

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2012**

THURSDAY, APRIL 7, 2011

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

The subcommittee met at 10:03 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Lautenberg, Pryor, Hutchison, Johnson, and Collins.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

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

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning. The Subcommittee on Commerce, Justice, Science, and Related Agencies will come to order.

Today, we are taking the testimony of Director Robert S. Mueller, III on the Federal Bureau of Investigation's (FBI) budget and priorities for fiscal year 2012.

I know Senator Hutchison is on her way, but I'm going to open with my remarks while she's on her way, because we're going to do what we have been doing the last 3 years, which is to have an open hearing on the FBI's—here she is—the FBI's budget and their priorities for funding. And then we will take, around 11 o'clock, a 15-minute recess, until we go to the Intelligence Committee's room. Senator Feinstein has graciously made available that hearing room for us, where we will meet in a classified briefing on the request.

Sixty percent of the FBI's appropriated requests now are in the area of national service—excuse me—national security. After 9/11, shortly after Director Mueller was appointed, the United States of America, faced with one of its greatest attacks since Pearl Harbor, had the decision on how it would deal with domestic threats; responding to international terrorism; “Should we set up our own MI5?” But, we chose not a new agency, not a new bureaucracy, but to turn to one of the most trusted agencies in the United States Government, our FBI. And we stood up an agency within an agency, but we wanted them to act as one agency. And Director Mueller has just done that.

This hearing has some poignancy to it, because it will be Director Mueller's last. I'm kind of misty here. Director Mueller and I have been through so much together—not with each other. But, I went on the Intelligence Committee just weeks before the attack on the United States, and the Director was appointed. And we went through so much in establishing this agency: the 9/11 commissions; how do we respond to the great threats facing the United States; and with the FBI not neglecting the criminal enterprises, even though, with the terrorists, it was the criminal enterprises against us. So, I think he's been a fantastic FBI Director.

We know that, today, it's his last appearance before the subcommittee. I know the subcommittee just has considerable respect for him and his excellent executive ability, his patriotic dedication. And, as the Washington Post referred to him, he's one of the night-hawks that stay up with these late briefings and threats around the world.

So, we want to hear from you, Director Mueller, because, I know you want this hearing not to be about you, but about the FBI and what we need to do to make sure the FBI has the right resources to do the job that we ask them to do.

We acknowledge that we're in uncertain times. The FBI is operating at \$500 million below the President's 2011 request. We want to know, how is the FBI addressing this cut? We need to know how it's affecting staff and morale.

As I said, we'll begin with unclassified, and then we'll go to the closed hearing.

As head of this subcommittee, I have three priorities when examining the FBI's budget: one, its national security, its security related to our communities. How is it our keeping our—working with local law enforcement—streets and neighborhoods safe? And how are we dealing with the new challenges, particularly in financial services: mortgage fraud, and Medicare fraud. The Congress makes a big show sometimes of saying, "We're going to go after fraud and abuse." Well, you know what? The FBI actually does it. They actually go after crooks that are scheming and scamming people through their mortgages and also through our Medicare fund. So, we're going to learn more about its 2012 budget request, exactly on accomplishing those objectives.

The five highlights of the new budget include gathering intelligence on cyberthreats, \$120 million; fighting mortgage fraud and white-collar crime, \$245 million; going after those despicable sexual predators, \$90 million; tracking weapons of mass destruction, at \$89 million; and tracking international terrorist networks, at \$316 million.

Our Nation faces these growing threats, and they're absolutely crucial that we stay online. The growing threat of cybersecurity, which we also work very closely with, with the Intelligence Committee, is a critical component for our Nation's infrastructure. We worry about online banking and commerce, the electrical power grids, air traffic control systems, and we need to make sure that we are able to respond to a whole other war, called "the cyberwar". This year, the request is \$129 million, and we want to hear more about those details, but we'll reserve that for the classified time.

The FBI is requesting \$3.3 billion for counterterrorism activities. It's a 4 percent increase, and a \$128 million increase over the current level. The FBI is using these funds—and this is really important—to disrupt terrorist plots, investigate terrorist crimes, and identify, track, and defeat terrorist sleeper cells operating in the United States. I want to know more about this.

I know my colleague from Texas will also be asking questions about another war front that we're on, which is the Southwest Border, and the role of the FBI in working to defeat the drug cartels that want to—that are engaged in such horrendous and horrific activity.

When we look at violent crime—and part of this is going on right at our Southwest Borders—we know that there is a \$2.6 billion request for fighting what is the traditional role of the FBI. And again, this is a 5.4 percent increase.

But, you know, the criminal organizers and enterprisers are—again, these are very sophisticated criminal organizations: trafficking in children, schemers of middle-class homes, trying to bilk Medicare. It seems that wherever—there's no end to the ingenuity of crooks and thugs in our country. But the FBI is on it.

We want to congratulate the FBI on what it is doing in mortgage fraud. They have an incredible success rate in going after those who have bilked our constituents. And right now, the subcommittee will find—and the Director will speak to it—they have a 3,000 case backlog in mortgage fraud. This is why we're troubled by the FBI freeze that they're mandated to follow.

There will be issues related to accountability, particularly in technology. We know that the Sentinel program has had speed bumps, potholes, and a variety of other metaphors that we could use. But, I understand that working—that the FBI now has that on track, and we'll look forward to it.

PREPARED STATEMENT

We want to really hear from the FBI Director. So, I'm going to take a more extensive statement, ask unanimous consent to put it into the record, turn to Senator Kay Bailey Hutchison, and then we'll go right to questions. And, Senator Johnson, your opening remarks, if you have some, I'd like you to incorporate it in your questions. And we'll give you some wiggle room. Okay?

[The statement follows:]

PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

Good morning and welcome to the second hearing of 2011 of the Commerce, Justice and Science (CJS) Subcommittee. Today, the CJS Subcommittee will hear from FBI Director Robert S. Mueller, III about the FBI's budget and priorities for fiscal year 2012.

We continue our examination of the President's 2012 budget although we still have not finished 2011. I am mindful that whatever happens in our 2011 wrap-up will affect what the FBI can do in the future. We'll learn today what these cuts mean for the FBI.

I acknowledge we are in uncertain times. The FBI is operating at \$500 million below the President's 2011 request. We need to know how the FBI is addressing this cut and how it is affecting morale and staff retention.

We'll begin with an unclassified hearing to focus on the FBI's general budget request, and then we will move to a closed hearing to discuss budget requests for the FBI's classified operations.

We welcome Director Mueller to his last scheduled hearing before the CJS Subcommittee. He will be the longest serving FBI Director since J. Edgar Hoover and he is the only Director to serve out a full 10-year term. He came into this job just a week before the 9/11 terrorist attacks. His leadership has transformed the FBI from a traditional domestic law enforcement agency into a global anti-terrorism and anti-crime police force keeping us safe from threats here at home.

As Chairwoman I have three priorities when examining the FBI's budget—first, national security, or how the FBI is keeping America safe; second, community security, or how the FBI is keeping our families safe; and third, oversight and accountability, or how the FBI is ensuring our tax dollars are spent wisely.

Today, we will learn more about how the FBI plans to use its fiscal year 2012 budget request to carry out its extraordinary responsibilities of keeping us safe from terrorism and violent crime, such as dismantling organized crime and drug cartels, combating gang violence, stopping illegal drug and gun smuggling, and catching child sexual predators.

The President's budget request for the FBI in fiscal year 2012 is \$8.1 billion—a \$227 million, or 2.9 percent, increase above the 2010 omnibus and current continuing resolution levels. Five highlights of this budget request include:

- \$129 million for gathering intelligence on cyber threats to stop cyber crooks from hacking into U.S. networks;
- \$245 million for fighting mortgage fraud and white collar crime by targeting scammers who prey on hard working families;
- \$89 million for tracking weapons of mass destruction (WMD) to prevent terrorists from acquiring WMD materials;
- \$90 million for catching child predators and stopping sexual deviants who exploit children on the Internet; and
- \$316 million to track international terrorist networks and expand surveillance capabilities that help shut them down.

Our Nation faces a growing and pervasive threat overseas from hackers, cyber spies, and cyber terrorists. Cyber security is a critical component to our Nation's infrastructure. We need safe and resilient networks to protect our online banking and commerce, electrical and power grids, air traffic control systems and digitalized records.

In 2010, the CJS Subcommittee appropriated \$118 million for the FBI's cyber efforts, called the Comprehensive National Cybersecurity Initiative. This year, the request is \$129 million—an \$11 million increase that will provide 14 new agents and 5 new professional staff. We will hear more about the details on the FBI's cyber efforts in the classified session, but I am pleased that the FBI is a key guardian of our Nation's cyber security.

After 9/11, the FBI was charged with a new national security mission—to protect us from international terrorism and track WMD that could hurt the United States. Today, counterterrorism makes up more than 40 percent of the FBI's budget. The FBI requests \$3.3 billion for counterterrorism activities—a \$128 million, or 4 percent, increase above the current level. The FBI is using these funds to disrupt terrorist plots before they happen, investigate terrorist crimes after they occur, and to identify, track and defeat terrorist sleeper cells operating in the United States and overseas. I want to know if this budget request is enough to tackle all counterterrorism responsibilities including WMD, cyber computer intrusions, foreign counterintelligence, and critical incident response.

I also want to know how the FBI is protecting Americans from violent crime in their communities. The budget requests \$2.6 billion for traditional crime fighting efforts here in the United States—a \$134 million, or 5.4 percent, increase above the current level of \$2.5 billion. This request allows the FBI to hire 35 new special agents to focus on cyber crimes and violent crimes in Indian country. It also supports FBI efforts to target sophisticated criminal organizations that prey on the vulnerable, traffic children for prostitution, and scam middle class families out of their homes. These organizations will do anything to make a profit. But I am worried that this budget request is flat to fight violent crime and gangs.

I also want to know if this fiscal year 2012 request is enough to help protect hard-working families and their homes. Mortgage fraud is the FBI's number one white collar crime problem. The FBI is investigating more than 3,000 mortgage fraud cases and more than 55 corporate fraud cases in the subprime mortgage industry. The budget requests \$245 million to combat mortgage fraud with 94 mortgage fraud task forces made up of agents, forensic accountants, and financial analysts to investigate complex financial schemes.

Director Mueller, I know you are with me. We want to send a clear message to the predators. No more scamming or preying on hardworking Americans. If you break the law, you will suffer the consequences.

This budget request includes \$90 million for the FBI to protect children by catching deviants who use the Internet to prey on them and break up international sex trafficking and prostitution rings. The FBI plays an important role in enforcing the Adam Walsh Act and it is responsible for monitoring and targeting Internet predators. In 2009, the FBI's Innocent Images national initiative convicted over 1,200 producers, distributors and possessors of child pornography.

Since 2003 when it was established, the FBI's Innocence Lost Initiative has rescued more than 1,100 children. The youngest victim rescued was 9 years old. The program has convicted more than 500 pimps, madams, and their associates who exploit children through prostitution. I want to hear from you if the 2012 request is sufficient to enhance child predator investigations and target predators before they strike so we can save children's lives.

Any future plans for the FBI must protect taxpayers from Government boondoggles. We must ensure strict accountability, oversight, and management to ensure that taxpayer dollars are not wasted and avoid cost overruns and missed deadlines. I am concerned about many delays and cost overruns on the FBI's Sentinel program, which upgrades the electronic case management system used by analysts and agents. It is a technological tool to help protect our citizens.

Last fall, you decided the FBI would take over management to implement and complete Sentinel—a move that was made to keep Sentinel from becoming another techno-boondoggle. I want to know where we are on Sentinel. What steps have you taken to ensure that Sentinel gets back on track? Where is Sentinel in the development and deployment process? How long will the program be delayed and how much will this cost?

In conclusion, I want to say how proud I am of the men and women at the FBI who are fighting to keep America safe from terrorism and violent crimes. They are on the job 24 hours a day, seven days a week. We must ensure that the FBI has the resources it needs to protect the lives of 311 million Americans. But we also want to make sure the FBI is a good steward of taxpayer dollars. We have to make sure every dollar we spend to keep our Nation safe is a dollar well spent.

I thank Director Mueller for his leadership. I look forward to continuing our productive relationship with both him and his team.

STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Thank you, Madam Chairman.

I do want to just take a moment to say thank you so much for your service. You are the second longest serving FBI Director in our Nation's history, after Hoover. So, you've had a major impact. You took on the job about a couple of weeks before 9/11. And after that time, of course, it was added to the mission of the FBI to take on counterterrorism. And so, you've had a huge impact on our law enforcement. And you have been so accessible. And I agree with everything the chairwoman said regarding your service. And we are sorry to see you go.

Let me just say that, because of the changes that have happened during your time, the focus that you have now gone into, of course, is the counterterrorism, cybersecurity; that's all a whole new field, as well. And you've done very well. I do want to focus on the Southwest Border, because, Mr. Director, we're in a war there. And I just want to give a couple of statistics for the record:

Since the beginning of last year, more than 3,000 drug-related murders have been reported in Juarez, Mexico. It is, of course, just across the river from El Paso. And you have, of course, an office there. But, this is stunning. And it is coming over into our country. It is affecting our crime rates.

Let me just give you a few excerpts from the director of the Department of Public Safety (DPS), who was testifying before a State legislative committee. He said he is very concerned that crime in Dallas, Houston, Austin, and San Antonio is very much connected

to Mexican drug cartels operating through the potent prison gangs—the Texas Syndicate and Texas Mafia.

Last year, law enforcement agencies operating in the Rio Grande Valley apprehended what they refer to as “287 Other Than Mexicans,” illegal immigrants from countries with active al Qaeda cells or Taliban activity, places like Yemen, Iran, Pakistan, and more. The Government Accountability Office has said that they believe we catch about 6.5 percent of the illegal criminal activity that is coming across our border. So, you can multiply the 287.

And these people are very crafty. There are reports of instructions, in Arabic languages and foreign languages, on what to do when you get across the border—where you go, where your connections are. And so it’s very troubling.

The State has increased its resources—the State of Texas, which, of course, has the giant share of the border—but this is a Federal issue. And I am very concerned that your budget has \$130 million out of \$8.1 billion. Now, I am told that, in the recent Southwest Border supplemental, the FBI was denied additional resources. I understand—I am also told that the FBI was denied new border enhancements in the fiscal year 2012 request. I want to know more about that—and I will ask, during the question period—because this war is going to affect our country, and it is as important as any war we’re fighting, anywhere. And I hope that, because of the great record that the FBI has, that we will be able to fully commit the resources that are needed for this fight, because it’s not thousands of miles away; it is on our border. And two Americans were killed at a border crossing just last week.

And I’ve talked to the mayors of our major cities. They know that there are drug cartel activities in the four cities that were mentioned by the DPS director. So, that’s going to be a major focus for me, I will tell you. And I will want to know more, what we can do and how we can make it a priority for the Justice Department to involve the FBI, because, where the FBI is, they—everyone says they are very helpful. All the local law enforcement people I talk to, the Drug Enforcement Administration (DEA), everyone is complimentary of the FBI input. But we have a pittance compared to what we need.

I also will want to ask you about the shooting of the Immigration and Customs Enforcement (ICE) agents in Mexico, one of whom was killed. And you were tasked with a major part of the investigation. And I will want to know how that was being handled and if the Mexican Government was cooperative.

So, these are the focuses, in addition to what the Senator from Maryland, the chairwoman of this subcommittee, has said. But you have a big job. You’ve done a great job. We need to know what we can do to make sure that you can operate in the future.

Thank you.

Senator MIKULSKI. Thank you, Senator Hutchison. And I’m so glad you’re—you know, so persistent on this issue. And it’s one of the reasons I also will have the classified hearing with the FBI at 11:15 a.m., because a lot of your questions really need to be talked about in a different forum, and at the level of detail I know you’ll want in the answers.

But, I want to pledge to you, on this Southwest Border issue, and to the Southwest Senators, this is an American issue. So, you're not fighting this by yourself. You can count on me as a full partner on this.

Senator HUTCHISON. That means a lot. Thank you very much.

Senator MIKULSKI. Director Mueller, why don't you begin your testimony.

SUMMARY STATEMENT OF ROBERT S. MUELLER, III

Mr. MUELLER. Well, thank you, and good morning, Chairwoman Mikulski and Ranking Member Hutchison.

And, at the outset, thank you for your remarks. I think we've worked exceptionally well together over the years, and I am tremendously appreciative of the support that this subcommittee has given, most particularly to the FBI, but also to me, personally. Thank you.

And also, thank you for the opportunity to appear before you today.

As you have started to point out, and I'll follow up on, the FBI now faces unprecedented and increasingly complex challenges. We must identify and stop terrorists before they launch attacks against our citizens. We must protect our Government, businesses, and critical infrastructure from espionage and from the potentially devastating impact of cyber-based attacks. We must root out public corruption, fight white collar and organized crime, stop child predators, and protect civil rights. We must also ensure we are building a structure that will carry the FBI into the future by continuing to enhance our intelligence capabilities, improve our business practices and training, and develop the next generation of FBI leaders. We must do all of this while respecting the authority given to us under the Constitution, upholding civil liberties, and the rule of law. And we must also do this in what some would say are uncertain fiscal conditions.

The challenges of carrying out this mission have never been greater, as the FBI has never faced a more complex threat environment than it does today. Over the past year, we have faced an extraordinary range of threats from terrorism, espionage, cyberattacks, and traditional crime.

Let me, if I could, give you a brief overview with several examples. Last October, there were the attempted bombings on air cargo flights bound for the United States from Yemen, directed by al Qaeda in the Arabian Peninsula. Last May, there was the attempted car bombing in Times Square, aided by Tehrik-e Taliban Pakistan, in Pakistan. These attempted attacks demonstrate how al Qaeda and its affiliates still have the intent to strike within the United States.

