn't speak to it here.

Mr. GOHMERT. Well, let me ask you, though, because I am wondering if the FBI has a role in investigating the leak of the TSP?

Mr. MUELLER. To the extent that—yes. Yes.

Mr. GOHMERT. The I.G. recently reported that the terrorist watch list contains unacceptable errors and that the FBI is delayed in reporting names to the terrorist watch list by up to 4 months. Why the delay there?

Mr. MUELLER. Well, I think what the I.G.'s report showed that, in the nominations process for the terrorist screening center, we had appropriate criteria and quality controls, but we did not update the list as often as we should. As well, field offices had submitted incomplete and occasionally inaccurate information.

There were 18 recommendations made by the Inspector General. Four have been closed. Twelve of those recommendations are awaiting closure, which leaves only two. So we have taken the I.G.'s report and followed up on each of the recommendations and believe that we are well on the way to solving those.

Mr. GOHMERT. All right, thank you.

I see my time has expired.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you very much.

The Chair recognizes the able gentleman from Minnesota, Keith Ellison.

Mr. ELLISON. Thank you, Mr. Chair.

And, also, I want to thank you, as well, Mr. Mueller. You have been patient and tried to answer the questions. Mortgage fraud, online sexual abuse, terrorism, NSLs, FISA, TSP, we have asked you about all those things. How does this affect Indian country?

I mean, we are talking about a region of our country that really does depend upon the FBI for law enforcement services, and yet we have seen high rates of violent crime and record rates. How does all of this impact Indian country? And how could we get some law enforcement resources there?

Mr. MUELLER. We have tried to maintain our personnel in addressing crimes on Indian country. We focus on those crimes where we really can make a difference, the violent crime and the like.

Our hope is that other agencies can grow to fulfill or fill some of that mission. But in the meantime, to the extent that we are necessary, I want to keep our persons there.

I think I indicated we have something like 16 Safe Trails task forces, which are task forces relating to Indian country that we operate along with State and local law enforcement. Given the various responsibilities that we have, it is one that I think is important.

And personally, I believe if there is anything that a Federal entity can do to reduce the level of violence in our communities, including communities on Indian country, we will try to do so, understanding that we have to prioritize and we are under financial and personnel constraints.

Mr. ELLISON. Has there been a decline in the number of law enforcement personnel, Federal law enforcement personnel in Indian country since, say, 2001?

Mr. MUELLER. I would have to check. I have tried to maintain the safe staffing, but I haven't checked on it in a year or so. So I would have to get back to you on that.

Mr. ELLISON. Maybe somebody with your staff knows?

Mr. MUELLER. I think we would have to get back to you. I really haven't addressed the question in a year or so, so I think we would have to get back to you.

Mr. ELLISON. Well, let me tell you. I have got a lot of constituents who are very concerned about this. And I would count on you to get back with me on it.

Mr. MUELLER. We will.

Mr. ELLISON. Also, you know, in the Muslim community, America has a great Muslim community, several million people. And the post-9/11 world, there has been greater attention on this community. I am sure you wouldn't dispute that.

My question is, how important are outreach efforts in the Muslim community, given that the overwhelming number of Muslims condemn, are opposed to terrorism, or would be happy to report on somebody who was committing, plotting terrorism? How important are outreach efforts into the Muslim community for the FBI?

Mr. MUELLER. Tremendously important. We have, since September 11, in every one of our offices, every one of our field offices,

we have had substantial outreach efforts. I am sure you are familiar with them in your community.

We continue to have them both on the national, as well as in the State and the local level.

And every opportunity I have, I re-affirm the fact that 99.9 percent of Muslim-Americans or Sikh-Americans, Arab-Americans are every bit as patriotic as anybody else in this room, and that many of our cases are a result of the cooperation from the Muslim community in the United States.

One of the worst things that could happen in the Muslim community is we have another attack such as September 11. Nobody wants it, whether it be ourselves in the FBI or those members of the Muslim community.

Mr. ELLISON. So thank you.

So let me just ask this. I mean, I know you are well aware that, in May 2007, prosecutors down in Dallas named about 306 individuals and groups as unindicted co-conspirators in the so-called HLF case.

To my knowledge, no one was convicted. And many people came within like 11 to 1 to get acquitted. And I am sure you know the history of the case, am I right?

Mr. MUELLER. I believe that case is still in litigation.

Mr. ELLISON. It is still on litigation, but you know that there was—the jury came back hung and that many of the verdicts were 11 to 1 to acquit. You know that? Not all the verdicts; many did.