In addition, there were a number of serious terror plots by lone offenders. Their targets ranged from a Martin Luther King Jr. Day march in Spokane, Washington, to a Christmas tree lighting ceremony in Portland, Oregon, to subway stations in the Washington, DC Metro system. The motives and methods of these plots were varied, making these among the most difficult threats to anticipate and then to combat.

The espionage threat persisted as well. Last summer, there were the arrests of 10 Russian spies, known as illegals, who secretly blended into American society in order to clandestinely gather information for Russia. And we continue to make significant arrests for economic espionage as foreign interests seek to steal controlled technologies.

The cyberintrusion at Google last year highlighted the potential danger from a sophisticated Internet attack. Along with countless other cyberincidents, these attacks threaten to undermine the integrity of the Internet and to victimize the businesses and people who rely on the Internet.

In our criminal investigations, we continue to uncover billion dollar corporate and mortgage frauds that weaken the financial system and victimize investors, homeowners, and, ultimately, taxpayers.

We also exposed healthcare scams involving false billings and fake treatments that endangered patients and fleeced Government healthcare programs.

As pointed out, the extreme violence across our Southwest Border continued to impact the United States, as we saw and has already been pointed out, with the murders last March of American Consulate workers in Juarez, Mexico, and the shooting, last month of two ICE agents in Mexico.

Throughout the year, there were numerous corruption cases that undermined the public trust, and countless violent gang cases that continue to take innocent lives and endanger our communities.

As these examples demonstrate, the FBI's mission to protect the American people has never been broader, and the demands on the FBI have never been greater. To carry out these responsibilities, we need the Congress's continued support more than ever.

The support from this subcommittee and the Congress has been an important part of the ongoing transformation of the FBI. A key element of this transformation has been the ability to recruit, hire, train, and develop the best and the brightest agents, analysts, and staff to meet the complex threats we face now and in the future, and the ability to put in place the information technology and infrastructure needed to perform our everyday work.

I am concerned that our momentum, built up over the past several years with your support, is going to be adversely affected due to the constrained fiscal environment. The FBI strives to be a good steward of the funding the Congress provides, and we continually look for cost-saving initiatives and better business practices to make us more efficient. However, addressing the major threats and crime problems facing our Nation requires investments that cannot be offset by savings alone. If funded for the remainder of fiscal year 2011 at prior year levels, the FBI will have to absorb more than \$200 million in operating requirements and will have more than 1,100 vacant positions by the end of the year. The fiscal year 2012 budget that we are discussing today would actually provide a lower level of resources than the fiscal year 2011 request submitted last year, and will leave unaddressed gaps in our investigative and intelligence capabilities and capacities in all programs.

I note that the proposed continuing resolution would fully fund the Department of Defense (DOD), while all other agencies would

be extended, perhaps for 1 week. I strongly encourage this subcommittee to consider also fully funding the FBI in the continuing resolution. Under the continuing resolution, the FBI would be the only major partner in the intelligence community that is not fully funded. While our intelligence community partners would be able to proceed with planned initiatives and programs, the FBI could not. And we cannot be considered an equal partner in the intelligence arena without full funding.

As was pointed out, approximately 60 percent of the FBI's budget is scored under the DOD-related budget function. Today, FBI agents, intelligence analysts, and professional staff stand side-by-side with the military in Afghanistan and elsewhere in the world, working together to keep our country and our citizens safe from attack. Full funding for the FBI, for which both the House and Senate were in agreement in their respective marks, would enable these critical dependencies and collaboration to continue without interruption.

Last, let me say that we simply cannot afford to return to the pre-9/11 days, where hiring and staffing in the FBI was a roller coaster that left most field offices understaffed to deal with the terrorist and other threats we faced. Nor can we afford to return to the pre-9/11 days where funding uncertainty led to a degradation of the FBI's physical and information technology infrastructure.

PREPARED STATEMENT

Let me finish by saying, I appreciate the opportunity to be here today to talk about our 2012 budget and, inevitably, the 2011 continuing resolution. But, I also want to thank the subcommittee for your continued support on behalf of the men and women of the FBI.

And I, of course, would be happy to answer any questions that you may have.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF ROBERT S. MUELLER, III

Good morning Chairwoman Mikulski, Ranking Member Hutchison, and members of the subcommittee.

On behalf of the more than 30,000 men and women of the Federal Bureau of Investigation (FBI), I would like to thank you for the years of support you have provided to the FBI. This subcommittee has been instrumental in ensuring the FBI has received the critical resources it needs to:

- defend the United States against terrorism and foreign intelligence threats;
- uphold and enforce the criminal laws of the United States;
- protect civil rights and civil liberties; and
- provide leadership and criminal justice services to Federal, State, municipal, and international agencies and partners.

Since 9/11, the FBI has shifted to be an intelligence-led, threat-focused organization, guided by clear operational strategies. The FBI is focused on predicting and preventing the threats we face, while engaging the communities we serve. This shift has led to a greater reliance on technology, collaboration with new partners, and human capital, requiring additional resources. FBI is a full member of the U.S. intelligence community and serves as a critical and singular link between the intelligence and law enforcement communities in the United States. FBI, as an organization, is in a unique and critical position to address national security and criminal threats that are increasingly intertwined. Our adversaries are evolving and using globalization to enhance their reach and effectiveness, creating new challenges in our efforts to counter their impact.

Today, the diversity and complexity of the threats facing the Homeland has never been greater:

- In the past year, the United States has been the target of terrorist plots from three main sources:
 - al Qaeda;
 - al Qaeda's affiliates; and
 - homegrown extremists.
- Homegrown extremists are a growing concern and priority of the FBI, as evidenced by the number of recent disruptions and arrests; and
- The asymmetric intelligence threat presented by certain foreign governments endures as the damage from compromised sensitive information and financial losses from economic espionage and criminal activity remain significant.
- Technological advancements and the Internet's expansion will continue to empower malicious cyber actors to harm U.S. national security through criminal and intelligence activities. We must maintain our ability to keep pace with this rapidly developing technology.
- The FBI's efforts prosecuting financial crimes—including billion-dollar corporate and mortgage frauds, massive Ponzi schemes, and sophisticated insider trading activities—remain essential to protect investors and the financial system, as well as homeowners and ultimately taxpayers. There also continue to be insidious healthcare scams that endanger patients and fleece Government healthcare programs of billions. Despite strong enforcement, both public corruption and violent gang crimes continue to endanger our communities.

These examples underscore the complexity and breadth of the FBI's mission to protect the Nation in a post-9/11 world.

The FBI's fiscal year 2012 budget request includes a total of \$8.1 billion in direct budget authority, including 33,469 permanent positions (12,993 special agents, 2,989 intelligence analysts, and 17,487 professional staff). This funding, which consists of \$8 billion in salaries and expenses and \$81 million in construction, is critical to continue our progress acquiring the intelligence and investigative capabilities required to counter current and emerging national security and criminal threats.

Consistent with the FBI's transformation to a threat-informed and intelligence-driven agency, the fiscal year 2012 budget request was formulated based upon our understanding of the major national security and criminal threats that the FBI must work to prevent, disrupt, and deter. We then identified the gaps and areas which required additional resources. As a result of this integrated process, the fiscal year 2012 budget proposes \$131.5 million for new or expanded initiatives and 181 new positions, including 81 special agents, 3 intelligence analysts, and 97 professional staff. These additional resources will allow the FBI to improve its capacity to address threats in the priority areas of terrorism, computer intrusions, weapons of mass destruction, foreign counterintelligence, and violent crime.

Let me briefly summarize the key national security threats and crime problems that this funding enables the FBI to address.

NATIONAL SECURITY THREATS

Terrorism.—The FBI is fully engaged in the worldwide effort to counter terrorism. We have taken that fight to our adversaries' own sanctuaries in the far corners of the world—Iraq, Afghanistan, Pakistan, Europe, Asia, and Africa. We have also worked to uncover terror cells and supporters within the United States, as well as disrupting terrorists' financial, communications, and operational lifelines at home and abroad.

Al Qaeda remains our primary concern. Al Qaeda's intent to conduct high-profile attacks inside the United States is unwavering. While the overall structure of the group has diminished, its power to influence individuals and affiliates around the world has not. Today, we still confront the prospect of a large-scale attack by al Qaeda, but the growing threat from al Qaeda affiliates, as demonstrated in the attempted Christmas Day bombing and the failed Times Square bombing, is unprecedented. Al Qaeda and its affiliates may also attempt smaller attacks that require less planning and fewer operational steps—attacks that may be more difficult to detect and prevent.

Threats from homegrown terrorists are also of growing concern. These individuals are harder to detect, easily able to connect with other extremists, and—in some instances—highly capable operationally. There is no typical profile of a homegrown terrorist; their experiences and motivating factors vary widely.

The added problem of radicalization makes these threats more dangerous. No single factor explains why radicalization here at home may be more pronounced than in the past. American extremists appear to be attracted to wars in foreign countries,

as we have seen a number of Americans travel overseas to train and fight with extremist groups. These individuals may be increasingly disenchanted with living in the United States, or angry about U.S. and Western foreign policy. The increase and availability of extremist propaganda in English can exacerbate the problem.

The Internet has also become a key platform for spreading extremist propaganda and has been used as a tool for terrorist recruiting, training, and planning, and has been used as a means of social networking for like-minded extremists. Ten years ago, in the absence of the Internet, extremists would have operated in relative isolation, unlike today.

In short, we have seen an increase in the sources of terrorism, an evolution in terrorist tactics and means of communication, and a wider array of terrorist targets here at home. All of this makes our mission that much more difficult and requires continued support.

The fiscal year 2012 budget request includes 63 positions (34 special agents) and \$40.9 million to address these national security threats, including funding for surveillance resources to combat international terrorism and foreign intelligence threats, as well as funding for the High-Value Detainee Interrogation Group, Terrorist Screening Center operations, and increased information analysis and sharing capabilities.

Intelligence.—Since 9/11, the FBI has dramatically shifted our intelligence program and capabilities to address emerging threats. We stood up the National Security Branch, created a Directorate of Intelligence, integrated our intelligence program with other agencies in the intelligence community, hired hundreds of intelligence analysts and linguists, and created Field Intelligence Groups (FIGs) in each of our 56 field offices. In short, the FBI improved and expanded our intelligence collection and analytical capabilities across the board.

Today, we are collecting intelligence to better understand all threats—those we know about and those that have not yet materialized. We recognize that we must continue to refine our intelligence capabilities to stay ahead of these changing threats. We must function as a threat-driven, intelligence-led organization. The FBI recently restructured its FIGs, where each group now has clearly defined requirements for intelligence collection, use, and production. With this new structure, each office can better identify, assess, and attack emerging threats.

We want to make sure that every agent in every field office approaches a given threat in the same manner, and can better turn information and intelligence into knowledge and action. The fiscal year 2012 budget request includes \$2.5 million to help with this endeavor.

Cyber.—A cyber attack could have a similar impact as a well-placed bomb. To date, terrorists have not used the Internet to launch a full-scale cyber attack, but they have executed numerous denial-of-service attacks and defaced numerous Web sites.

Al Qaeda's online presence has become almost as potent as its physical presence. Extremists are not limiting their use of the Internet to recruitment or radicalization; they are using it to incite terrorism. Of course, the Internet is not only used to plan and execute attacks; it is also a target itself. Osama bin Laden long ago identified cyberspace as a means to damage both our economy and our morale—and countless extremists have taken this to heart.

The FBI, with our partners in the intelligence community, believe the cyber terrorism threat is real and is rapidly expanding. Terrorists have shown a clear interest in pursuing hacking skills. And they will either train their own recruits or hire outsiders, with an eye toward coupling physical attacks with cyber attacks.

The FBI pursues cyber threats from start to finish. We have cyber squads in each of our 56 field offices around the country, with more than 1,000 specially trained agents, analysts, and digital forensic examiners. Together, they run complex undercover operations and examine digital evidence. They share information with our law enforcement and intelligence partners. And they teach their counterparts—both at home and abroad—how best to investigate cyber threats.

But the FBI cannot do it alone. The National Cyber Investigative Joint Task Force includes 18 law enforcement and intelligence agencies, working side-by-side to identify key players and schemes. This task force plays an important role in the administration's Comprehensive National Cybersecurity Initiative. Its goal is to predict and prevent that which is on the horizon, and then attribute and pursue the enterprises behind these attacks. The task force operates through Threat Focus Cells—smaller groups of agents, officers, and analysts from different agencies, focused on particular threats.

Together, with law enforcement, the intelligence community, and our international and private sector partners, we are making progress, but there is significantly more to do. The fiscal year 2012 budget request includes 42 positions (14 spe-

cial agents) and \$18.6 million to enhance the FBI's investigatory capabilities and protect critical technology network infrastructure from malicious cyber intrusions as well as improve analysis of digital evidence.

Technology and Tools.—The FBI has greatly improved the way we collect, analyze, and share information using technology. Intelligence provides the information we need, but technology further enables us to find the patterns and connections in that intelligence. Through sophisticated, searchable databases, we are working to track down known and suspected terrorists through biographical and biometric information, travel histories and financial records. We then share that information with those who need it, when they need it.

For example, the FBI has developed the Data Integration and Visualization System (DIVS), with the goal to prioritize and integrate disparate datasets across the FBI. The FBI currently has investigative data that is stored and accessed in multiple systems. As a consequence, our personnel are spending too much time hunting for data, leaving them less time to analyze and share that data to stay ahead of threats. Furthermore, this stove-piped architecture and inefficient process increases enterprise costs and impedes the speed, effectiveness, and responsiveness of intelligence and investigative analysis.

DIVS provides single sign-on, role-based access controls to analyze and link all FBI data that the user is lawfully allowed to see and will provide the means to efficiently feed FBI Secret data to the FBI Top Secret system. DIVS will not only significantly improve users' efficiency in searching multiple databases, it will ultimately help reduce or eliminate unnecessarily redundant data systems.

In addition to creating new technologies, like DIVS, one lesson we have learned in recent years is the need to ensure that as new technology is introduced into the marketplace, FBI and its law enforcement partners maintain the technical capabilities to keep pace. In the ever-changing world of modern communications technologies, however, FBI and other Government agencies are facing a potentially widening gap between our legal authority to intercept electronic communications pursuant to court order and our practical ability to actually intercept those communications.

As the gap between authority and capability widens, the Federal Government is increasingly unable to collect valuable evidence in cases ranging from child exploitation and pornography to organized crime and drug trafficking to terrorism and espionage—evidence that a court has authorized us to collect. We need to ensure that our capability to execute lawful court orders to intercept communications does not diminish as the volume and complexity of communications technologies expand.

FBI's fiscal year 2012 budget request includes 23 positions—3 special agents—and \$20.5 million to advance DIVS development and to strengthen FBI's and our law enforcement partners' ability to successfully conduct lawfully authorized electronic surveillance, consistent with existing authorities, by establishing a Domestic Communications Assistance Center (DCAC).

Weapons of Mass Destruction.—The FBI carries responsibility for responding to certain Weapons of Mass Destruction (WMD) threats in the United States, and the WMD Directorate carries out that critical charge. The Directorate was established to be a unique combination of law enforcement authorities, intelligence analysis capabilities, and technical subject matter expertise that exists nowhere else in the U.S. Government. The creation of the Directorate enabled the FBI to focus its WMD preparedness, prevention, and response capabilities in a single, focused organization rather than through decentralized responsibilities across divisions.

The global WMD threat to the United States and its interests continues to be a serious concern. The WMD Commission has warned that without greater urgency and decisive action, it is more likely than not that a WMD will be used in a terrorist attack somewhere in the world by the end of 2013. Osama bin Laden has also said that obtaining a WMD is a "religious duty" and is reported to have sought to perpetrate a "Hiroshima" on U.S. soil.

Globalization makes it easier for terrorists, other groups, and lone actors to gain access to and transfer WMD materials, knowledge, and technology throughout the world. As noted in the WMD Commission's report, those intent on using WMDs have been active and as such "the margin of safety is shrinking, not growing".

The frequency of high-profile acts of terrorism has increased over the past decade. Indicators of this increasing threat include the 9/11 attacks, the 2001 Amerithrax letters, the possession of WMD-related materials by Aafia Siddiqui when she was captured in 2008, and multiple attempts by terrorists at home and abroad to use explosives improvised from basic chemical precursors. The challenge presented by these threats is compounded by the large volume of hoax threats that distract and divert law enforcement agencies from addressing real threats.

The FBI must be poised to handle any WMD event, hoax or real. Therefore, the fiscal year 2012 budget request includes 13 positions (including 6 special agent bomb technicians) and \$40 million to acquire the necessary aircraft required to respond to a WMD incident and render a device safe.

CRIMINAL THREATS

The FBI faces many criminal threats, from white collar crime to organized crime to violent crime and gangs to the extreme violence along the Southwest Border. While all of these threats remain, I would like to take the opportunity to focus on two of these threats—investigations along the Southwest Border and violent crime occurring in Indian country.

Southwest Border.—The United States border with Mexico extends nearly 2,000 miles, from San Diego, California to Brownsville, Texas. At too many points along the way, drug cartels transport kilos of cocaine and marijuana, gangs kidnap and murder innocent civilians, traffickers smuggle human cargo, and corrupt public officials line their pockets by looking the other way. Any one of these offenses represents a challenge to law enforcement. Taken together, they constitute a threat not only to the safety of our border communities, but to the security of the entire country.

The severity of this problem is highlighted by the following statistics:

- \$18 billion–\$39 billion flow annually from the United States across the Southwest Border to enrich the Mexican drug cartels.
- 2,600 drug-related murders in Juarez, Mexico in 2009.
- 28,000 drug-related murders in all of Mexico since 2006.
- 93 percent of all South American cocaine moves through Mexico on its way to the United States.
- 701,000 kilograms of marijuana seized during the first 5 months of 2010 in Southwest Border States (Arizona, California, New Mexico, and Texas).
- 6,154 individual seizures of marijuana, cocaine, heroin, and methamphetamines during the first 5 months of 2010 in the Southwest Border States.

The FBI has 13 border corruption task forces, but to address security along the Southwest Border, we have developed an intelligence-led, cross-programmatic strategy to penetrate, disrupt, and dismantle the most dangerous organizations and individuals. This strategy begins with the deployment of hybrid squads in hotspot locations. The primary goal of the hybrid squad model is to bring expertise from multiple criminal programs into these dynamic, multi-faceted threats and then target, disrupt, and dismantle these organizations. Hybrid squads consist of multi-disciplinary teams of special agents, intelligence analysts, staff operations specialists, and other professionals. The agent composition on the squads provides different backgrounds and functional expertise, ranging from violent gangs, public corruption, and violent crimes.

The FBI's fiscal year 2012 budget request includes funding to continue these efforts, which were initially provided through supplemental funding in fiscal year 2010.

Indian Country.—The FBI has the primary Federal law enforcement authority for felony crimes in Indian country. Even with demands from other threats, Indian country law enforcement remains a priority for the FBI. Last year, the FBI was handling more than 2,400 Indian country investigations on approximately 200 reservations and more than 400 Indian gaming facilities throughout 28 States. Approximately 75 percent of all FBI Indian country investigations involve homicide, crimes against children, or felony assaults. American Indians and Alaska Natives experience violent crime at far higher rates than other Americans. Violence against Native women and children is a particular problem, with some counties facing murder rates against Native women well over 10 times the national average.”¹

Complex jurisdictional issues and the dynamic and growing threat in Indian country requires additional FBI presence. Currently, the FBI has 18 Safe Trails Task Forces focused on drugs, gangs, and violent crimes in Indian country. The gang threat on Indian reservations has become evident to the tribal community leaders, and gang-related violent crime is reported to be increasing. Tribal communities have reported that tribal members are bringing back gang ideology from major cities, and drug-trafficking organizations are recruiting tribal members.

In order to address this situation, the FBI's fiscal year 2012 budget request includes 40 positions (24 special agents) and \$9 million to bolster existing Safe Trails

¹Zaykowski, Kallmyer, Poteyeva, & Lanier (August 2008), *Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is Known*, Bachman (NCJ #223691), at 5, <http://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>.

Task Forces and to provide additional investigative resources to address a significant violent crime threat in Indian country.

OFFSETS

The FBI, like all Federal organizations, must do its part to create efficiencies. Although the FBI's fiscal year 2012 budget request includes \$131.5 million in program increases, it is offset, in part, by almost \$70 million in program reductions. These offsets include \$26.3 million to reduce funding for the FBI's Secure Work Environment program, which enables the FBI's national security workforce the ability to access top secret information within the FBI and with intelligence community partners; almost \$1 million to eliminate and consolidate FBI Violent Crime and Gang Task Forces; a \$15 million reduction to Sentinel (the FBI's case management system); \$6.3 million to reduce support of the relocation program, which strategically relocates staff to meet organizational needs and carry out mission requirements; almost \$1 million to eliminate 12 FBI resident agency offices across the country; a \$5.8 million reduction to the FBI's ability to develop new tools to identify and analyze network intrusions; a \$2.6 million reduction as a result of surveillance program efficiencies; almost \$1 million to reduce the amount requested to hire and support special agents and intelligence analysts; \$5.7 million to delay the refreshment cycle of FBI desktop and laptop computers—delaying refreshment from 4 years to 5 or more years; and a \$5.9 million reduction for administrative efficiencies, including funding for travel, equipment, conferences and office supplies.

CONCLUSION

Chairwoman Mikulski, Ranking Member Hutchison, and members of the subcommittee, I want to thank you for this opportunity to discuss the FBI's priorities and detail new investments sought for fiscal year 2012. Madam Chairwoman, let me again acknowledge the leadership and support that you and this subcommittee have provided to the FBI. The Congress' funding of critical investments in people and technology are making a difference every day at FBI offices in the United States and around the world, and we thank you for that support.

I look forward to any questions you may have.

Senator MIKULSKI. Well, Mr. Director, thank you very much for that candid testimony.

First of all, again, we want to thank you for your service, but we want to thank everybody who works at the FBI for what they do, because we know we have highly trained, highly dedicated special agents. But everybody who works at the FBI feels it's fighting the bad guys, whether it's the Secretary, whether it's the people who work in procurement, analysts, linguists, and so on. Everybody feels they're a part of the FBI family, part of the FBI crime-fighting, terrorist-tracking team. And I'm deeply—so, we want to thank them for what they do.

Now, this takes us to this continuing resolution situation. I think my colleagues did not realize that many of the people who work at the FBI would be considered nonessential, that you might have to furlough people. And then, the long-range consequences of trying to get caught up, between any cuts at the FBI, with the Spartan funding for 2012, would leave you with 1,000 vacancies.

Could you please, today, elaborate on what are the consequences, number one, of a shutdown, and number two, could you elaborate on what you said in your opening remarks about where we are in this continuing resolution?

OPERATING UNDER A CONTINUING RESOLUTION

Mr. MUELLER. Well, there are a number of aspects that are disconcerting, at best, in terms of the proposed shutdown. Already, we've had to expend substantial manpower anticipating and preparing for the shutdown. I will say that most agents, analysts, and

others that are involved in ongoing investigations will be considered critical. But, there are a number of areas, particularly at headquarters, where they would be deemed noncritical, and the initiatives, whether they relate to child pornography or cyber or other arenas, particularly on the criminal side, will suffer and have to be put on hold.

Training for our new agents, for the National Academy, and for State and local law enforcement that is ongoing would undoubtedly be disrupted. In some sense, where we have had, I believe, a great deal of momentum to transform the FBI, this will be put on hold, of course, during the extent of any particular shutdown.

Turning to the second issue, and that is the impact of the continuing resolution. As I pointed out in my opening remarks, this would dramatically set us back. And let me, if I could, give you an example—

Senator MIKULSKI. Please.

Mr. MUELLER [continuing]. In the mortgage fraud arena, which you mentioned earlier.

Because of the mortgage fraud crisis in 2009—and in 2010—there was a supplemental relating to financial fraud.

Senator MIKULSKI. Right.

Mr. MUELLER. We were given approximately 200 slots to address this crisis by the Congress. It was a supplemental, so it was a one-time payment for these individuals. And of course, we are seeking the recurrence so that we can keep those persons onboard. The fact that we are looking at a 2010 base for our 2011 budget means that we do not get those slots. We also had put in, for the 2011 budget, a request for another 150 personnel to address the crisis, which, with the previous 200 in 2010, would come to 350 persons to address the mortgage fraud crisis. We are not going to get those individuals. They are part of the 1,100 vacancies that we will be unable to fill if we are not given an anomaly or some other relief from what is proposed in the continuing resolution that is currently being discussed, at a time when the number of suspicious activity reports from financial institutions grew to almost 70,000 back in 2010.

So, acknowledged by the Congress as a threat to the financial institutions, we've sought funds, and we anticipate getting those bodies onboard. In some cases, we have. But we're not going to be able to get the funding to sustain the momentum in addressing that particular issue.

Senator MIKULSKI. Well, I'm going to make sure my colleagues have questions, here. And my questions related to cybersecurity, et cetera, I'll save for the other hearing environment. But, I—

Mr. MUELLER. May I add one—

Senator MIKULSKI. Yes.

Mr. MUELLER. I'm sorry to interrupt.

Senator MIKULSKI. Let me—go ahead. Please, Director.

Mr. MUELLER. One other thing is—I talked about what we got in 2010, in terms of 200 funded staffing level, and then another 150 would have been in the 2011 request. We're here talking about 2012. We did not get additional resources in the 2012 budget.

Senator MIKULSKI. That's right.

Mr. MUELLER. We assumed, and persons looking at our budget assumed, that we had enhanced our capabilities by 350. So, we're not even discussing getting additional mortgage fraud resources in 2012, because we had assumed that we would be beefed up by the time that we were discussing the 2012 budget.

Senator MIKULSKI. So, you really get a triple hit.

Mr. MUELLER. We do.

Senator MIKULSKI. You got a hit in the continuing resolution now, which could really be a hit. You got a hit in the 2011. And you get a hit in 2012.

Mr. MUELLER. Yes, ma'am.

Senator MIKULSKI. Now—but, just for purposes of the subcommittee background, colleagues, this was the mortgage fraud initiative and it shows the way we tried to work with agility in meeting the contemporary needs—this was a bipartisan effort in fighting mortgage fraud that came from Senator Shelby and myself—Senator Shelby, ranking member on Banking, who really knew the stuff and what was needed. And we worked together to jumpstart the FBI dealing with mortgage fraud that requires—Mr. Director, don't you have really unique skills in things like forensic accounting?

Mr. MUELLER. We do.

Senator MIKULSKI. So, it wasn't just like 300 people that, you know, you can get off the shelf from local law enforcement.

Mr. MUELLER. They have to be very well trained, experienced agents to do white-collar cases, particularly the multimillion dollar mortgage fraud cases.

Senator MIKULSKI. Like Madoff.

Mr. MUELLER. The Madoff case was a Ponzi scheme, but, in addition to the mortgage fraud crisis, where we have more than 3,000 cases, we have securities fraud and we have corporate fraud. You have the Madoffs, the Ponzi schemes that we're also responsible for investigating. The agents to investigate it have to have some experience in the financial arena. Forensic accountants are absolutely indispensable. Analysts not only work on the current caseload, but anticipate the next type of crisis, and are tremendously important as well. All of these are part and parcel of those positions that we had started growing in 2010 and anticipated to continue in 2011 and 2012.

Senator MIKULSKI. Well, I'm going to turn to Senator Hutchison. But, what I wanted my colleagues to see, some new to this subcommittee, this was a bipartisan effort to return to a national situation that was identified by the ranking member, and then we worked together on it. And now, we don't want it to sputter out. So, Senator Hutchison.

Senator HUTCHISON. Well, thank you, Madam Chairman.

I want to ask you, Mr. Director, about the lack of support for the Southwest Border efforts—the \$130 million. And if you would comment on the status of your request of the Justice Department for more funds, and what you think are the highest priorities for the Southwest Border that you would use more funds to address.

SOUTHWEST BORDER FUNDING

Mr. MUELLER. Well, we did obtain some funds from the Southwest Border supplemental.

Senator HUTCHISON. The supplemental.

Mr. MUELLER. And our requests throughout the years has been generally directed at specific targeted activities where we have some degree of expertise. We have a number of public corruption cases that we handle along the border. We have 14 border corruption task forces that we operate with other participants.

Another aspect that you mentioned was the violence that crosses the border. There had been a spate of kidnappings, where there are individuals who may live in the United States, but have either businesses or family in Mexico who were kidnapped in Mexico, and the victim's families would be in the United States. We developed a series of task forces to address that. But that is still a continuing issue for us.

We have more than 500 agents who are working under the Organized Crime Drug Enforcement Task Force (OCDETF) program. They're looking at criminal enterprises, the drug-trafficking organizations.

And along the same lines, we have had recent successes in addressing Barrio Azteca. I'm sure you're familiar with that prison gang that has cross-border roots and has grown substantially over the last several years. That comes out of our working on what we call our "criminal enterprise cases."

Two areas of initiatives where we have sought money, have gotten some money, and relate to intelligence. We have put together an intelligence unit down in El Paso that pulls in intelligence for all of our border offices, as well as headquarters and intelligence with our legal attaché office in Mexico City. We share that intelligence with DEA and others in the intelligence community that are also collocated in El Paso.

Senator HUTCHISON. Are you saying you need more for that to be completely effective?

Mr. MUELLER. Yes, we could always use more funds to expand on the intelligence arena.

But, we also have gotten funds for what we call "hybrid squads" that pull together agents who have expertise in money laundering and narcotics trafficking, in public corruption and the various programs that are impacted along the border. We have, I think, close to 10 hybrid squads, at this point, that bring these various skill sets together, and they have been very effective in addressing the criminal issues that relate to the Southwest Border.

Senator HUTCHISON. Well, my information says that you would be facing a deficit of \$200 million if you're left at fiscal year 2010 levels in that particular hybrid squad—

Mr. MUELLER. I think that may be true. Excuse me just a second.

Yes, you're right. I just wanted to check and make certain that the \$200 million is the overall deficit that we will face, not just in the hybrid squads, but if the continuing resolution is passed, as is anticipated, then we'll have the \$200 million deficit, and in that \$200 million deficit—

Senator HUTCHISON. Is the—

Mr. MUELLER [continuing]. Are funds for the hybrid squads.

Senator HUTCHISON. Let me ask you another question on this crossing that we're finding of other-than-Mexican entrants, illegally, into our country. And it's the Somalian issue. We know that, through Big Bend, a group of Somali illegal immigrants doing criminal activity were apprehended, because the park officials, the park rangers, noticed and were alert and went to the Border Patrol. And the Border Patrol then apprehended these individuals at the next border checkpoint. And they were tried and found guilty. But, you and I discussed that we have a problem with Somalis who are engaged in terrorist activities, because there's no government to which they can be returned. How are you dealing with that? And how can we be helpful?

Mr. MUELLER. Well, it is a continuing issue. From our perspective, our role is to interview any of the special-interest aliens that come across the border, regardless of the country of origin, but particularly those who are coming across the border from those countries that are known to harbor terrorists. We work with Customs and Border Patrol (CBP) to not only identify but to interview and determine the threat that any of these individuals present.

With regard to Somalis who show up on the border, I do believe it is accurate that decisions have to be made. Inevitably, they are seeking asylum, and decisions have to be made whether they are legitimate asylum seekers, which is done by, quite obviously, the Department of Homeland Security (DHS).

Senator HUTCHISON. Right.

Mr. MUELLER. We work very closely to try to ferret out those who are here with legitimate asylum concerns and others who are here for other purposes. I would be happy, in closed session, to elaborate a little bit more on the numbers and what we have found.

Senator HUTCHISON. Well, let me just say, I have a number of questions for the closed session. I'd like to give my other colleagues a chance to question you, as well. And my time is up.

So, thank you very much.

Mr. MUELLER. Thank you.

Senator MIKULSKI. We're going to go to Senator Lautenberg, Senator Johnson, and then Senator Pryor.

Senator LAUTENBERG. Thank you, Madam Chairman.

And, Director Mueller, thank you for the job that you've done.

Mr. MUELLER. Thank you, Sir.

Senator LAUTENBERG. You've elevated the view of the FBI and the complicated tasks that it has to highly professionally skilled, and a very efficient team, and we thank you for your work.

Life has gotten more complicated—things that we never thought about before, about people who are willing to take their lives to kill others; the cyber side of things. All of these are relatively new findings in the lives we live. And it has made it tougher, and requires more resources.

And I'll try to ask you my questions in short form, and maybe we get going, because I'm sorry that I can't join you in the next meeting.

BRADY LAW

In Tucson, the shooter used a high-capacity ammunition clip, killed 6 people, wounded 13, and was tackled when he was trying to reload. So, such clips were banned until 2004. And they were part of an expired assault weapons ban. And now, even former Vice President Dick Cheney has suggested that maybe it's time to reinstate this ban—it may be appropriate to do so. So, what do you think about it?

Mr. MUELLER. I think I'll speak generally, and leave the specific comments on particular legislation to the Department of Justice. But, anybody in law enforcement is concerned today about the high-velocity, high-caliber automatic/semi-automatic weapons, and the threat of those weapons falling into the hands of criminals. I, like just about anybody involved in law enforcement, am supportive of areas in which we can lessen the threat of weapons in the hands of criminals, particularly those weapons that do substantial damage.

Senator LAUTENBERG. Yes. Because that magazine is designed for military and law enforcement use, and it should not fall into the hands of people who don't have a purpose other than malice to deal with it.

The Brady law, Mr. Director, requires gun purchasers to undergo background checks to make sure they're not felons, convicted domestic abusers, or severely mentally ill. But, the gun show loophole allows anyone to walk into that gun show—it could be the most known criminal—put down the money, and walk away with guns. And we hear a lot about the need to enforce the laws that we have on the books. What effect does the gun show loophole have on our ability to enforce the Brady law, which says that you shouldn't be able to—that people like that should not be able to get gun permits?

Mr. MUELLER. Well, again, I'll talk generally, as a member of the law enforcement community, where to the extent that we can keep weapons out of the hands of criminals, we generally are supportive.

GUN SHOW LOOPHOLE

Senator LAUTENBERG. Well, what do you make about the gun show loophole, Mr. Mueller?

Mr. MUELLER. To the extent that we do not have a mechanism of assuring that persons who have a criminal past or a reason for not being given a weapon, I think everybody in law enforcement would be supportive of—some mechanism that would—

Senator LAUTENBERG. I assume that's a "Yes." and that you think the gun show loophole ought to be closed. Do you want to correct me?

Mr. MUELLER. I have nothing further to say, other than, speaking generally for law enforcement, there are very few of us who would disagree with the desirability of having screening mechanisms that would enable us to keep the guns out of these hands of those persons who should not have them.

TERRORIST ACCESS TO GUNS

Senator LAUTENBERG. Okay. The Federal law allows people on the terror watch list to legally purchase a gun or even explosives. In response to a letter I sent to you in 2005, the Department of Justice recommended giving the Attorney General the power to deny guns and explosives to a terror suspect. And I've introduced a bill that would do that.

Now, Attorney General Holder has expressed support for closing the terror gap in our laws. Do you think it's time to close the terror gap that exists?