Mr. MUELLER. I am not—I understood it was hung. I am not certain that I am familiar with the breakdown of the jury on any particular defendant.

Mr. ELLISON. But I don't want to get stuck in the weeds on the point. The fact is, 12 Americans sat in judgment of this case, listened to all the evidence, and didn't convict. You would agree with that?

Mr. MUELLER. There was a hung jury.

Mr. ELLISON. That means there was no conviction. Come on, Mr. Mueller.

Mr. MUELLER. There was no—there was no conviction.

Mr. ELLISON. That allows me to go on and ask my question. By naming all these 306 individuals and organizations as unindicted co-conspirators, naming them explicitly, what impact did that have on your effort to build better relations in the Muslim-American community?

Mr. MUELLER. I am not certain it had any impact.

Mr. ELLISON. I mean, do you——

Mr. MUELLER. I have not heard about an adverse impact as a result of that particular case.

Mr. ELLISON. Okay. Well, let me ask you this. I mean, there are groups on—the groups that were named in there, there was no verdict against them, because they were unindicted, right?

I mean, do you think—what kind of effect do you think—message it sends to them, in terms of your ability to reach out to the community, gain cooperation, gain trust? Don't you think it might have a deleterious effect? Doesn't your common sense tell you that?

Mr. MUELLER. I understand what you are saying. I take your point.

Mr. ELLISON. And could you elaborate on what we do about this, given that it is arguable that these unindicted co-conspirators that were explicitly named, not kept under seal, but explicitly identified could well be in violation of DOJ policy, which I know you don't control? What would you—do you think there is a better way to do this kind of thing?

Mr. MUELLER. All I can tell you, sir, is it is in litigation. And I am precluded from discussing it because it is in litigation.

Mr. ELLISON. Am I done?

Mr. CONYERS. Your time is up, but you can talk some more, if you would like.

Mr. ELLISON. Okay, thank you.

You know, one of the questions that Representative Baldwin pursued was getting a tighter handle on this watch list process. I can't tell you how many people, most of whom are Muslim or have Arabic names, come to me, saying, "Wow, you know, I got humiliated, delayed, and it is often and it is common. I have never done anything other than try to be a good citizen."

What recommendations do you have for us that would help us, one, protect America and, two, tailor this watch list in a way that doesn't sweep up all these people who have done nothing wrong, other than just try to be good Americans?

Mr. MUELLER. Each agency has a redress officer and a redress office. So the recommendation is to file the application with the redress office.

Mr. ELLISON. But, Mr. Mueller, you would agree with me that that is pretty cold comfort to somebody who has been delayed for 3 hours from their flight and everything they had to go do. We need a better process than just call the redress office.

And I guess I was hoping, given that your commitment to outreach and all, that you would be a little bit more willing to explicitly talk about things we could do to offer legislation to tailor a watch list. Are you telling me just go to the office and that is it?

Mr. MUELLER. Well, we have set up a redress process. I am always open to suggestions on how it can be improved. But it seems to me that you definitely need a redress process.

I am not disagreeing about the frustration of being held up for 3 hours.

Mr. ELLISON. But you have heard it.

Mr. MUELLER. I agree with you. But we have put in place a redress process, and I am always open to suggestions as to how to make that redress process better.

Mr. ELLISON. How would it compromise national security to be able to have people ask if they are on it and, if they are, to have some kind of process to set forth evidence to demonstrate that they should be off of it?

Mr. MUELLER. And that is part of the redress process, as I understand it.

Mr. ELLISON. But am I wrong? I could be wrong. I thought if you asked if you were on it, you might not even be told whether you are on it or not.

Mr. MUELLER. You may not be. But there is a redress process.

Mr. ELLISON. How many people have been taken off the watch list since 2001?

Mr. MUELLER. I believe—I am not certain. I would have to get back to you.

Mr. ELLISON. You know, is there a chance that what we have here is government workers who are like, "Look, I am going to err on the side of just putting everybody on it because I don't want to be the one who didn't put somebody on it who maybe I should have, so I am going to have a very, very low bar to put somebody on this list," which they practically can never really get off of, notwithstanding the redress process?

Mr. MUELLER. No, I think there is a technical basis for going on the terrorist screening center watch list. And you have to meet certain criteria.

Mr. ELLISON. Is that published?

Mr. MUELLER. I am not certain it is. I don't believe it is.

Mr. ELLISON. Could I——

Mr. MUELLER. But there is a criteria.

Mr. ELLISON [continuing]. Published?

Mr. MUELLER. I would have to get back to you on that.

Mr. ELLISON. Okay, so you don't know what the criteria is, right, right now?

Mr. MUELLER. Right offhand, I don't know all the criteria. I can't——

Mr. ELLISON. What are a few of the big ones?

Mr. MUELLER. Pardon?

Mr. ELLISON. What are a few of the big ones?

Mr. MUELLER. It is based on the evidence that you have in our files to determine whether or not there has been an association with terrorism.

Mr. ELLISON. Does the person who has been watch-listed have an opportunity to challenge those things?

Mr. MUELLER. I am not certain. I don't believe so, because you would not be exposed to the information we have.

Mr. ELLISON. Right. So if you are on the list, then you say, "Look, I shouldn't be on this list," but you are not told why you are on the list, so you can't really rebut why you are on the list. Wouldn't you call that defect in the redress process?

Mr. MUELLER. Well, again, I would be happy to have the persons responsible for the watch list sit down with you and explain in more detail how we handle the watch list.

Often, it happens that the name is similar to another name. And through the redress process, we get identifiers and identify you as being an individual who may have the same name as somebody on the watch list, but because of the identifiers, your particular name is no longer associated with the name on the watch list.

Mr. ELLISON. Mr. Mueller, I want to work with you to narrow and tailor this watch list process.

Mr. MUELLER. Yes, sir.

Mr. ELLISON. And we want everybody who is supposed to be there should stay on. But a lot of the people who shouldn't be, I am hoping we can get them off.

Mr. MUELLER. Thank you, sir.

Mr. ELLISON. Thank you.

I yield back.

Mr. CONYERS. Well, thank you very much.

Does the gentleman from Texas, the Ranking Member, have any closing comment?

Mr. SMITH. Mr. Chairman, no official closing comments.

I do want to thank the director for appearing. I think we have had a good hearing today, and I think he has been very responsive to all the questions that have been directed toward him.

As I understand, Director Mueller, your appointment, you became director of the FBI 1 week after 9/11?

Mr. MUELLER. One before, 1 week before 9/11.

Mr. SMITH. I mean 1 week before. That may give rise to a new definition of on-the-job training. I had forgotten that it was that close.

So appreciate all that you have been through and appreciate your good record. And as I said earlier, you and other law enforcement agencies and intelligence-gathering agencies, as well, have obviously done an outstanding job, since we haven't had another attack.

Should we endure another attack, that is not necessarily a reflection on you, because I think—frankly, I think most Americans have been surprised there hasn't been another attack. If you were to ask anybody a few weeks after 9/11 if we were going to be attacked again, I suspect a high percentage of the American people would have thought that by now that would have occurred.

I am grateful that it has not, and I think that is largely do to the good service that you have performed, as well as other agencies have performed. So I thank you for that.

I don't have any other comments, Mr. Chairman.

Mr. CONYERS. Thank you.

Does the gentleman from California, Dan Lungren, have any closing comments?

Mr. LUNGREN. Thank you, Mr. Chairman.

I just wanted to say, in that last exchange you had with the gentleman from Minnesota, one of the concerns we have had as we looked at it in the Homeland Security Committee of people on the watch list is that, because of concerns of privacy, we don't have the list of identifiers that allow us to take people off.

DHS got in a little bit of trouble because they had a list with information of people that they tried to run it against. And one of the concerns we have in the Homeland Security is, can we create a system where we query files that are available in the private sector—therefore, we don't retain that information—to get people off?

The only other thing I was going to say, Mr. Mueller, is that, when you were asked about the failure of the Congress to re-enact the Protect America Act, I would just remind my colleagues that, in testimony before this Committee, it was Admiral McConnell, the DNI, who said that, prior to the enactment of the Protect America Act, which has now expired—these are his words—"We were not collecting somewhere between one-half and two-thirds of the foreign intelligence information that would have been collected."

That scenario still prevails today for new investigations, not those that you referred to that started before last August and continued last August.

Mr. MUELLER. That is correct.

Mr. LUNGREN. So that is the concern I think that we are attempting to address, those of us who raise this, is the new targets that are out there. And presumably we are missing between one-half and two-thirds, if the DNI is correct.

And I thank you for your testimony.

Mr. CONYERS. I thank the gentleman from California.

Thank you, Director Mueller. We have had a very meaningful hearing today that started somewhere shortly after 10:15 this morning.

Serious problems concerning the National Security Letters' abuse still continue, including the collection of private information on innocent people who are not relevant to any authorized investigation.