Mr. MUELLER. I would say this is a complicated issue. I clearly want to keep guns out of the hands of would-be terrorists. It requires looking at persons who are on the terrorist watch list, and the basis for putting persons on the terrorist watch list. But, I think, generally, it goes to what I said before, that if you're trying to prevent terrorist attacks and you're trying to prevent persons who should not have weapons from getting weapons to undertake terrorist attacks, a screening mechanism is something that all of us believe is important.

Senator LAUTENBERG. Director Mueller, do you—is there some faulty process in putting people on the terrorist watch list? Is it an unreliable list?

Mr. MUELLER. No, I don't believe so, at all.

Senator LAUTENBERG. Okay. So, it strikes me as kind of an anomaly that people who are on a list that says these are suspects for terror, and they can walk in and buy a gun. And we've seen a couple of instances where some of these permits were permitted to go through and created havoc, in terms of discovering that they were involved with explosives, et cetera.

Mr. MUELLER. And I share your concern.

PORT NEWARK AND LIBERTY INTERNATIONAL AIRPORT

Senator LAUTENBERG. Can I ask one more question, Madam Chairman? And that is, the stretch between Port Newark and Liberty International Airport has been identified—by the FBI, I might add—as the most dangerous area in America for a terrorist attack. There are chemical manufacturers, there are rail systems and the port—all kinds of things. And 12 million people live within a 12-mile radius of that 2-mile stretch. An attack on this area could not only cause untold death and injury, but also cripple the economy. And last year I believe you said that additional resources would go toward protecting this 2-mile area. Are there specific items in this budget request that will help the FBI protect this area further?

Mr. MUELLER. Well, let me start by saying that I've appeared before this subcommittee annually for a number of years now, and I know this is a topic that we would discuss each year, and have. I can assure you that since we've had the original discussion, and each year it's raised, we go back to make certain that which we have put in place to address this particular strip of territory—the Homeland Security Task Force, the Joint Terrorism Task Force (JTTF) is doing everything it can to assure that there is not an attack there. And I am continuously reassured that is the case.

Going to the question of whether there is anything specifically in the budget request that would address that, I'd have to get back to you on it.

[The information follows:]

BUDGET REQUEST FOR RESOURCES IN NEW JERSEY

The Federal Bureau of investigation's (FBI) fiscal year 2012 request to the Congress does not include an enhancement to specifically address the stretch between Port Newark and Liberty International Airport, however, the FBI and the Department of Homeland Security, working through Task Forces, are working diligently to combat any threats and ensure the area remains safe.

Senator LAUTENBERG. Thanks very much. And I would urge you to hang around as long as you can. I've tried it, and I like it.

Thank you very much.

Senator MIKULSKI. Senator Johnson.

Senator JOHNSON. Thank you, Madam Chairwoman, Director Mueller, again thank you for your service, not only as FBI Director, but all your public service, including being a U.S. marine.

I'm the new kid on the block here, so I'm going to try—in my questions here, try and determine the priorities of the Department. I'm an accountant, so I like doing that, actually using the budget process, in terms of where you spend your money.

FBI BUDGET PRIORITIZATION

So, first of all, in your budgeting process, do you categorize the areas of your concern in the—so I can kind of figure out where the money goes?

Mr. MUELLER. Absolutely. There are two processes we go through. One is the programmatic prioritization. One of the first steps we took after September 11 was setting programmatic priorities for the organization as a whole, simply put, so everybody understood what those priorities are. And they are the same priorities today: on the national security side, counterterrorism, counterintelligence, and cyber—protecting the country from terrorist attacks, theft of our secrets, and cyberattacks; on the criminal side, it's public corruption and civil rights, followed by transnational/international organized crime, followed by substantial white-collar crime and violent crime.

Everyone, from top to bottom, knows that these are the eight programmatic priorities. There are two more. One is to understand that our successes depended on our cooperation with, and support of, State and local law enforcement and our persons overseas, and the necessity of bringing the FBI into the technological age.

Our budget process is set up so that if you want additional personnel and additional resources, they have to fit into the budget framework.

On the other side, we have initiatives that we identify each year—10 or so initiatives. One initiative this last year was to establish regional intelligence centers to complement what we do throughout the country. There are about six of those.

So, our budget process sets the priorities first, and then everybody who wishes to benefit—and by that, I mean our various programs—have to understand where they fit in the prioritization process.

Senator JOHNSON. In round numbers, can you give me the top four or five, in terms of how much is spent in these areas, then?

Mr. MUELLER. Not off the top of my head. I will tell you that the way I look at it, in some sense, is we've got two sides of the house. One is the criminal side of the house which we've done traditionally for 100 years. The other is national security.

Senator JOHNSON. Can you give me numbers on those?

Mr. MUELLER. About 50/50.

Senator JOHNSON. It's about 50/50.

Mr. MUELLER. About 50/50. It used to be, before September 11, we had about 10,000 agents on the street. About 7,000 were working criminal programs and about 3,000 were working national security. We're up a couple thousand more. So, on the street we have maybe 6,000 agents who are doing the criminal programs and approximately another 6,000 who are doing the national security programs.

The one point I would make is that we had to move 2,000 agents from the criminal programs over to national security in the wake of September 11. There has not been a backfill, really, for those bodies.

Senator JOHNSON. So, you—prior to 9/11, you had about 10,000 employees, and now you've got about 32,000? 31,500?

Mr. MUELLER. We've got about 35,000 employees, now. I was talking about agents on the street. In other words—

Senator JOHNSON. Okay.

Mr. MUELLER [continuing]. Not agents at headquarters, but those that are actually out there doing investigations, of which we had approximately 10,000 prior to September 11.

Senator JOHNSON. How many agents do you have right now, then?

Mr. MUELLER. We have approximately 13,800 agents now, almost 14,000 agents. And the total in the FBI is more than 35,000 now.

Senator JOHNSON. So, how are those split, then, between the two top categories, on criminal versus counterterrorism?

Mr. MUELLER. You mean of the agents?

Senator JOHNSON. Agents, correct, on the street.

Mr. MUELLER. It's about 50/50, still.

Senator JOHNSON. Okay. So, again, you took 2,000 from criminal, basically, and put that into counterterrorism.

Mr. MUELLER. Yes.

Senator JOHNSON. And then, you added probably about 3,000.

Mr. MUELLER. Yes. Approximately 2,700.

Senator JOHNSON. Okay.

Mr. MUELLER. But most of the resources we have received over the years have been in support of the national security function, in building up the national security side of the house.

Senator JOHNSON. Okay, good. I mean, that just gives me a feel for the priorities.

MORTGAGE FRAUD

Can you describe who's the—who are the targets? I mean, what—who are the criminals in the mortgage—in—this in the mortgage fraud crisis? I'm—I need to be brought up to speed on this.

Mr. MUELLER. Well, they go from entities and individuals on Wall Street to various different types of schemes and scams in the various communities, which might involve the builders, the appraisers, cooperating homeowners, and Realtors. There are a variety of schemes that were used to suck money out of the mortgage market to benefit persons, both small and large, during that crisis. So, we have, from bottom to top, the investigations—some very large investigations where there are multimillion-dollar losses, to those investigations where there was an ongoing conspiracy for 2 or 3 years, where you might involve a real estate agent, the appraiser that was jimmying the appraisals, and cooperating homeowners and builders.

Senator JOHNSON. Can—just real quick—does that still pose—are we kind of mopping up after the damage, or does this still pose a pretty significant threat to our financial system?

Mr. MUELLER. I think we are on the downslope of the issue. What I find is that white collar crime is cyclical, in some sense. Back in 2002, 2003, we had Enron, we had WorldCom, we had HealthSouth, we had any number of large corporations that we were investigating for fiddling the books, particularly in their quarterlies and the like. And we had to ramp up to address that particular crisis.

This is a crisis we have ramped up to address, and we're on the downslope. Our concern, if any, is, apart from the homeowner mortgage crisis, to the commercial mortgage arena, in which we have seen an uptick in fraudulent activities, while there's been, I would say, a slowed growth in the homeowner mortgage set of cases.

Senator JOHNSON. Okay. Thank you.

Senator MIKULSKI. Part of the reason there's been a slow growth is because they've been prosecuted, and they know the FBI will come after them.

Mr. MUELLER. Yes, I should have alerted you to that. Yes. The deterrence gets out there. You've seen people hauled away in handcuffs.

Senator MIKULSKI. In other words, these are bottom fishers. I mean, the prosecutions have been a form of prevention of further activity.

But, Senator Johnson, if you want to have additional briefings from the FBI, they'll be happy to talk with you.

Mr. MUELLER. Be happy to do that.

Senator MIKULSKI. Senator Pryor and—then Senator Collins.

Senator PRYOR. Thank you, Madam Chair.

And thank you, Mr. Director.

Mr. MUELLER. Senator.

Senator PRYOR. And it's always good to see you. Thank you for being here today.

SOUTHWEST BORDER

For my first few questions, I'd like to focus on the Southwest Border, and particularly on the Mexican drug cartels. My first question is somewhat of a followup to Senator Hutchison's questions.

We had a hearing last week, in one of the Homeland Security subcommittees, where we talked about the new and innovative ways that drug traffickers are trying to get their product into the United States illegally. It's everything from tunnels to catapults to fake company vehicles, vehicles that have been painted up like a delivery truck, to submarines, to ultralight aircraft. They're just innovating like crazy to try to get these illegal drugs into the United States.

And sort of a general question would be—I know that you are working on this; I know DEA, CBP—everybody really seems to be working on this. But, are we getting it right? That's just a general question. Are we allocating enough resources? Do we have enough focus on those Mexican drug cartels? Are we getting it right down there?

Mr. MUELLER. In some sense, we're always reacting to the innovation that you discussed. If you take something like ultralights, we, along with DEA and others along the Southwest Border, have addressed this particular concern, and also with the help of the military, for obvious reasons, when it comes to submarines and the like. When we identify a new mechanism or way of transporting drugs to the United States, we react very effectively.

The key to success often is having the sources, not in the United States, but sources in other countries that alert you to the new mechanisms of transporting the goods into the United States. I believe we have been very effective over the years—ourselves, working closely with DEA—in gathering the intelligence that would alert us to the new mechanisms of trafficking in the United States.

Additional resources would always be helpful. Would it make a substantial impact on the ability? Because there's so many different ways that drugs are coming to the United States—there's no one pipeline that you could cut off—it's hard to tell the overall impact. But, I think we do a good job at responding to the new, innovative ways that the traffickers are attempting to get the drugs across the border.

Senator PRYOR. You know, another problem we've had—and this has been most visible in CBP, although it apparently is in other agencies, as well—is that the drug cartels are actively trying to corrupt U.S. officials, U.S. employees, Border Patrol agents, et cetera. Are you seeing that phenomenon within the FBI?

Mr. MUELLER. Not within the FBI. We do the investigations in other agencies. We may have had one or two instances where—over 4 or 5 years ago—maybe it's more than that, but certainly under 10—in which we've had, we believe, FBI employees acting improperly on behalf of those who may be affiliated with cartels.

Senator PRYOR. I know that one of the problems the CBP has had is that they've done all this new hiring—

Mr. MUELLER. Yes.

Senator PRYOR [continuing]. To try to beef up the border. The Congress has been pushing more hiring along the border. But they have not kept up with their own policies and procedures, in terms of doing polygraphs before people are hired, and doing the background checks once they're hired, et cetera. And my understanding is FBI has actually tried to lend a hand there with polygraphs. So—

Mr. MUELLER. We do.

Senator PRYOR. Yes. So, I appreciate that. And I think there—again, it sort of underscores the team effort nature of this.

Mr. MUELLER. We have border corruption task forces that we participate in along the border—

Senator PRYOR. Right.

Mr. MUELLER [continuing]. Focused just on this.

GANGS

Senator PRYOR. And another related issue is that the Mexican drug cartel has a big presence in the United States. And they're using a lot of gangs. Some of these are street gangs. Apparently, there's a concern about the prison system, where folks come out of the prison system and they join these gangs; they've been recruited, I guess you can say, in the prison system. Are you seeing that phenomenon? And, in your budget, are you trying to address that?

Mr. MUELLER. Well, I mentioned Barrio Azteca earlier, which is on the Texas border. In California you have the Mexican Mafia, Nuestra Familia in northern California, and across the border, you can identify those gangs that have operations or have hierarchy in Mexico and are running the trafficking through these gangs in the United States, or have relationships with the cartels, in order to bring the drugs in and distribute them.

We had to make a decision after September 11 to move 2,000 agents to counterterrorism. We sat down and looked at what we were doing. Where did we take the 2,000 agents? We took a majority of those agents from the drug programs, where they were doing enterprise cases, working with DEA and OCDETF, and moved them over to national security. We also took agents who were doing smaller white-collar criminal cases and moved them over to national security. That has meant that we have not had anywhere near the footprint we had in addressing narcotics cases in the wake of September 11. And, as I indicated, the 2,000 bodies taken from the criminal side of the house have not been backfilled. So, in our budget, that is not one of those priorities that I alluded to.

Senator PRYOR. Right.

Mr. MUELLER. And you either prioritize, or you don't. You can't pick and choose.

Senator PRYOR. Right. Thank you.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Collins. And—

Senator COLLINS. Thank you, Madam Chair.

Senator MIKULSKI [continuing]. We're so glad you're—well, we're glad everybody's a member—but, as ranking member on the Homeland Security Committee, I think you really bring an incredible body of knowledge on this, and hope you can join us, also, in the classified hearing, at the conclusion of your questions.

Senator COLLINS. Thank you. I'm delighted to be a new member of this subcommittee with such great leaders. During a recent dinner with the women of the Senate, we decided that, if necessary, we're going to take over the budget negotiations, because we're confident we could produce a budget. And I say that only partially in jest. I think we really could work this out.

Mr. MUELLER. Then I'd say I look forward to working with you.
 Senator COLLINS. Exactly.

This is—I know that issue has been covered, and I just want to associate myself with the comments that have been made, to express my great concern on what the real-life impact is if Government is unable to function.

I also want to associate myself with the comments of my colleagues in thanking you for your public service. I know, as Senator Hutchison has mentioned, that you are the first FBI Director to serve the full 10 years since the Congress put that requirement in place. That continuity of leadership has allowed you to accomplish a great deal and has been extremely important as the FBI has gone through a fundamental transition in its mission.

As you are well aware from our numerous conversations, the Homeland Security Committee recently completed its investigation into the Fort Hood attack and issued a comprehensive report, which has a number of findings and recommendations that relate to FBI. I know that, last week, you testified before the Judiciary Committee, and were asked about our report, and discussed the improvements FBI has undertaken in response to our recommendations.

FORT HOOD SHOOTING

A critical failure that our report identified was the failure of one of the JTTFs—the one in San Diego—to fully share information about communications between Major Hassan and a suspected terrorist with the Washington JTTF and with FBI headquarters and with the DOD. Have you put in place reforms that would prevent that kind of stovepiping from occurring today?

Mr. MUELLER. Well, I'm not certain I would agree with the characterization of a conscious stovepiping. I do believe that information was shared—and we can get into this in more detail—but, I do believe information was shared from San Diego to Washington. Now, the followup, in terms of taking that information and moving on it, is an area that we addressed, and we addressed it through additional training and the like.

In terms of the information to be shared, there were areas that related to our ability, technologically, with our databases, to pull together a variety of pieces of information, and continue to retrieve that information and share it, that we had to address. We have addressed that and are indeed in the process of utilizing that as a basis for having the capability of doing federated searches across a variety of databases.

So, in the immediate wake of Fort Hood, we looked at that and saw that this was a vulnerability and a weakness that we had to address. And we have been doing that.

I might also add, if I could, that we are seeking additional software capabilities in the 2012 budget to address this. But those are my thoughts on that issue.

Senator COLLINS. Well, some information was shared. I think you will agree that not all of the communications were shared. And the result was that the Washington JTTF did a very cursory review of—once it got the information from San Diego, which caused great consternation by San Diego.

But, let me ask you a more fundamental question about this. An important conclusion of our report was that this was not—this case, with Major Hassan, was not treated as a counterterrorism case, that the FBI's counterterrorism division at headquarters was not informed to try to resolve the conflicts between the two JTTFs. And the DOD was not fully informed, pursuant to the longstanding delimitations agreement. What has been done to address those issues?

Mr. MUELLER. Well, there are two things we found, in the wake of what happened down there that we need to address.

We had informal discussions with DOD, on an informal, basically ad hoc basis, with regard to individuals in the military who may present a counterterrorism issue here in the United States. That was inadequate. We have, now, a formal relationship, periodic meetings in which we go over every case that, in any way we come up with, affects the military. And also, the military exchanges information with us. So we have addressed that problem—that gap.

The other issue that you talked about, and that is the coordination by headquarters in the FBI: we have 56 field offices, 400 resident agencies, thousands of counterterrorism cases. And we have substantially built up the headquarter's—and I won't say "control"—coordination and support since September 11. And I believe it works effectively almost all the time. There are going to be instances where it does not get up to where it should be and decisions are made at a lower level on a particular case that should have been raised up. This, perhaps, was one of them.

But, the other point that I do want to make, with regard to what happened in this particular case between our JTTFs—and I can get into this maybe a little bit deeper when we're in closed session—but, in certain cases, the volume of information that has to be reviewed may be too broad for one particular field office to handle. We have changed our processes so there are redundant reviews to assure that if something is not picked up in the first instance in a field office, it will be picked up at headquarters in a redundant review to address that particular issue.

Senator COLLINS. Thank you. Thank you, Madam Chair.

Senator MIKULSKI. And, as I said to Senator Johnson, if you want an additional series of meetings, the FBI will. And it's also worthwhile going over. And it will tie in directly, particularly with cybersecurity. But, we'll talk about it in our next stop, here.

ADDITIONAL COMMITTEE QUESTIONS

If there are no further questions, the Senators may submit additional questions for the official hearing record. And we'd like the FBI's response in 30 days.

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

QUESTIONS SUBMITTED BY BARBARA A. MIKULSKI

MORTGAGE FRAUD—PREDATORY LENDING

Question. Predatory lenders continue destroying families and communities across the United States and undermining faith in our financial systems. The Federal Bureau of Investigation's (FBI) mortgage fraud workload has increased as more predatory lenders are exposed. Last year, the Congress allocated \$245 million for FBI to

hire new agents and forensic accountants dedicated to investigating mortgage fraud, bringing the total number working on this problem to more than 910 agents.

What can FBI do when it has full teams of agents, forensic accountants, analysts, and attorneys to work on the financial fraud case workload?

Answer. The addition of any investigative analysts and forensic accountants would assist the agents and attorneys in investigating and prosecuting the roughly 3,000 pending mortgage fraud cases and 2,400 corporate securities and commodities fraud cases.

The average length of a complex mortgage fraud investigation ranges from 2 to 5 years, and with the current funded level of agents, the average mortgage fraud caseload is approximately nine cases per agent. With a full team, the FBI will be able to increase the pace at which cases can be investigated and prosecuted, and reduce the caseload per agent.

The 3-year average impact per agent for mortgage fraud was \$6,436,213 during the period of fiscal year 2008–fiscal year 2010. The 3-year average impact per agent for corporate securities and commodities fraud was \$31,541,257 during the period of fiscal year 2008–fiscal year 2010. This calculation is based on the amount of restitution, recoveries, fines, and forfeitures generated from the mortgage fraud cases by agents assigned to investigate the cases.

Question. There has been some speculation lately as to why FBI is “targeting” smaller financial fraud cases rather than going after much bigger ones on Wall Street. Please explain if this is true and how the FBI prioritizes cases.

Answer. FBI does not “target” cases involving lone offenders, small dollar losses, or lower-level violations. Rather, we investigate and pursue financial fraud in all its forms, and we are keenly interested in investigating cases that involve large dollar losses, multiple fraud victims, criminal enterprises, or behavior that poses a heightened risk of undermining trust in financial markets. Of course, the pace of large, complex financial fraud investigations—which often take 2 years or more to thoroughly investigate—will not match the quicker pace of more straightforward fraud cases. But there should be no doubt that we are committed to using all resources at our disposal to pursue large, complex financial fraud wherever we find it.

By way of illustration, throughout the past year, FBI and its partners at all levels of law enforcement continued to uncover and assist in the prosecution of massive frauds and Ponzi schemes. At the end of fiscal year 2010, FBI had more than 2,300 active corporate and securities fraud investigations. During the same timeframe, we were involved in more than 3,000 ongoing mortgage fraud investigations. Here are a few examples of the types of cases we have been pursuing:

- In April 2010, Thomas J. Petters was sentenced to 50 years in prison for his role in operating a \$3.65 billion Ponzi scheme through his company, Petters Group Worldwide LLC.
- In June, Lee Farkas, former chairman of Taylor, Bean, and Whitaker, a large mortgage origination company, was charged with a \$1.9 billion fraud that contributed to the failure of Colonial Bank, one of the largest banks in the United States and the sixth-largest bank failure in the country.
- In July, Paul Greenwood, a managing partner at both WG Trading and Westridge Capital Management, pled guilty to his role in a \$700 million scheme that defrauded charitable and university foundations as well as pension and retirement plans.
- In October, Jeffrey Thompson, former president of Hume Bank, pled guilty to making false statements to the FDIC as part of a bank fraud scheme which caused such significant losses that the institution was pushed into insolvency. Thompson faces a sentence of up to 30 years in Federal prison, plus a fine up to \$1 million and an order of restitution.
- In February 2011, Michael McGrath, former president and owner of U.S. Mortgage Corporation, formerly one of the largest private residential mortgage companies in New Jersey, is scheduled to be sentenced for his role in perpetrating a corporate fraud scheme involving the double selling of mortgage loans to Fannie Mae with losses in excess of \$100 million. McGrath faces up to 20 years’ Federal imprisonment, as well as payment of restitution and forfeiture of assets.

These are just a few examples of the thousands of financial fraud investigations ongoing at FBI and conducted in conjunction with the administration’s Financial Fraud Enforcement Task Force.

Question. Will FBI be able to add agents to conduct these investigations, even as it loses criminal agents to counterterrorism work?

Answer. The \$44.8 million in new resources that the Congress provided in fiscal year 2009 to investigate mortgage fraud and other financial crimes has allowed FBI to add 81 agents to focus on this criminal activity. FBI is not able to realign agents

from other programs to work on mortgage fraud as it would risk widening investigatory gaps in other areas.

Note that since fiscal year 2007, FBI has not “lost” criminal agents to counterterrorism work.

Question. How can FBI better help State and local officials investigate predatory lenders?

Answer. FBI currently works closely with its State and local law enforcement partners on financial fraud cases in numerous ways, including through regional mortgage fraud task forces and working groups; through the coordinated efforts of the Financial Fraud Enforcement Task Force, which includes many State and local enforcement officials; and through the National Association of Attorneys General and the National District Attorneys Association. FBI will continue to use these and other avenues to work with its State and local partners in the future.

STOPPING HUMAN TRAFFICKING

Question. Human trafficking is both a United States and international crime as a violation of human rights, labor and public health standards. The State Department estimates that 800,000 individuals are trafficked across borders each year, with an estimated 2–4 million people trafficked within countries. At least 45,000 victims trafficked into the United States each year. The overwhelming majority are women and children—mail order brides, sex slaves, runaways, and child prostitutes. Organized crime cartels make \$9.5 billion annually from human trafficking across the world.

What role does FBI play in investigating human trafficking and slavery?

Answer. FBI is the DOJ’s primary investigative agency for human trafficking violations. As such, FBI participates in 74 human-trafficking working groups and task forces nationwide. The working groups and task forces are comprised of other Federal, State, and local law enforcement as well as a number of nongovernmental organizations. Additionally, FBI is a member of the Federal Enforcement Working Group (FEWG), which includes representation from the Department of Justice, Civil Rights Division; the Department of Homeland Security (DHS), Homeland Security Investigations directorate; the Department of Labor (DOL), Wage and Hour Division; and the DOL Office of the Inspector General. As a member of the FEWG, FBI is participating in a pilot Federal Anti-Trafficking Coordination Team (ACTeam) program. The objectives of the ACTeams are to proactively identify and assist human trafficking victims; develop victim-centered, multi-disciplinary human trafficking investigations; and produce high-impact human trafficking prosecutions resulting in the conviction of traffickers, the dismantling of trafficking organizations, and the forfeiture of proceeds and instrumentalities of trafficking offenses.

Question. What is FBI doing to help State and local law enforcement and victim service providers keep victims of human trafficking safe and hold abusers available?

Answer. The number of agents in FBI’s Human Trafficking program has increased fivefold since 2001, and the number of investigations has nearly tripled since 2004. A critical resource and component of FBI’s approach to Human Trafficking is the support to victims provided by the Office for Victim Assistance (funded by the Crime Victims Fund), including emergency housing, crisis intervention services, clothing, translator services, locating job training and educational services, processing applications for continued presence in the United States, and more.

More than two-thirds of FBI’s 122 field office victim specialists participate in human trafficking task forces. FBI leverages its threat-driven and intelligence-led approach to human trafficking investigations. Every intelligence analyst, staff operation specialist, and forensic accountant receives human trafficking instruction as part of their new employee training program.

In August of last year, FBI published a national Human Trafficking Intelligence Assessment that identifies trends in human trafficking and areas within the United States that are vulnerable to certain forms of human trafficking. FBI is also focused on directing investigative and outreach resources to combat threats to non-immigrant visa workers and other communities that are particularly vulnerable to forced labor.

In addition, FBI has built the Innocence Lost National Database, which assists in the identification of victims and the prosecution of those responsible for the sexual exploitation and trafficking of juveniles. This database is accessible to Federal, State, and local law enforcement officers and prosecutors who investigate child prostitution.

FBI is a full participant in the Anti-trafficking Coordination Teams, with partners in DHS, DOL, and the U.S. Attorney offices. These teams add to our existing relationships with Federal, State, local, tribal, and nongovernmental partners formed

through participation in more than 100 task forces and working groups focused on confronting the human trafficking threat.

Question. How can FBI better help State and local officials investigate the perpetrators of human trafficking?

Answer. Human trafficking investigations often require a tremendous amount of manpower, thus FBI works collaboratively with State and local law enforcement partners in investigating these crimes.

Often victims, due to fear of their traffickers, are initially afraid to admit they are victims of human trafficking. With the help of FBI's Victim Assistance Program, victims are provided a safe environment to speak and provide the details necessary to prove a human trafficking violation.

Another important aspect of investigating the perpetrators of human trafficking is knowing where to find the perpetrators. A number of FBI field offices provide human trafficking training to State and local law enforcement as well as to the non-governmental organizations. This training helps State and local law enforcement identify industries which are susceptible to human trafficking and to better understanding the human trafficking problem in their area of responsibility.

STATE AND LOCAL LAW ENFORCEMENT—FIGHTING TERRORISM

Question. Joint Terrorism Task Forces (JTTFs) are teams of Federal, State, and local police and intelligence agencies working together to identify and respond to terrorist threats at the local level. There are now more than 100 task forces led by FBI, with 4,400 participants. These teams have been front and center in recent failed bombing attempts on a military recruiting station in my own home State of Maryland, former President Bush's home in Texas, and a holiday tree lighting ceremony in Oregon. Their efforts have prevented what could have been deadly attacks on Americans.

How beneficial are the task forces in responding to terrorist threats? What unique role do they play in terrorism investigations?

Answer. JTTFs are highly beneficial and play an essential role in responding to terrorist threats and protecting the United States from attack:

- they enhance communication, coordination, and cooperation among the Federal, State, local, and tribal agencies by sharing information regarding suspected terrorist activities and/or subjects on a regular basis and providing access to other investigative databases to ensure timely and efficient vetting of leads;
- they provide a force multiplier in the fight against terrorism; and
- they enhance FBI's understanding of the threat level in the United States.

Currently, FBI leads 104 JTTFs:

- 1 in each of the 56 FBI field office headquarter cities; and
- 48 in various FBI resident agencies.

In addition to FBI, 688 State, local, and tribal agencies, and 49 other Federal agencies have representatives assigned to the JTTFs. FBI is the lead Federal agency with jurisdiction to investigate terrorism matters, and the JTTFs are one of FBI's key mechanisms to investigate terrorism matters and protect the United States from terrorist attack.

Question. Does FBI anticipate expanding task forces in the future if funds are available? Or is it recommended that funding go to another priority area? What additional resources would FBI need to expand the program?

Answer. As noted in an earlier response, JTTFs are extremely effective in investigating terrorism matters and protecting the United States from terrorist attacks. JTTFs enhance communication, coordination, and cooperation among Federal, State, local, and tribal agencies, and provide a force multiplier in the fight against terrorism. Additional resources would help FBI and other Federal, State, local, and tribal agencies increase participation in the JTTFs, and thus assist in combating terrorism. In order to expand JTTFs, funding for personnel (FBI and Task Force Officers), overtime, space, equipment, and other items would be necessary.

Question. With State and local law enforcement agencies reducing their numbers because of funding cuts, will FBI face a greater difficulty to fill gaps in State and local terrorism investigations? Is FBI set to receive or request any additional money to deal with additional demands from its State and local partners?

Answer. JTTF membership has declined over the past year. This decline could be attributed to current Federal, State, and local budgetary constraints that have created manpower issues for agencies and caused them to pull back personnel from JTTFs. Federal, State, and local agency full-time and part-time JTTF participation comes at a great manpower staffing cost to participating agencies, and it will likely become increasingly difficult for agency executives to detail personnel to JTTFs due to budgetary constraints. FBI will continue to support the ability of its State and

local law enforcement partners to participate in JTTFs, including paying for overtime of State and local task force officers with funding provided by the Assets Forfeiture Fund.

The overall decline in Federal, State, and local JTTF participation will impact interagency coordination, cooperation, and information sharing at all levels. Defeating terrorism cannot be achieved by a single organization. It requires collaboration with Federal, State, local, and tribal partners to identify suspicious activity and address it.

Given the persistent and growing threat posed by terrorists, JTTFs require an enhanced presence of other law enforcement and intelligence entities on task forces. JTTFs cover thousands of leads in response to calls regarding counterterrorism-related issues. These leads address potential threats to national security and require a significant amount of coordination and resources.

FBI does not reimburse its JTTF partner agencies for task force officer salaries. Reimbursement is solely limited to overtime for the State and local agencies. To mitigate the loss of additional task force officers, funding could be allocated to State, local, and Federal partners, either directly or through DOJ grants, to support their continued participation. FBI has not requested any additional funding in the fiscal year 2012 President's budget to meet additional demands from its State and local partners.

SENTINEL

Question. I have been concerned for a long time about the many delays and cost overruns in the development of Sentinel, FBI's new case management system. These important technological tools and computer upgrades are supposed to protect our citizens. FBI has taken recent steps to salvage Sentinel from multiple delays and rising costs. I want to know what was behind the delays and what the next steps are.

What caused the multiple delays in Sentinel, leading up to July 2010 when FBI issued a full stop work order, and how did FBI handle these problems?

Answer. As a reminder, at the time of the stop work order, two phases of the Sentinel case management application had been successfully deployed, supporting approximately 8,000 unique users on a monthly basis at that time. Further, the project is still within the \$451 million budget and is projected to remain so through the final development and deployment of Sentinel capabilities.

FBI issued a partial stop-work order in early 2010 and a subsequent full stop-work order in July 2010 as a result of a significant number of deficiencies in quality, usability, and maintainability of the code delivered. As a result, FBI executive management made a decision to delay release of the pilots scheduled for early 2010, which were instead completed in July and August 2010.

During the period between the partial stop-work order and the full stop-work order, FBI determined that the most appropriate step to mitigate unwarranted program costs and schedule overrun was to issue a full stop-work order with the contractor and have FBI assume direct responsibility for the development of the application.

FBI leadership determined that an Agile development methodology would allow FBI to complete all functionality and provide the best outcome for success within the \$451 million budget.

Question. In September 2010, the Director decided to take management of Sentinel completion in house. What factors led FBI to take over completion of Sentinel?

Answer. As a reminder, at the time of the stop-work order, two phases of the Sentinel case management application had been successfully deployed, supporting approximately 8,000 unique users on a monthly basis at that time. Further, the project is still within the \$451 million budget and is projected to remain so through the final development and deployment of Sentinel capabilities.

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FBI leadership determined that an Agile development methodology would allow FBI to complete all functionality and provide the best outcome for success within the \$451 million budget.

Question. Have any capabilities actually been deployed? Is anyone using them, and, if so, what is the user feedback?

Answer. Sentinel was originally deployed in 2007. Additional capabilities have been added to Sentinel since the original deployment. There are currently more than 10,000 unique users monthly for Sentinel. In a recent survey, Sentinel users provided favorable feedback on the system capabilities, rating it a 4 “agree” on a 1–5 Likert scale, where 1 was “strongly disagree” and 5 was “strongly agree”.

The deployed system capabilities include:

- Electronic communications form (FD–1057);
- Interview form (FD–302);
- Lead request (FD–1038);
- Import form (FD–1036);
- Workflow;
- Document search; and
- Setting leads.

Question. What is FBI doing to address the budget and schedule impact?

Answer. Sentinel should be fully deployed within the approved \$451 million budget. Bringing management of Sentinel in-house and utilizing the Agile development methodology have enabled the schedule to be shortened. FBI plans to complete deployment in 2011 and within budget.

In October 2010, FBI began a directly managed effort to complete the remaining requirements for the Sentinel program. The critical tenets of the program, using an Agile development process, required a smaller integrated team. To control costs and implementation of Sentinel, FBI’s Assistant Director, Information Technology Engineering Division/Chief Technology Officer has been directly leading the integrated team of Government employees and contractors.

On a biweekly basis, the team presents a demonstration of completed and integrated functionalities to an open audience, including DOJ, key FBI executives, Independent Verification and Validation (IV&V) team members, FBI IT Governance, FBI Knowledge Office, FBI Finance Division (FD), FBI Corporate Policy Office, FBI Resource Planning Office, and FBI Records Management Division. This audience provides feedback to the team during each demonstration.

Change Management.—Sprint planning meetings are held every other Monday following the previous Friday’s delivery demonstration. During the Sprint planning meetings, the Sentinel Agile team plans and prioritizes expectations for the upcoming demonstration (in 10 working days). This effectively controls the scope and prioritization of the work to be performed.

Contract Structure.—The remaining development and completion of Sentinel using the Agile methodology accelerates decisionmaking and improves team productivity. To support the shift of technical responsibility to FBI management, Lockheed Martin’s responsibility was transitioned to a cost-plus fixed fee for the remaining development. Operations and Maintenance of the current production version of Sentinel remains a cost-plus award fee structure.

Contractor Oversight.—Contractors are directly integrated with Government personnel. Government employees lead all areas of Sentinel development and provide immediate and continuous oversight. Contractors also submit monthly status reports to the Sentinel team that detail the most recent performance. The Sentinel team has an established Integrated Baseline Review and a Control Account process providing a certified Earned Value Management System.

IV&V.—An IV&V contract has been in place throughout Sentinel’s development to monitor Sentinel and Lockheed Martin’s efforts and to ensure an unbiased evaluation of both the products and processes associated with the technical, managerial, financial, and/or risk associated with the program. The Sentinel Agile team continues to conduct IV&V reviews; the results are provided to the Executive Assistant Director of the Information and Technology Branch.

Risk Management.—The Sentinel Agile team has continued the risk management process. It meets bi-weekly to re-evaluate and update the risk register.