And although the Federal Bureau of Investigation has taken some positive steps, action at the FBI field office level is needed, along with legislative reform, such as measures that have been proposed by Members of this Committee.

The FBI action in the Renzi and Jefferson cases raises in my mind serious concerns about the protecting of constitutional privileges of the Members of Congress, as the court has already found in the Jefferson case. The FBI must act promptly to set up procedures in this area.

And it is shocking to me that FBI standards on interrogation have not apparently been followed by the Department of Defense or the CIA.

Now, the FBI deserves credit for establishing these standards, but the fact that they are not followed by all Federal agencies is a problem that we need in this Committee to examine far more closely and carefully than we have up until now.

And so we thank you, again, and your staff for appearing here this morning and afternoon for a very important session. Thank you.

Mr. MUELLER. Thank you. Thank you, sir.

Mr. CONYERS. The Committee stands adjourned.

Members will have 5 days to add their comments in the record. The Committee stands adjourned.

[Whereupon, at 1:35 p.m., the Committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

RESPONSES TO POST-HEARING QUESTIONS FROM THE HONORABLE ROBERT S. MUELLER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

QUESTIONS FOR THE RECORD

ROBERT S. MUELLER, III
APPEARANCE BEFORE THE HOUSE JUDICIARY COMMITTEE

April 23, 2008
2141 Rayburn House Office Building

National Security Letters

1. We understand that you do not support the proposals for NSL reform that Mr. Nadler and I have made. What statutory reforms would you accept? Please explain.

2. During the hearing, Congressman Watt requested information regarding the number of NSLs that have been inappropriately issued, to which you responded that you would have to get back to him. Now that you have had time to investigate that number, what is your response to Mr. Watt's question?

Angola 3

3. Will you commit FBI resources and open a thorough investigation to get to the bottom of the Angola matter?

   A. If so, please explain how you will proceed.

   B. If not, why not?

Director Mueller's Notes Regarding the March 10, 2004, hospital visit

4. Last year, in response to the Committee's requests, you provided us with your typewritten notes regarding the events including and surrounding the well publicized March 10, 2004, hospital visit involving then-White House Counsel Alberto Gonzales, then-White Chief of Staff Andrew Card, then-Attorney General John Ashcroft and then-Deputy Attorney General Jim Comey. Accounts have described that visit as the Administration's attempt to get Mr. Ashcroft to approve the warrantless wiretapping program, despite Justice Department objections. Much of the substance of your notes was redacted. The Committee has requested unredacted copies, but we have yet to receive them. Will you agree to give us unredacted copies of your notes relating to the Ashcroft hospital visit and the warrantless wiretapping program?

A. The FBI's Office of Congressional Affairs informed us that FBI General Counsel, Valerie Caproni, delivered unredacted copies of the Director's notes to the Justice Department for review. To whom did Ms. Caproni deliver the notes?

i. Why did Ms. Caproni deliver the notes to the Justice Department?

ii. If the unredacted notes are being reviewed for ultimate dissemination to the Judiciary Committee, when can we expect to receive them?

Interrogation and Torture

5. Please clarify whether the FBI was or was not involved in the interrogation of Padilla when he was in the Navy Brig in South Carolina.

6. Please clarify whether the interrogation took place during the period when Padilla was being subjected to harsh interrogation by the Dept. of Defense?

7. Is the FBI involved in assisting the Guantánamo prosecutors?

8. Please describe the respective roles being played by the FBI agents and other military or civilian intelligence personnel in assisting the Guantanamo prosecutors?

9. Did you ever attend the "Principals Meetings" where specific details of interrogation techniques were approved or discussed?

A. If so, who else was present and what was the substance of the conversations?

B. If not, were you ever invited to those meetings?

C. It was reported that Attorney General Ashcroft attended. Do you know if that was because the FBI was involved in the interrogation?

i. If not, do you know why he would have attended?

Rendition

10. During the hearing, Congressman Watt asked whether you were aware that the North Carolina Attorney General had referred a matter to you regarding Aero Contractors in North Carolina allegedly aiding in rendering people. You responded by explaining that you would get back to Congressman Watt. Now that you have had time to review the matter, what information can you provide in response to Congressman Watt's question?

Decreased Resources for Traditional Law Enforcement

11. How has the FBI's counterterrorism priorities, including changes in FBI support to local crime task forces, affected field office partnerships with state and local law enforcement agencies?