Additional Oversight.—In addition to the controls implemented by the FBI Sentinel team, the leadership continues to be responsive to the following:

- Regular FBI executive briefings;
- Continuous DOJ Office of the Inspector General audits;
- Ongoing Government Accountability office audits;
- Monthly DOJ reviews;
- Regular DOJ investment review board reviews;
- Office of Management and Budget TechStat process;

- DOJ TechStat process;
- FBI Governance monthly program health checks;
- FBI Life-cycle management;
- Weekly program reviews by FBI Finance Division, Office of General Counsel, and Inspection Division;
- Dedicated liaison to the FBI's Resource Planning Office, Directorate of Intelligence, and Records Management Division.

Question. When will the project be completed? How much over budget will it be?
Answer. At the beginning of Sentinel Agile development, the planned estimate for completion was to remain within the \$451 million allocation, which includes operations and maintenance (O&M) and the life-cycle development costs. As of the latest invoice cycle, Sentinel development and the O&M of the operational Sentinel system are within the \$451 million approved funding. When Sentinel first went into operation in 2007, a 5-year O&M contract began and runs to May 2012. However, FBI projects that Sentinel will be fully deployed in 2011.

Question. FBI requests \$30 million in fiscal year 2012 for Sentinel. Is this more than the estimated development budget?

Answer. Sentinel Agile is expected to be delivered in 2011 within the \$451 million total Sentinel budget. This funding also provides O&M support through May 2012. The fiscal year 2012 budget request of \$30 million is to create a permanent base funding for O&M.

STOPPING INTERNET CHILD PREDATORS

Question. The Innocent Images Initiative targets sexual predators on the Internet, a sexual predator's weapon of choice to target children. Innocent Images' workload has increased dramatically, from 113 open cases in 1996 to 6,000 open cases in 2009—a 5,000 percent increase. FBI's budget request includes \$69 million for the Innocent Images program. In 2010, the Congress increased Innocent Images by \$14 million, but the fiscal year 2012 request is only \$2 million more.

If the Innocent Images caseload is increasing so exponentially, why hasn't FBI requested substantial additional resources in fiscal year 2012 to hire more agents and digital forensics experts to meet this need?

Answer. The Innocent Images program is a high priority to FBI. In fiscal year 2011, FBI dedicated 237 agents in the field to address the growing problem of sexual predators using the Internet to target children. These 237 agents worked on 5,999 innocent images cases, or an average of 26 cases per agent. While the caseload per agent demonstrates that additional resources would be helpful, the budget reflects our best efforts to align limited resources to a number of our critical mission areas. There are unfortunately areas that cannot be addressed with the constrained funding available.

Question. How is FBI addressing the growing threat of child predators on the Internet, given that the request provides a bare minimum in new resources to investigate child predators that prey on children online?

Answer. FBI has several initiatives that address the growing threat of child predators on the Internet, which are described below.

ONLINE UNDERCOVER OPERATIONS (UCOS)

FBI has two UCOS that focus on the growing threat of child predators on the Internet. The first is the Innocent Images National Initiative (IINI) program, which operates one Group I UCO at Calverton, Maryland, and 43 Group II Innocent Images On-line UCO initiatives targeting online child exploitation offenders across the United States and internationally. The second is the Internet Crimes Against Children (ICAC) program, which has 59 ICAC Task Forces also targeting on-line child exploitation offenders within the United States.

In order to facilitate a more unified relationship with the ICACs for this critical component for online child exploitation investigations, Cyber Division (CyD), IINI and ICAC have established joint training. IINI and ICAC are currently working together to develop additional undercover training for FBI Agents, Task Force Officers (TFOs), and ICAC personnel. In order to successfully identify, investigate, and prosecute IINI subjects and identify victims, agents and TFOs must be provided specialized and comprehensive training to operate on-line in a covert capacity. Development of a training program which addresses the needs of both FBI and the ICACs enhances an excellent working relationship in the field, which provides a more specialized and uniform training across the United States.

LAW ENFORCEMENT PARTNERSHIPS

Each year, IINI has seen an increase in open cases, arrests, indictments and prosecutions, with more of a chance to overlap on those investigations with other law enforcement agencies. The Attorney General instituted a program to address these cases across all Federal, State, and local jurisdictions within the United States, named Project Safe Childhood (PSC). This initiative requires all agencies to work together toward the common goal of eradicating child exploitation, specifically via the Internet.

ICACs are comprised of Federal, State, and local police departments. Some ICACs are fully integrated with FBI Innocent Images Task Forces, and some ICAC Task Force members are members of FBI Innocent Images Task Forces. ICACs are managed by DOJ Office of Juvenile Justice and Delinquency Program (OJJDP).

Safe Online Surfing (SOS) Program.—FBI–SOS is a free Internet safety program designed to help students recognize potential dangers associated with using the Internet. The program was launched during the 2005–2006 school year and developed in cooperation with the FBI’s Miami field division. The SOS program is administered by the Common Knowledge Scholarship Foundation (CKSF), which is part of the Fischler School of Education and Human Resources at Nova Southeastern University (NSU). In October 2009, FBI Cyber/Innocent Images National Initiative Unit (IINI) adopted the SOS program as a national initiative.

IINI RESEARCH AND DEVELOPMENT TEAM

The IINI has established and assigned valuable resources to a Research & Development (R&D) component in order to increase the stock of knowledge of new and emerging technologies, culture and society, and the use of this knowledge to devise new applications on a systemic basis. Internet social networking and emergent high technology have fundamentally changed human behavior and criminal tradecraft, especially in crimes against children cases. To protect minors and to catch and hold offenders fully accountable for their crimes, law enforcement agencies and prosecutors must understand how people use technology to interact with each other. Law enforcement must also have the investigative preview and forensic tools necessary to succeed in an ever-changing technical and social environment. The R&D component for the IINI has been established to provide this support to FBI investigators conducting on-line child exploitation investigations.

DIGITAL ANALYSIS AND RESEARCH CENTER

The IINI established its own digital forensic laboratory, which is dedicated exclusively to the examination and analysis of digital evidence in the most significant Internet-based online child sexual exploitation cases nationwide. This unit, known as the Digital Analysis and Research Center (DARC), provides quality technical and scientific investigative capabilities, detailed extraction and analysis, testimony, and support to the FBI’s IINI program. This is accomplished through the acquisition, preservation, examination, processing, and presentation of stored digital information in computers and other electronic devices or media. Furthermore, DARC works closely with the IINI’s R&D component to develop new technologies and procedures to assist forensic examiners and investigators in combating online child sexual exploitation.

ENDANGERED CHILD ALERT PROGRAM (ECAP)

ECAP was initiated on February 21, 2004, as a new and aggressive approach to identify unknown subjects (i.e., offenders and producers) involved in the sexual abuse of children and the production of child pornography. These individuals either photographed or filmed themselves molesting children and were indicted as John Doe’s due to their true identities being unknown. The locations of these individuals are also unknown; however, it is firmly believed they reside in the United States. Of particular significance in these cases is that for the first time, “John Doe” arrest warrants are based solely on images acquired through undercover child exploitation investigations. The Innocent Images Operations Unit has focused on 19 separate John Doe and Jane Doe investigations. To date, the national and international exposure of these individuals has led to the successful identification of 12 previously unknown child pornography subjects and the identification of more than 30 child abuse victims.

ECAP has utilized national and international media exposure of unknown adults featured in child pornography material and displays their images on the “Seeking Information” section of the FBI’s Web site at www.fbi.gov. If the unknown subject is not identified from the Web site, their image may eventually be broadcast on the

television shows America's Most Wanted, the Oprah Winfrey program, the O'Reilly Factor, and a number of other media and social networking outlets such as AOL News, Facebook, and Twitter.

OPERATION RESCUE ME

Operation Rescue Me is an initiative to identify child exploitation victims who appear in unidentified child exploitation/pornography series circulated on the Internet. The primary purpose of this operation is to coordinate investigative efforts and provide the IIOU, and any other FBI office, a central location to document all investigative action taken to identify a child or children in a series. The central case initiative serves to eliminate redundant efforts and ensure that newly assigned investigators are integrated into the investigation in a cohesive manner.

Question. What is the status of the Innocent Images International Task Force (IIITF)? How many international officers have been trained? How many countries have joined?

Answer. In 2004, FBI initiated IIITF to promote and develop a coordinated international law enforcement response against Internet child sexual exploitation. Since its inception, the IIITF has and continues to play an instrumental role in the successful coordination of complex investigations against sophisticated, multi-national networks engaged in online child sexual exploitation. The borderless and constantly evolving nature of the Internet provides great challenges for the international law enforcement community, the majority of whose tools and practices were established long before the Internet age.

The IIITF has proved successful in providing a platform to overcome many such challenges and facilitate cooperation and coordination. The steadily expanding IIITF is currently comprised of 90 Task Force Officers (TFOs) from more than 40 different countries. Currently, TFOs undergo a 5-week training session in Calverton, Maryland, where they receive specialized technical training on a variety of relevant and current topics, such as legal principles, emerging trends and technologies, and investigative techniques.

The principal goal of the IIITF is to develop an operational network of specialized Internet child sexual exploitation investigators. The IIITF provides a communication and cooperation platform to share and exchange intelligence and facilitate the identification and furtherance of Internet child sexual exploitation investigations with an international scope.

STATE AND LOCAL LAW ENFORCEMENT—FIGHTING VIOLENT CRIME

Question. There are roughly 1 million gang members in 20,000 gangs in all 50 States and the District of Columbia. With gang membership rising and violent crime continuing to be a problem, local law enforcement needs a strong partnership with Federal Government. Currently, there are 163 Safe Streets Violent Gang Task Forces. These partnerships allow FBI agents and State and local law enforcement to work as teams to fight street crime. However, FBI has not had the resources to expand this program and requests no additional funding in fiscal year 2012.

How are joint Federal-State task forces effective in helping local law enforcement fight violent crime?

Answer. Once considered only an urban problem, street gangs are now a threat to all communities across the United States. FBI's partnerships with State, local, and other Federal law enforcement agencies in the form of Violent Gang and Violent Crime Safe Streets Task Forces (SSTFs) have been, and continue to be, at the forefront of the FBI's anti-gang efforts. Violent Gang and Violent Crime SSTFs provide a multi-jurisdictional task force approach, which ensures FBI initiates and coordinates investigative efforts with other affected local, State, and Federal law enforcement agencies. This concept ensures cooperation and communication among law enforcement agencies and increases productivity and prevents duplication of investigative and enforcement efforts in matters of concurrent jurisdiction. The SSTFs work to disrupt and dismantle the most violent street gangs and criminal enterprises through aggressive enforcement of Federal criminal statutes. Our ongoing partnership with State and local law enforcement decreases crime and increases the quality of life in the affected communities.

Question. With State and local law enforcement agencies forced to reduce their numbers because of funding cuts, does FBI anticipate a greater burden placed on it to fill gaps in policing? Will FBI have the capabilities to help?

Answer. As noted previously, the FBI has formed an effective partnership with State and local law enforcement agencies to address gang violence through FBI Safe Street Task Forces (SSTFs). FBI SSTFs target the most violent gangs and criminal enterprises negatively affecting our communities through criminal enterprise inves-

tigations. Investigations that do not have a Federal nexus or involve violations of Federal statutes are conducted by partnering State and local law enforcement agencies. As budget problems continue to affect State and local law enforcement agencies across the Nation, the demand for FBI SSTF resources has increased. A reduction in State and local resources may result in gangs expanding their drug markets and becoming more violent, which may require the FBI to open more gang investigations.

FBI will continue to partner with State and local law enforcement agencies through Violent Gang and Violent Crime Safe Streets Task Forces (SSTFs), which ensures coordination in investigative efforts. FBI will support State and local participation where it can, including paying for overtime of State and local task force officers with the limited funding made available through the Assets Forfeiture Fund.

Question. Why was the only increase in this area \$9 million to combat and investigate violent crimes in Indian country?

Answer. FBI is one of two primary Federal agencies mandated to investigate felony crimes in Indian country. FBI's responsibility in Indian country is significant and the volume of investigations continues to rise. Addressing crime in Indian country is also among DOJ's priorities. Many tribal police departments do not currently have the necessary certification, technology, training, expertise, deputation, or mechanism to refer cases to the United States Attorney's Office for prosecution.

Currently, there are 565 federally recognized Indian tribes in the United States, and FBI has investigative responsibility for approximately 200 Indian Reservations. Under the Major Crimes Act, General Crimes Act, Indian Gaming Regulatory Act, and traditional Federal investigations within Indian country, FBI must continually prioritize violations due to the overwhelming amount of violations which occur within Indian country. Due to the immediate response required to investigate death investigations, child sexual and physical assault, violent felony assault, many other crimes go under-addressed. Twenty-five percent of all violent crimes prosecuted by United States Attorneys nationally occur on Indian reservations.

The fiscal year 2012 request to the Congress includes 40 positions (24 agents, 16 support) and \$9 million (\$449,000 nonpersonnel) to bolster existing Safe Trails Task Forces and to provide additional investigative resources to address the significant violent crime threat in Indian country. This enhancement request represents a 33 percent growth in positions (22 percent growth in agents and 40 percent growth in nonpersonnel resources). While the \$9 million will not enable FBI to investigate all violent crime cases in Indian country, FBI believes this enhancement will increase the number of priority investigations in Indian country and also demonstrates reasonable growth. Further, these additional resources will support the Attorney General's Department-wide initiative on public safety in tribal communities.

SOUTHWEST BORDER VIOLENCE

Question. I continue to be concerned that DOJ lacks sufficient resources to combat violence related to drug and gun trafficking on the Southwest Border. These violent crimes are caused by large, sophisticated, and vicious criminal organizations—not by isolated, individual drug traffickers. The Justice Department's 2012 request includes \$2 billion to support investigations and prosecutions relating to border violence.

Along the Southwest Border, DEA goes after drug smugglers and ATF goes after illegal guns. What role does FBI play in the Justice Department's enforcement of the Southwest Border?

FBI continues to actively participate in DOJ's fight against the criminal threats that exist along the Southwest Border. FBI continues to maintain a robust contingent of squads in Southwest Border field offices that address drugs, gangs, violent crime, public corruption, money laundering, and human trafficking. As the violence has increased in Mexico, and the threat to the United States posed by the criminal enterprises operating along the Southwest Border has expanded and crossed FBI program lines, the FBI has taken steps to more adeptly and comprehensively address that threat.

Toward that end, FBI has established nine cross-programmatic hybrid squads in offices impacted by the criminal activity occurring along the Southwest Border. FBI has also deployed seven border liaison officers to Southwest Border field offices to coordinate with and offer training to Mexican law enforcement officers. In addition, FBI has partnered with Federal, State, and local law enforcement partners, as well as the U.S. intelligence community, to share intelligence and coordinate investigations and investigative resources. The FBI also has 17 agents permanently detailed to Mexico as part of its Legat and Resolution Six programs. The intelligence shared

between FBI field offices and the Legat, and vice versa, helps to drive Southwest Border-related investigations. These various components, coordinated by FBI headquarters (FBIHQ), provide DOJ with a cross-programmatic, comprehensive strategy to address the complex threat posed by criminal enterprises operating along the Southwest Border.

Question. How concerned should communities along the border—and throughout the United States as a whole—be about cartel-related violence? If FBI is witnessing a spillover in violence across the border, how would it categorize this spillover?

Answer. Other than isolated incidents, “cross-over” cartel violence from Mexico into the United States is minimal. The reason for this is twofold. First, the United States has not witnessed the same turf battles over supply and distribution routes that are occurring across the border. In fact, local crime reports submitted by DEA offices located along the Southwest Border show most categories of crime decreasing from 2009 to 2010.

Second, the cartels already enjoy enormous influence in the U.S. drug trade and control the vast majority of wholesale markets, as well as many retail markets, for drugs in the United States. To engage in violence on the U.S. side of the border would be detrimental to the cartels’ business because it would invite additional scrutiny at the border and increased law enforcement attention within the United States. However, the U.S. Government and communities along the border should remain vigilant against the threat of violent crime.

We do believe there is a cartel presence in the United States and we are vigilant about guarding against the possibility of that presence becoming more violent in the United States. We also recognize the ongoing safety concerns in those communities along the United States-Mexican border where rival cartels are vying for control of the drug and human smuggling routes into the United States. Although there currently appears to be a stable situation in the United States between rival cartels operating in close proximity in U.S. cities, we are closely monitoring the situation for any increases in violence or other illegal activities. For these reasons, we have dedicated unprecedented resources to the border and to Mexico—significantly increasing the number of agents and prosecutors working on Mexican cartel cases. No matter what the statistics today, the fact remains that we must remain vigilant to the impact of the violence in Mexico on the United States.

The FBI is not witnessing a spillover in violence across the border, but continues to monitor this situation.

Question. How is FBI working with the Mexican Government to dismantle violent drug cartels?

Answer. The FBI staffs Resolution Six (R-6) operations in Mexico and Columbia. R-6 was created to enhance inter-agency coordination of drug and gang investigations conducted in Mexico and Columbia. Priorities of R-6 personnel are to develop confidential human sources, support domestic cases for United States prosecutions, cultivate liaison contacts within Mexico, and support bilateral criminal enterprise investigation/initiatives. R-6 personnel are co-located with DEA and are responsible for coordinating drug and gang investigations with the DEA Country Office. FBI R-6 staffs positions in the following Mexican cities:

- Mexico City;
- Juarez;
- Tijuana;
- Monterrey;
- Hermosillo; and
- Guadalajara.

R-6 Mexico uses vetted teams of Mexican law enforcement officers to effect the collection of evidence and arrest targets in Mexico. R-6 works with SEMAR (Marines), SEDENA (Army), SSP (Federal Police), and SIEDO (Organized Crime Unit) as well.

RENDER SAFE MISSION

Question. FBI is now responsible for the Render Safe mission, which involves dismantling a radiological device on U.S. soil. The 2012 budget request includes \$89 million for FBI’s “Render Safe”. This provides for a multi-year purchase of two new specially configured aircraft to carry out the Render Safe mission. The FBI currently uses one leased plane to carry out its mission, and that lease will end in fiscal year 2013.

Why does FBI need two new planes when it currently conducts its mission with one?

Answer. The Render Safe mission requires a dedicated primary aircraft with a secure and redundant communication system, and a similar backup aircraft to cover

planned downtime and unexpected mechanical failure. The current lease does not provide a dedicated back up plane with required communications gear. The fiscal year 2011 spend plan currently awaiting congressional approval includes \$35.8 million for the acquisition of two planes to replace the current lease and maintain the Render Safe capability. This funding is made up of Expired User Fee collections (\$17 million) and prior year recoveries (\$18.8 million).

Question. What is the cost of the current lease and how often has the current plane been used?

Answer. The annual lease cost is \$14.5 million. The plane is only used for Render Safe activities—over the past year the plane has been used for a number of deployment exercises.

Question. What are the final overall costs for these new planes, including the special equipment and dedicated personnel?

Answer. The overall costs for acquisition and outfitting is approximately \$74 million over 2 years. The personnel costs for the Render Safe mission total approximately \$4 million annually.

Question. Why is it important that FBI purchase these planes rather than renew the current lease?

Answer. Not having dedicated aircraft with redundant communication capabilities jeopardizes the mission success and increases the risk that the Render Safe team will not be able to deploy in a timely manner or properly communicate a highly technical and coordinated solution prior to landing at the identified location.

Further, there are Office of management and Budget (OMB) regulatory limits that prohibit leasing for more than 90 percent of the fair market value of an asset, and we are approaching this regulatory limit.

Question. How would FBI carry out your Render Safe mission without these aircraft?

Answer. Without these aircraft, FBI would have to continue to enter into a series of short-term aircraft leases.

Not having dedicated aircraft with redundant communication capabilities jeopardizes the mission success and increases the risk that the Render Safe team will not be able to deploy in a timely manner or properly communicate a highly technical and coordinated solution prior to landing at the identified location. Further, there are OMB regulatory limits that prohibit leasing for more than 90 percent of the fair market value of an asset, and we are approaching this regulatory limit.

MISCONDUCT OF FBI EMPLOYEES

Question. In January 2011, I was deeply disappointed to hear a CNN report detailing serious misconduct by FBI employees on and off duty. Incidents involved employees drinking or sleeping on duty, improper use of Government databases, watching pornography in the office, and using a sex tape for blackmail. These sensitive, internal reports were leaked to CNN. I consider FBI's response to this story has been tepid, at best.

What is FBI doing to make sure its employees are held to the highest standards?

Answer. FBI is committed to the highest standards of professional conduct. Our ability to accomplish the critically important national security and law enforcement work assigned to FBI makes it absolutely imperative that we have the respect and trust of the American public we serve. For that reason, FBI has a strict code of conduct and demands ethical behavior and professional excellence from all of our employees. When an FBI employee engages in misconduct, FBI's Office of Professional Responsibility (OPR) imposes an appropriate disciplinary sanction, from a letter of censure to a period of suspension or, in the worst cases, termination. The FBI OPR, the Office of the General Counsel, and the Office of Integrity and Compliance (OIC) also provide regular training to all employees—including all new agents, IAs, Legats, and professional staff—to ensure they know the laws, policies, procedures and rules under which we operate.

Question. What steps has FBI taken to punish these types of employee misconduct?

Answer. As noted in the CNN report, when the FBI OPR determines that an employee has engaged in misconduct, it imposes an appropriate disciplinary sanction, from a letter of censure to a period of suspension or, in the worst cases, termination.

Question. Does FBI have safeguards in place to ensure that—once these types of incidents happen—they won't happen again?

Answer. Yes. Executive Management receives weekly and monthly reports from the Assistant Director of OPR discussing the most recently decided cases, including what actions have been taken in the individual cases, as well as what actions have been taken at an institutional level to avoid recurrences. Moreover, OPR, the Office

of the General Counsel, OIC and others provide regular training to ensure our employees understand the code of conduct under which they operate, as well as the laws, policies, procedures and rules with which they must comply. Finally, OPR publishes quarterly all employee emails to educate the workforce on acceptable standards of conduct.

FBI ACADEMY

Question. The FBI Academy in Quantico, Virginia, is operating at full capacity. Of the Academy's three dorms, two date back to 1972, one dates back to 1988 and none are not up to industry standards. The 2011 request had \$74 million to expand the FBI Academy's training facilities, build a new dorm and renovate existing dorms, but this was not included in the fiscal year 2011 continuing resolution. The 2012 request includes only \$2 million for Academy improvements.

What are the specific infrastructure challenges at the FBI Academy? What infrastructure setbacks will FBI face under the funding level provided for FBI construction account in the fiscal year 2011 continuing resolution?

Answer. The primary challenges are the age and capacity of the infrastructure support systems, such as electrical, heating ventilation and air conditioning (HVAC), sewer, and water. Some of the oldest infrastructure components (firing ranges) were installed in the 1950s. The main "academy" complex was constructed in 1972 and its infrastructure has gone 38 years without any appreciable upgrades or expansion. The academy's core infrastructure was originally designed to support approximately 500,000 square feet of space, but FBI's Quantico complex now consists of more than 2.1 million square feet. Due to the age of the facilities, scheduled and unplanned repairs regularly eliminate 8 percent of bed and classroom space.

The second infrastructure challenge at the FBI academy has to do with the classroom and dormitory capacity of the facility given increasing demands on the organization. With the extensive growth of FBI's mission and workforce since 9/11, the Academy has been forced to use temporary classroom structures at Quantico or to lease private sector space, with students being housed in local area hotels. These stop-gap arrangements are an inefficient use of student time on campus, and negatively impact the quality of education and training that FBI students receive, while consuming significant annual resources that would be better directed to maintaining and expanding Academy facilities.

FBI will be unable to make significant repairs or improvements to the original 1972 academy complex if limited to the funding level provided for the FBI construction account in fiscal year 2011. Key infrastructure systems will continue to be at risk of failure due to the age of their components and the Academy's classroom and dormitory demands will continue to be met through offsite leases and local area hotels for the foreseeable future.

Question. Can FBI really make substantive improvements to the Academy with the \$2 million requested in 2012? On what will that \$2 million be spent?

Answer. FBI has identified more than \$250 million in repair projects and infrastructure improvements needed to bring the Academy facilities up to code and industry standards. Based on the condition of the existing buildings, the current base funding level of \$2 million is insufficient for making substantive improvements to them; however, it will assist in funding day-to-day activities.

Question. How will the FBI's training requirements for the Academy continue to expand?

Answer. In addition to the increased number of students requiring specialized training at the academy, the length of the programs for new agents and intelligence analysts (IAs) has also been extended. Existing curriculums were restructured to focus on areas such as Foreign Counterintelligence, Cyber and Counterterrorism, among others. Additional courses devoted to legal requirements, analytical, and technological tools and tradecraft have also been added. Joint training between new agents and IAs has also been expanded. This has significantly increased the total training weeks per year—by more than 90 percent since 1995—creating scheduling conflicts amongst the competing student groups at the Academy. There are also new requirements for specialized training; for example, with increased emphasis on Human Sources, additional interview rooms are required for practical exercises.

From 2005 to 2008, there has been a 200 percent increase in the number of FBI regional training events (19,851 to 39,894). FBI would be better served by hosting more of these regional training events at the FBI academy campus given that courses require access to FBI classified networks and space, which are generally unavailable in non-FBI facilities.

Question. What are the top three improvements FBI leadership wants to see at the Academy?

Answer. Complete renovation, including interior and infrastructure upgrades for FBI academy dormitories, and upgrading critical life, health, and safety infrastructure to meet current industry standards and codes.

Complete renovation and interior infrastructure upgrades for the FBI academy dining facilities, to include an expansion that provides adequate space for the current level of students trained on campus.

Complete renovation and interior infrastructure upgrades for all original Academy classroom buildings, to include upgrading critical life, health, and safety infrastructure and modernizing classroom spaces to better utilize current technology and instruction practices and expand capacity.

NATIONAL SECURITY LETTERS (NSLS)

Question. NSLs are useful counterterrorism tools that allow the FBI to conduct searches without getting court orders, and let agents analyze telephone, computer and bank records without warrants. The USA PATRIOT Act made NSLs easier to obtain, but also requires the inspector general to monitor the use of NSLs and report back to the Congress. The inspector general released two reports on NSLs that estimated more than 6,000 NSL violations from 2004–2006. That's 8 percent of all NSLs issued. Violations include 11 "blanket NSLs" without proper approval in 2006, and unauthorized collection of more than 4,000 billing records and phone numbers.

What is FBI doing to improve NSL training for its employees? Is NSL-specific training mandatory for all employees involved with NSLs?

Answer. NSL training is mandatory for all FBI employees involved in NSLs. Following the March 2007 Office of Inspector General Report entitled, "A Review of the Federal Bureau of Investigation's Use of National Security Letters", FBI updated its NSL training module. The new NSL training module incorporates the essentials of creating and issuing NSLs, reviewing return information, and using the information for investigations. Also, the new training modules are now interactive and contain two new exams that employees must pass (with at least an 80 percent score) to complete the training. The training modules and examination questions reflect the topics of recent interest concerning NSLs and were designed to help ensure compliance with the NSL statutes, Attorney General Guidelines, and the Domestic Investigations and Operations Guide. For example, the modules now include training on the new Attorney General Procedures on NSLs, the rules surrounding the use of a nondisclosure provision in an NSL, and the need to justify the nondisclosure provision in an NSL, including when and under what circumstances a nondisclosure provision may be included in an NSL.

Yes, NSL-specific training is mandatory for all employees involved with NSLs.

Question. The Commerce, Justice, Science, and Related Agencies Subcommittee recognized a problem with NSL management and provided \$10 million in fiscal year 2010 to establish the Office of Integrity and Compliance for oversight of NSLs. Does that Office need more staff to carry out its oversight role?

Answer. Funding for the Office of Integrity and Compliance was appropriated through the fiscal year 2007–2008 Global War on Terror (GWOT) supplemental, and since its establishment FBI has continued to increase the responsibilities of the office. As these responsibilities increase, the need for funding will also increase.

Question. Does FBI have the right computer systems and other technical support to improve the way it issues and tracks NSLs?

Answer. Yes. In January 2008, FBI deployed the NSL subsystem in the FISA Management System to address reporting and other issues in the NSL process. The subsystem prompts the drafter of an NSL to enter information about the subject, the predication for the NSL, the type of NSL being requested, the recipients of the NSL, and the target of the NSL. After the employee creates an NSL and the accompanying memorandum (called an Electronic Communication [EC]), the subsystem routes both documents for legal review by FBI attorneys, and to FBI officials including the field office Special Agent in Charge (SAC) or designated FBIHQ official, who must review and approve both documents before the NSL can be issued. After all required approvals have been obtained, the subsystem generates the NSL and EC for signature by the SAC or a designated FBIHQ approving official. The subsystem thereafter automatically uploads the NSL and EC into the FBI's Automated Case System. This subsystem collects the information needed for tracking NSLs.

TERRORIST WATCHLIST

Question. The Terrorist Watchlist, maintained by FBI, is the intelligence community's main list of terrorist suspects. More than 1.1 million known or suspected "terrorist identities" are on the list, and 20,000 names are added each month. A May 2009 inspector general report found that the terrorist watchlist had unacceptable er-

rors, noting that FBI delayed reporting names to the watchlist by up to 4 months. FBI also failed to remove names once it determined that they do not pose a threat, while other information was simply inaccurate or outdated.

What steps has FBI taken to meet the inspector general's concerns?

Answer. In its May 2009 report, OIG made 16 recommendations to the FBI to improve its watchlisting processes. OIG has closed 11 of those recommendations based on the extensive changes and improvements FBI has made to virtually every aspect of this process including:

- policies;
- training;
- realignment of FBIHQ personnel to better meet the needs of the watchlisting program's objectives; and
- the establishment of metrics to ensure that FBI complies with its revised policies.

The remaining five recommendations have been resolved based on FBI's commitment to fulfilling the required actions. FBI is actively working to complete the necessary steps to ensure closure of the remaining recommendations.

Question. What is FBI doing to cut the time it takes to add someone to the watchlist?

Answer. On December 7, 2009, FBI issued a comprehensive watchlisting policy. Each field office's managers, Watchlist Coordinator, and Alternate Watchlist Coordinator were emailed an electronic version of the document. The timeline for watchlisting is defined in the policy as 10 business days for all submissions which is measured from the date the case is opened in FBI's automated case management system until the date the nomination form (FD-930) is received by email at FBIHQ. The timeline for FBIHQ is 5 business days for nominations and 10 business days for modification and removals. This is measured from the date the email containing a valid nomination is received via email at FBIHQ, until the date FBIHQ emails the completed nomination to the National Counterterrorism Center. In addition, the FBIHQ unit responsible for this process has established a "metrics team" to review and track the timeliness of submissions by the field offices. Metrics reports are prepared and disseminated to all field office managers for appropriate actions.

Question. How is FBI improving training for its staff to increase accuracy in adding names to the list and removing names from the list?

Answer. The Terrorist Screening Center (TSC) has developed and implemented a standardized internal Nominations and Data Integrity Unit (NDIU) analyst training program which includes classroom instruction for new NDIU analysts and an on-the-job training (OJT) program. The OJT program includes a week of practical exercises focusing on complex processes and analytical nuances of nominations to and removals from the various subsets of the Terrorist Screening Database (TSDB). The classroom instruction is comprised of the fundamental knowledge NDIU analysts need to process nominations to the TSDB in accordance with the criteria set forth by the July 2010 Watchlisting Guidance and exercises which expose analysts to practical application of the knowledge. The OJT program pairs a new NDIU analyst with a senior NDIU analyst, who will mentor the new analyst through the processing of nominations accurately and systematically. The OJT program ensures the new analyst firmly grasps the watchlisting criteria and the full utility of each internal and external system used to process nominations to and removals from the TSDB. Additionally, new analysts are given a week of practical exercises which further develop their ability to apply watchlisting criteria, use internal and external systems, and recognize the complex nuances and indicators of nominations to and removals from the TSDB.

Additionally, the TSC has been tasked with reviewing every identity record in the TSDB on a regular basis. This constant review ensures that each TSDB identity record is regularly reviewed in order to maintain a thorough, accurate and current TSDB. Each identity record is evaluated on minimum substantive derogatory criteria, minimum biographic information criteria and biometric criteria. This record-by-record review project is a continuous process that ensures that every identity record in the TSDB has been reviewed and updated as needed.

Question. What are the major obstacles in shortening the time it takes to put someone on the no-fly list?

Answer. Once TSC receives a nomination to watchlist an individual, the nomination will generally be adjudicated and processed within 24 hours. Additionally, there is an expedited nomination process available to the watchlisting community which allows for the immediate watchlisting of a suspected terrorist in exigent circumstances. If TSC receives an expedited nomination, that nomination will be added to the Terrorist Watchlist as soon as possible. For example, on May 3, 2010, FBI requested that Faisal Shahzad, the suspected Times Square bomber, be expedited

to the No Fly List. In less than 30 minutes Shahzad was listed as a No Fly in the TSDB and less than 1 hour later all relevant U.S. Government watchlisting and screening agencies were informed of his updated watchlisting status. This effort eventually led to his identification and apprehension later that evening as he attempted to board an international flight.

Additionally, in an effort to improve the accuracy of information provided to the screening community and decrease the time required to watchlist an individual, TSC has worked with our U.S. Government partners to institute information technology (IT) enhancements that significantly reduced the time required to transfer terrorist watchlist information. NCTC and TSC worked together to implement changes to their infrastructure and software that allows new nominations to be passed from NCTC to TSC within 2 minutes so that it is immediately available for processing instead of having to wait until the next working day. TSC instituted a similar enhancement with DHS and Department of State that provides updated terrorist information to CBP's TECS and Department of State's CLASS systems within 2 minutes instead of the next working day. DHS intends to extend the rapid updating to their other screening systems through the use of their Watchlist Service. These enhancements have greatly improved the timeliness of new and updated terrorist information to ensure front-line screening agencies have the most current and accurate information available.

Question. Has FBI given its managers in field offices more responsibility to review nominations before they are sent to FBIHQ?

Answer. The opening of a case does require managerial approval and all managers are aware that when they approve a counterterrorism case to be opened, the subject(s) of that case will be submitted for watchlisting.

Question. Has FBI been working with the Director for National Intelligence to make sure this problem is fixed across all intelligence agencies?

Answer. Yes. In an effort to ensure all U.S. intelligence agencies are nominating terrorists to the TSDB consistently and efficiently, Watchlisting Guidance was developed by an interagency working group that included representation from the Department of Justice, DHS, Central Intelligence Agency, National Security Agency, Department of Defense, Department of State, Department of the Treasury, and the Office of the Director of National Intelligence. The Watchlisting Guidance provides nominating agencies clear and articulable guidance on the standards and procedures to be followed when nominating persons to the Terrorist Watchlist.

Furthermore, in collaboration with NCTC and the intelligence community, TSC has assisted in the development of a Terrorist Watchlisting course for the intelligence community to be used as a single source of instruction for watchlisting matters. The training focuses on an explanation of the overall watchlisting process; identifies the roles of the each intelligence community member; describes the various intelligence community screening systems supported by the TSC's TSDB; explains the minimum watchlisting criteria; and articulates the intelligence benefits of positive watchlisting encounters.