Indian Country

12. During the hearing, you explained to Congressman Ellison that you would have to check to determine whether there has been a decline in the number of federal law enforcement personnel in Indian country since 2001. Now that you have had an opportunity to retrieve that information, what is your response?

13. In response to a question that Congressman Ellison asked you regarding the FBI's role in and commitment to fighting crime in Indian country you stated that your hope was that other agencies would grow to fill that need. Can you please clarify what you meant by this statement?

    A. Currently the federal government has exclusive law enforcement jurisdiction over most Indian reservation land for major crimes. Additionally, while the Bureau of Indian Affairs police used to have its own investigators, nearly 20 years ago investigative responsibility in Indian country was transferred to the FBI, as well as the financial appropriations for that responsibility. Understanding that Congress has delegated the FBI both the exclusive legal authority and the federal appropriations, is it still your hope that other agencies will take over the responsibility?

    B. Does the FBI retain its commitment to investigating crime in Indian Country?

14. How many actual FBI agents, and actual agent hours, have been committed to Indian Country over the last 10 years, by year and by region.

15. How many open FBI files currently exist pertaining to Indian Country?

    A. How many, and what percentage, of open cases has the U.S. Attorney's Office declined?

    B. How does this rate compare to the overall national average of cases declined?

16. How many requests from Indian Country for FBI investigations have there been, by region, over the last ten years?

    A. Of those requests, how many resulted in investigations actually opened by the FBI, by region, for the last ten years?

17. The Violence Against Women Act of 2005 mandates tribal law enforcement access to NCIC in order to facilitate the sharing of information on habitual sex offenders. It is our understanding that the FBI requires tribes to go through state governments in order to obtain access. It is also our understanding that many states have been unwilling to work with the Tribes in order to ensure access to NCIC.

    A. Please provide information on tribal law enforcement access to the National Crime Information Center (NCIC) data systems.

    B. What will the FBI do to ensure tribal law enforcement direct access to NCIC?

Racial Profiling

18. We have heard reports of many cases where FBI agents conducting "voluntary" interviews use intimidatory tactics to get Muslim-Americans to talk to them without attorneys present. In some cases, agents have threatened to impair a non-citizen's ability to stay in the country. Yet in other instances, individuals are told that if they don't talk to the agent without an attorney, the agent will go and ask their neighbors, co-workers and friends about them, and that if the individual has nothing to hide, they should have no problem talking to the FBI without an attorney.

    A. What triggers an agent to contact an individual for a voluntary interview? Please explain how this practice is not racial profiling?

    B. What steps are taken to train agents about the rights of individuals?

    C. What is done when, in cases such as the ones mentioned above, agents try to intimidate individuals into talking without an attorney?

Name-Checks

19. The Department of Homeland Security last year issued a rule that increased fees to support increased FBI fees for security checks. How much does the U.S. Citizenship and Immigration Service (USCIS) pay to the FBI for each individual fingerprint and each individual name check?

Sentinel

20. During the hearing, Congresswoman Lofgren requested a full report on the progress of the implementation of Sentinel as well as digitizing records. When will you provide this report?

Mortgage Fraud

21. During the hearing, you told Congresswoman Waters that you would provide her a list of mortgage fraud indictments. Consistent with your testimony, when will you provide that list?

Data-mining

22. The General Accountability Office has identified the FBI's Foreign Terrorist Tracking Task Force (FTTTF) as a data mining effort, but in its July 9, 2007, report on data mining activities the Department of Justice (DOJ) does not identify FTTTF as a data mining program. Does the FTTTF engage in data mining?

23. According to the DOJ data mining report, FBI analysts who receive threat information that does not identify individuals will use the FTTTF Data Mart to develop a list of names based on "the nature and specificity of the threat." Is this pattern-based data mining? If not, why not?

    A. Can U.S. persons be identified as suspected terrorists through this process?

24. According to the DOJ data mining report, the FBI uses a data mining program called the System to Assess Risk (STAR) to help prioritize suspect names developed through the FTTTF data analysis. STAR utilizes a program called the Query Tracking Initiation Program (QTIP) to search the Terrorist Screening Center (TSC) watchlist, the Department of Homeland Security's I-94 database, and commercial databases to develop information on the suspects produced by the FTTTF data mining, and then STAR generates a terrorist risk score for each suspect. Given that the Inspector General has reported that the TSC watchlist is plagued with errors and omissions, and the notorious record of commercial databases, is the FBI concerned that mining these databases will result in the erroneous identification and ranking of suspected terrorists? If not, why not?

    A. What are the factors that STAR uses to rank suspected terrorists?

    B. Is race, religion or national origin used as criteria in any of these data mining programs?

25. The DOJ data mining report says, "[w]ith respect to initiatives in which information is obtained from a commercial data aggregator, those private parties have strong business incentives to consistently provide accurate information," yet we know from experience that data produced by data aggregators is prone to errors. Does not the government owe a greater duty to evaluate the accuracy of this data when the government is undertaking data mining programs designed to identify terrorists, especially considering the significant impact a false determination might have on the rights of innocent Americans and the

security implications that could result from a failure to properly identify a terrorist? If not, why not?

A. Can we leave the accuracy of such a determination to the business interests of a commercial data aggregator?

26. The DOJ data mining report says "the FBI's STAR initiative… queries only information that already has been lawfully obtained by the government" and therefore does not infringe on the privacy or civil liberties of Americans. Does the FBI consider information purchased from data aggregators such as Choicepoint and Accurint to be legitimately acquired information?

A. Does the FBI need to have a reasonable indication that an American is engaged in criminal activity before it starts collecting dossiers of information about them from private data brokers? Please explain.

27. The FBI's databases are also filled with erroneous or incomplete information. A Department of Justice Inspector General audit last year determined the TSC watchlist remains inaccurate and error-prone. The IG noted that several known or suspected terrorists were not watchlisted appropriately and that 38 percent of the records tested "continued to contain errors or inconsistencies that were not identified through the TSC's quality assurance efforts." A 2006 Department of Justice report indicates the FBI's criminal history depository, the Interstate Identification Index (III), is still missing final disposition information for approximately 50 percent of its records, meaning the subsequent exoneration of a person arrested for a heinous crime might not be reflected in the FBI's records, but the arrest would. What is the FBI doing to clean up its own databases?

A. How can the FBI rely on these databases to perform pattern-based data mining operations? Please explain.

28. When the FBI determines that some particular data in its data-sets is wrong or erroneous, how is that information identified, corrected, flagged, segregated or deleted?

29. What are the annual costs of the FBI's data mining efforts?

A. How many terrorism related investigative leads have been generated by FBI data-mining programs?

B. How many terrorists have been identified, arrested and convicted using these data mining methods?

C. How many false positives have been generated through FBI data-mining projects?

D. How many agent hours have been spent chasing down these false positives?

30. What scientific, peer-reviewed research can you identify that proves data mining can predict future criminal or terroristic behavior?

31. Given the lack of scientific proof showing data mining works, are we better off hiring additional agents than spending billions on these theoretical, unproven programs? If not, why not?

Terrorist Screening Center Watchlist

32. In a Senate Homeland Security Committee hearing last October we learned that the Terrorist Screening Center watchlist has ballooned to over 860,000 individual records, and grows by 20,000 new records each month. A Department of Justice Inspector General audit last year determined the TSC watchlist remains inaccurate and error-prone. The IG noted that several known or suspected terrorists were not watchlisted appropriately and that 38 percent of the records tested "continued to contain errors or inconsistencies that were not identified through the TSC's quality assurance efforts," thereby increasing "the chances of innocent persons being stopped or detained during an encounter because of being misidentified as a watchlist identity." An August 25, 2007, Washington Post article that revealed the 20,000 positive watchlist matches in 2006 resulted in few if any arrests.

    A. How many terrorists on the TSC watchlist were captured or arrested last year?

    B. Does the FBI keep track of how many innocent individuals have been stopped or detained because they have the same name, or a name similar to one on the watchlist?

    C. Does the FBI have a method of measuring the security resources lost as a result of false matches to the watchlist?

    D. Are specific racial, ethnic or religious groups disproportionately represented on the TSC watchlist?

    E. Do watchlist-related stops disproportionately affect specific racial, ethnic or religious groups?

    F. Does the FBI keep records of watchlist stops to analyze whether certain populations within the United States are disproportionately impacted?

    G. What is the FBI doing to ensure that the watchlist is not just a form of ethnic profiling? Please explain.

33. During the hearing, Congressman Ellison requested information regarding whether the criteria for selecting individuals for the watchlist was published? Now that you have had an opportunity to determine whether or not it is published, what is your response?

A. If it is published, can you please provide it to the Committee.

National Security Agency's Warrantless Wiretapping Program

34. In November of 2006 the Department of Justice Inspector General opened an investigation regarding the FBI's involvement in the NSA warrantless wiretapping program. Is the FBI cooperating with this investigation?

Whistleblowers

35. When you were confirmed as Director of the FBI, and many times since then, you testified that you would not tolerate retaliation against FBI personnel who report waste, fraud or misconduct within the FBI. Yet during your tenure as Director, internal investigations and court cases have confirmed retaliatory actions were made against current and former FBI employees, including John Roberts, Sibel Edmonds, Robert Wright, Jane Turner, Bassem Youssef and Michael German. In many of these cases the retaliation wasn't proven until long after these FBI employees retired, resigned or were terminated. Is protecting FBI whistleblowers important to the success of the FBI?

    A. If so, why has your message of intolerance for retaliation not adequately filtered down to FBI managers?

    B. Has any FBI employee been fired or demoted for retaliating against an FBI whistleblower? If so, who?

    C. What can you do, that you have not done, to make sure no other FBI whistleblowers will be retaliated against? Please explain.

    D. Would passing stronger legal protection for FBI whistleblowers make it easier for you to convince FBI managers not to retaliate against whistleblowers? If not, why not?

    E. One of the reforms the FBI suggested in the wake of the National Security Letter scandal was creating an anonymous hotline that agents could use to report misuse of NSLs. Could FBI agents legitimately expect anonymity on such a hotline?

        i. If not, what challenges would exist and how can they be addressed?

FBI Purchase of Phone Records from Third Party Dealers

36. In 2006, it was discovered that the local, state and federal law enforcement agencies had been purchasing phone records from online databases, even from

companies that were known to have obtained the private records fraudulently, for instance, by calling and pretending to be the customer himself. Is the FBI buying records in this fashion?

A. Does not this violate the clear requirements of the law that you issue a national security letter, get a subpoena, or follow other legal process before accessing such records? If not, why not?

Questions from Representative Jerrold Nadler

1. Shortly following the hearing, and in response to requests for documents made by Representative Cohen, you provided a copy of a May 19, 2004 memo/electronic communication from General Counsel regarding the "Treatment of Prisoners and Detainees." That memo indicates that "no interrogation of detainees, regardless of status, shall be conducted using methods which could be interpreted as inherently coercive, such as physical abuse or the threat of such abuse to the person being interrogated or to any third party, or imposing severe physical conditions."

   A. A March 13, 2008 NY Times article, "Pentagon Cites Tapes Showing Interrogations," reported that interrogators videotaped some sessions with detainees and specifically mentions a tape of the interrogation of Ali al-Marri at the Navy detention site in Charleston, S.C. ("Charleston Brig"). The article states that the tape shows "Mr. Marri being manhandled" by his interrogators and that "the interrogators dispensing the rough treatment on the tape were F.B.I. agents."

      i. Please confirm whether FBI personnel were involved in the interrogation of detainees at the Charleston Brig and, if so, explain their role in those interrogations (e.g., actively questioning or observing);

      ii. Please confirm whether interrogations at the Charleston Brig were videotaped and, if so, who was involved in the decision to videotape interrogations and who authorized the taping;

      iii. If interrogations were taped, were all interrogations taped? If so, please explain why all interrogations were taped. If only certain interrogations were taped, please explain why those interrogations were taped, why other interrogations were not taped, who was involved in discussions of whether or not to tape particular interrogations, and who made the decision whether or not to tape a particular interrogation;

      iv. If interrogations were taped, please confirm whether those tapes (or any copies) still exist and explain what steps have been taken to ensure that any remaining tapes are retained. If they no longer exist, please explain the circumstances under which they were destroyed, including who knew of the existence of the tapes, who was involved in the decision to destroy the tapes, and when that decision was made. To the extent copies of any tapes were made, please provide the same information for any and all copies;

      v. In addition to possible tapes of interrogations, are you aware of any other documentation, including notes, interrogation logs, or other working papers (including FBI Form 302 reports that the FBI usually completes and retains) regarding interrogations at the Charleston Brig? If so, please

confirm that steps have been taken to ensure that any such documentation is preserved. If not, please explain:

a. If such documentation existed by has since been destroyed, please explain why and when it was destroyed, who was involved in the discussions regarding destruction, and who authorized the destruction of such documentation;

b. If no such documentation was made, please explain why not, whether this represents a departure from usual FBI procedure and – if so – why the decision to depart from usual procedure was made, who was involved in discussions regarding the decision not to document interrogations at the Charleston Brig, and who authorized the decision not to document these interrogations

B. With regard to interrogations or interviews of detainees at the Charleston Brig, and provided that FBI personnel were involved or observed interrogations at the Charleston Brig, please answer the following questions:

i. Please explain what steps the FBI has to investigate the possible mistreatment of detainees at the Charleston Brig and provide any and all documentation of any such investigations;

ii. In other settings – including detention sites in Iraq, Afghanistan, and Guantanamo Bay, FBI personnel have reported disagreement with the handling of detainees or prisoners by non-FBI personnel. The memo that you provided indicates that FBI employees who know or suspect abuse or mistreatment must report the incident.

a. Did any FBI employees report the mistreatment or abuse of detainees or prisoners at the Charleston Brig? If any reports were made, please explain the steps taken by the FBI in response to any such reports and provide any and all documents related to any such reports or response;

b. Is the FBI aware of any instances where FBI employees witnessed abuse or mistreatment of detainees or prisoners at the Charleston Brig but failed to report it? If so, what steps were taken to investigate the failure to report and what conclusions were drawn and steps taken in response to the failure to report?

c. If concerns about possible mistreatment or abuse of detainees were reported, please explain what specific interrogation tactics or techniques resulted in those reports.

iii. Please explain any affirmative steps that the FBI has taken, including any observation/supervision by superior or other officers, videotaping of interrogations, surveys or questioning of FBI personnel or others, to assure that detainees at the Charleston Brig are being treated in accordance with FBI policy.

2. The Department of Justice has resisted any independent judicial inquiry into destruction of recordings of interrogations and other working materials (including, apparently, notes and working papers associated with interrogation sessions) at least in part because of a joint Defense Intelligence Agency (DIA) Office of General Counsel and Office of Inspector General inquiry into such destruction.

   A. Has that investigation been completed? If not, please provide an update regarding the status of the investigation and expected date of completion;

   B. If so, what does the investigation conclude about the destruction of materials related to interrogations at the Charleston Brig? What, if anything, does the investigation conclude about the underlying interrogations themselves? If there is not conclusion regarding the underlying interrogations, what – if any – explanation was given for the failure to include this as part of the investigation?

3. The May 19, 2004 memo/electronic communication from General Counsel regarding the "Treatment of Prisoners and Detainees" (referenced in question 1, above) indicates that there are different standards of treatment for detainees dependent upon their "status." That memo reiterates, however, that the FBI's position is that "regardless of status," no detainee shall be subject to physically coercive techniques. In the case of Ali al-Marri, former Attorney General John Ashcroft has written that Mr. al-Marri "rejected numerous offers to improve his lot by cooperating with the FBI investigators [while in civilian custody]" and that "he insisted on becoming a 'hard case.' Consequently, on June 23, 2003, President Bush . . . designated al-Marri an 'enemy combatant, and he was transferred to military custody."[1] Individuals, including Mr. al-Marri and Jose Padilla, have alleged that they were subject to unlawfully harsh interrogation while being held at the Charleston Brig.

   A. FBI personnel interviewed certain detainees like Mr. al-Marri and Mr. Padilla while they were held in civilian and in military custody. Was the FBI's treatment of these detainees identical in both settings?

      i. If not, please explain the differences and the justification for those differences, including an explanation of (a) who was involved in discussions regarding the difference in treatment; (b) who authorized the difference in

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[1] John Ashcroft, *Never Again: Securing America and Restoring Justice* (Center Street, 2006), pp. 168-169.

treatment; and © what exactly was the difference in treatment. Please also explain whether any FBI personnel complained regarding the different treatment being applied in military versus civilian custody. If any such complaints were made, please provide any and all documentation of those complaints and an explanation and documentation of any response.

ii. If the treatment was identical in both setting, please confirm that this includes all treatment known to the FBI, whether or not FBI personnel were directly involved in that treatment.

B. The Administration has stated that, in analyzing whether an individual is appropriately designated an enemy combatant, the Attorney General makes a recommendation to the President on the basis of factual information supplied by the FBI, among others.

i. Mr. Al-Marri had been charged criminally based on information gathered by FBI agents and was within a month of trial when he was transferred from civilian to military custody. Please explain who initiated the request for that transfer, who was involved in the decision to undertake the transfer, and whether the FBI objected to or supported the transfer and the reasons for its position, what information the FBI supplied, and the basis for the President's determination.

ii. Please answer the same questions (as contained in (B.i.)) with regard to Jose Padilla.

iii. In any other cases, has the FBI objected to or supported the transfer of detainees between civilian and military custody? If so, please explain the circumstances of those cases and the basis for the FBI's position.

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