Question. Kidnapping for ransom is a common occurrence in Mexico. Over the past 10 years, kidnappings of and violence against United States citizens in Mexico has increased.

Often, the kidnapping of United States citizens in Mexico involves ransom requests made to family members in the United States.

I understand that FBI is frequently called upon to assist Mexican law enforcement authorities in the investigation of violent acts against and kidnappings of United States citizens in Mexico.

Would you support the development by FBI of a vetted unit with trusted Mexican counterparts who have the expertise to conduct investigations of the kidnappings of United States citizens?

Answer. FBI has been working with the Government of Mexico to establish specialized Kidnapping Investigation Units (KIUs) in 9 of the 32 Mexican states. The FBI has provided training in the United States as well as equipment to each unit. As kidnapping is a state crime under Mexico law, each of these units is operated by its respective state. FBI legal attachés work with these units in the kidnapping investigations of United States citizens. Although it would help improve investigations these units are not "SIUs" and are not fully vetted as an SIU would be since the Government of Mexico is currently doing the vetting and would have to agree to letting FBI conduct it instead. In addition, these units do not exclusively investigate kidnappings of U.S. citizens; rather they investigate all kidnappings in their respective states. Since kidnappings of United States citizens occur across Mexico, FBI must rely on Mexican state and federal officials to conduct the investigations according to their laws.

FBI will also be working with the Federal Police and Federal Ministerial Police to develop their kidnapping investigative capabilities and structure.

QUESTIONS SUBMITTED BY SENATOR KAY BAILEY HUTCHISON

LACK OF SUPPORT FOR SOUTHWEST BORDER EFFORTS

Question. Department of Justice (DOJ) components are often overlooked by the administration when crafting Southwest Border budgets and legislation.

Director Mueller, I am concerned that only \$130 million of the Federal Bureau of Investigation's (FBI) \$8.1 billion total request is dedicated to Southwest Border activities. I understand the administration rejected your request for more resources in last year's Southwest Border supplemental. I also understand that FBI was directed to request no new enhancements in the fiscal year 2012 request—yet the DOJ was burdened with more than \$1 billion of unrequested programs or new enhancements.

New or Unrequested DOJ Programs.—COPS Hiring for \$600 million; Medical Malpractice Grants for \$250 million; Violence Against Law Enforcement Officers (VALOR); Ensuring Fairness and Justice, Domestic Radicalization; Gang and Youth Violence Prevention Program; Byrne Criminal Justice Innovation; Race to the Top; and Problem-Solving Justice, Flexible Indian Tribal Grant Program).

Could you discuss the resources originally requested by for the Southwest Border supplemental that were denied by the administration?

Answer. The information requested is pre-decisional. However, the resources appropriated in the fiscal year 2010 border security supplemental have been crucial in allowing FBI to expand its presence along the Southwest Border and to expand investigative capabilities.

Question. Last, please elaborate on any new enhancements or increases that you might have preferred to be included in this fiscal year 2012 request.

Answer. Regarding the Southwest Border, the most critical element in fiscal year 2012 is sustainment of the 78 positions (44 agents) received in the fiscal year 2010 border security supplemental, which was requested in the fiscal year 2012 President's budget.

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) AGENT SHOOTING—PROCESS AND RESOURCES

Question. This past February 15, United States ICE agent Jaime Zapata was murdered during an attack in Northern Mexico. FBI was designated by the Attorney General as the lead U.S. law enforcement component of a multi-agency task force charged with conducting the investigation into this attack.

What can you tell us about the investigative efforts of this task force since this tragic incident in Mexico?

Answer. Upon notification of the attack against the ICE agents, FBI immediately organized a multi-agency task force located in Washington, DC with a multi-U.S. Federal agency Command Post (CP) at the United States Embassy in Mexico. The task force and CP communicate daily regarding all facets of the investigation. Additionally, numerous FBI field offices have organized multi-agency efforts to assist in the investigation (San Antonio, Miami, Dallas, Houston, Phoenix, and Las Vegas to name a few). Through their Mexican liaison contacts, CP members have gathered significant information and evidence regarding the perpetrators and accomplices of the ICE attack. Two of the alleged perpetrators have been transported to the United States; those two and two others (a total of four) have been indicted on multiple charges. The United States Government has presented the Government of Mexico with the necessary documentation to transport two other alleged perpetrators, including the leader of 1 of the 2 teams that attacked agents Zapata and Avila. As of now, 5 of the 8 individuals identified as perpetrators are in custody, either in Mexico or the United States.

Question. Are Mexican law enforcement authorities cooperating and/or assisting in this investigation?

Answer. Mexican law enforcement officials are conducting a parallel investigation into this incident. The Mexican Government and its agencies have an "open door" for all United States requests for access to evidence, interviews, and support to our Embassy personnel in conducting this investigation. Members of the Embassy staff meet regularly with Mexican counterparts to ensure necessary information is shared.

Question. Are discussions taking place to have the perpetrators extradited to the United States for prosecution of this crime?

Answer. Yes, such discussions are taking place. DOJ's prosecution team, consisting of two prosecutors from the U.S. Attorney's office in the District of Columbia and two prosecutors from DOJ Criminal Division, has been working virtually around the clock both here in Washington and on the ground in Mexico since the tragic murder of Agent Zapata. United States prosecutors are in close contact with the Mexican office of the Attorney General (PGR) to discuss progress in the case and DOJ officials, at the highest levels, have reached out to the Mexican Attorney General and other PGR officials to discuss the need to have the perpetrators extradited to the United States for prosecution. Our goal is to bring all of those involved in the murder of Agent Zapata to justice in the United States.

Question. Could you talk about the process that took place to investigate the attack and what agencies were involved?

Answer. Upon notification of the attack against the ICE agents, FBI immediately organized a multi-agency task force located in Washington, DC with a multi-U.S. Federal agency Command Post (CP) at the United States Embassy in Mexico. At least 77 persons from 10 different U.S. Federal agencies were represented in the working group. FBI Legat, ATF Attaché, ICE Attaché, and the Regional Security Officer (RSO), traveled from Mexico City to the area of the attack with a small team of their agents to coordinate investigative efforts with the Mexican Federal Police and the Mexican Attorney General's Office, the Task Force and CP communicate daily regarding all facets of the investigation. Additionally, numerous FBI field offices have organized multi-agency efforts to assist in the investigation (Dallas, Houston, Las Vegas, Miami, Phoenix, and San Antonio, to name a few). Through their Mexican liaison contacts, CP members have gathered significant information and evidence regarding the perpetrators and accomplices of the ICE attack. Two of the alleged perpetrators have been transported to the United States; those two and two others (a total of four) have been indicted on multiple charges. The United States Government has presented the Government of Mexico with the necessary documentation to transport two other alleged perpetrators, including the leader of 1 of the 2 teams that attacked agents Zapata and Avila. As of now, 5 of the 8 individuals identified as perpetrators are in custody, either in Mexico or the United States.

Question. Last, can you tell us about the FBI legal attaché (LEGAT) program and how the office in Mexico City has played a role in this investigation?

Answer. The LEGAT program is the forward element of the FBI's international law enforcement effort, and often provides the first response to crimes against the United States that have an international nexus. The LEGAT program provides for a prompt and continuous exchange of information with foreign law enforcement and supports FBI's efforts to meet its investigative responsibilities. The LEGAT office in Mexico City has played a critical role in this investigation, coordinating investigative efforts and ensuring that authorities in the United States and Mexico have all of the information required to pursue justice in this matter. The LEGAT office has been working directly with U.S. Embassy officials, including the Ambassador (and Chargé d'affaires) and Deputy Chief of Mission (DCM) to provide the information necessary for discussion of the case at the highest levels of both governments.

9/11 TRIAL COSTS TO THE FBI

Question. On Monday, Attorney General Holder announced that the 9/11 conspirators held at the Guantánamo Bay detention facility would be tried by military commissions, retreating from President Obama's previous position of pursuing civilian trials for these terrorists. Holding the trials of the 9/11 conspirators in New York City would have not only posed a serious public safety risk, but it also would be a monumental strain on already scarce law enforcement resources. The Department of Justice and the city of New York conservatively estimated it would cost taxpayers approximately \$300 million.

Would having these terrorist trials in New York affect FBI field offices in this region?

Answer. If the trials were held in New York, FBI would assign personnel from the New York office and other FBI divisions as necessary, and would coordinate with the appropriate Federal, State, and local authorities in regards to trial logistics and security.

Question. Would agents from other field offices be shifted to the New York? If so, how would this affect their normal duties?

Answer. If the trials were held in New York, FBI would assign personnel from the New York Office and other FBI divisions as necessary. Because the 9/11 co-conspirators will be tried by military commissions at Guantánamo Bay, Cuba, however, FBI need not plan to reassign agents to address trials in New York City.

Question. What impacts would this affect FBI's overall mission?

Answer. Since the 9/11 co-conspirators will be tried by military commissions at Guantánamo Bay, Cuba, FBI's overall mission will not be impacted.

FORT HOOD SHOOTINGS

Question. The Senate Homeland Security and Government Affairs Committee issued a report on the events surrounding the shootings at Fort Hood that took place in November 2009. The report criticizes FBI, citing that FBI field offices failed to recognize warning signs that Nidal Malik Hasan was a threat. The report also concluded that FBI had sufficient information to detect that he was a “ticking time bomb” who had been radicalized to violent Islamist extremism, but failed to understand and act on it. FBI has been provided significant funding since 9/11 to bolster its intelligence program which includes the hiring and professionalizing its intelligence analyst workforce. According to the report, FBI failed to use its analysts in this situation.

What is your response to this report and what has the FBI done in response to the Fort Hood shootings?

Answer. During the internal FBI review undertaken immediately after the attack at Fort Hood, FBI identified several of the areas of concern outlined in the report and, as noted in the report, has implemented changes to its systems and processes to address them. FBI will review each of the report's recommendations and adopt them, as appropriate.

While concluding that FBI's transformation to an intelligence-driven organization remains a work in progress, the report recognizes FBI's substantial progress and many successes, led by JTTFs, in disrupting terrorist plots by homegrown extremists.

In addition, at the request of FBI Director Mueller, Judge William H. Webster is conducting an independent, outside review of the FBI's actions with respect to the attacks at Fort Hood. Judge Webster and his team are evaluating the corrective actions taken to determine whether they are sufficient and whether there are other policy or procedural steps FBI should consider to improve its ability to detect and prevent such threats in the future.

Question. What changes have you made to ensure this tragedy does not happen again?

Answer. Immediately after the tragedy, FBI Director Robert Mueller ordered a preliminary review of the FBI's actions, as well any relevant policies and procedures that may have guided the FBI's actions before the shooting. In addition, the Director asked for recommendations as to what changes should be made as a result of that review.

On December 8, 2009, Director Mueller asked Judge William H. Webster to conduct a more comprehensive, independent review of FBI policies, practices, and actions. That review is currently underway. The goal of these reviews is the same, to look at both the actions of individuals involved and the systems in place at the time of the tragic events at Fort Hood and to ensure that investigators have the tools they need to effectively carry out their responsibilities in today's evolving threat environment. The paramount concern in this process is to make sure that the systems and policies that are in place support public safety and national security.

In addition, as a result of the internal review, FBI identified four areas for immediate adjustment and improvement.

Protocols With the Department of Defense (DOD)

Although information-sharing has dramatically improved since September 2001, there is still room for improvement in certain areas, especially given the changing nature of the terrorist threat, and the need to constantly recalibrate approaches and responses. Working with DOD, FBI has formalized a process for centrally notifying DOD of FBI investigations involving military personnel. This should streamline information-sharing and coordination between FBI and all components of DOD, where appropriate, and as permitted by law. Improved processes for exchanging information will help ensure that FBI task force officers, agents, and analysts have all available information to further their investigations.

Additional Levels of Review

FBI determined that intelligence collected in connection with certain threats—particularly those that affect multiple equities inside and outside the FBI—should have a supplemental layer of review at the FBIHQ level. This redundancy in the review process will limit the risk of human error by bringing a broader perspective to the review. In this way, FBI should have a better institutional understanding of such threats.

Technological Improvements

During the course of the internal review, FBI identified IT improvements that should be made to its systems. Those improvements, which are being engineered, should strengthen FBI agents' and analysts' ability to sift through information by automatically showing certain connections that are critical to uncovering threats.

Training for Members of JTTFs

FBI increased training for members of JTTFs to better ensure JTTF members know how to maximize access to all available information and to best utilize existing tools to identify and link critical information. Specifically, JTTF Task Force Officer (TFO) training consists of three components:

- orientation and operations training;
- database training; and
- computer-based training.

Training addressing legal restrictions that govern the retention and dissemination of information was also expanded and strengthened.

The JTTF TFO Orientation & Operations Course (JTOOC) was established prior to Fort Hood and has continued to evolve as training is evaluated to ensure the best possible instruction is provided to TFOs. The JTOOC is now a 5-day course designed to develop a basic familiarization with counterterrorism investigations for all TFOs assigned to JTTFs. JTOOC classes are designed around a notional counterterrorism case to facilitate discussion and participant interaction.

In fiscal year 2010, in response to the initial Fort Hood findings, the FBI Counterterrorism Division (CTD) mandated that JTTF members receive hands-on training on key FBI databases and systems. Database training is now required for all JTTF members including special agents, TFOs, intelligence analysts, and other personnel assigned to JTTFs who have access to systems and conduct investigative work.

FBI provides computer-based training to its employees via the FBI Virtual Academy system. CTD has identified 12 specific Virtual Academy training modules as the baseline level of training for JTTF personnel. All personnel assigned to a JTTF or working counterterrorism matters are required to complete these baseline training modules.

EFFECTS OF FISCAL YEAR 2010 LEVELS ON THE FBI

Question. Although this hearing is about the fiscal year 2012 budget request, this subcommittee is also currently negotiating the fiscal year 2011 budget. Specifically, FBI will be unable to backfill 1,100 positions and would be facing a deficit of more than \$200 million if left to operate at fiscal year 2010 funding levels.

Is this true, and how will this affect this country's national security?

Answer. The fiscal year 2011 enacted appropriation included an increase that enables the FBI to backfill these positions, and since current services requirements were provided, there is not a \$200 million shortfall.

Question. Can agents be furloughed or is there a prioritization of personnel in all of the enforcement agencies?

Answer. FBI agents can be furloughed, taking into account the safety of human life or protection of property when making decisions about furloughing staff. However, FBI does not anticipate furloughing any staff in fiscal year 2011.

Question. How does this affect the fiscal year 2012 budget that we see before us today?

Answer. Because the fiscal year 2012 President's budget request was developed using the fiscal year 2011 current rate as the starting point, the fiscal year 2011 enacted budget has little impact on the fiscal year 2012 request. The fiscal year 2012 budget request includes mandatory increases and annualizations needed to maintain current investigative and litigating efforts.

HYBRID SQUADS

Question. Hybrid squads integrate FBI personnel with different types of expertise to address different types of threats and provide the best framework to disrupt the infrastructure of the Mexican drug cartels. The squad's composition provides different backgrounds and functional expertise, ranging from violent gangs, public corruption, and violent crimes. An amount of \$15.9 million is requested for fiscal year 2012 to annualize and sustain the FBI's hybrid squads, which received \$17 million in the fiscal year 2010 Southwest Border supplemental to create six of these teams.

Have the teams created in the supplemental been deployed?

Answer. Yes, FBI currently has nine fully deployed hybrid squads along the Southwest Border. They are located in the following field offices:

- San Diego;

- Albuquerque, New Mexico (Las Cruces Resident Agency [RA]);
- El Paso;
- San Antonio, (Del Rio RA and McAllen RAs);
- Dallas;
- Phoenix, Arizona;
- Tucson, Arizona; and
- San Juan, Puerto Rico.

Question. Can you discuss the composition and concept of hybrid squads and where they are deployed?

Answer. Mexican Criminal Enterprises (MCEs) are involved in significant criminal activity that threatens United States national security interests, including, but not limited to:

- violent crime;
- kidnapping; drug trafficking;
- alien smuggling;
- public corruption;
- assaults on Federal officers;
- murder; and
- human trafficking.

Each hybrid squad consists of, at a minimum, one supervisory special agent; five special agents; one intelligence analyst (IA); and one staff operations specialist (SOS) who are subject matter experts in the MCEs and the threats they pose in their area of responsibility (AOR). In addition, hybrid squads will identify State and local resources investigating violent crimes in its AOR in order to leverage their expertise and intelligence base in support of its operational strategies.

Hybrid squads were established to address the cross-programmatic threat posed to the United States by MCEs operating on the Southwest Border and to allow for the implementation of a cross-programmatic, multi-agency approach to the investigation of significant crimes perpetrated by MCEs, including:

- murder;
- kidnapping;
- extortion;
- home invasions;
- drug and weapon trafficking;
- money laundering;
- alien smuggling (particularly Special Interest Aliens [SIA]);
- Assault of or Killing a Federal Officer; and
- other violent crimes being perpetrated by the MCEs in order to impact the cross-border criminal violence created by those MCEs in their AOR.

Hybrid squads actively contribute to the flow of intelligence by coordinating with local Field Intelligence Groups with the Southwest Border Watch FBIHQ component.

The hybrid squads have enhanced FBI resources dedicated to combating the violent crime threat posed by MCEs, and have expanded the FBI's intelligence collection efforts against MCEs. Hybrid squads have become an integral part of the FBI's overall strategy designed to penetrate, disrupt, and ultimately dismantle the MCEs that pose the greatest threat to U.S. national security.

They are located in the following field offices:

- San Diego;
- Albuquerque, New Mexico (Las Cruces Resident Agency [RA]);
- El Paso;
- San Antonio, (Del Rio RA and McAllen RAs);
- Dallas;
- Phoenix, Arizona;
- Tucson, Arizona; and
- San Juan, Puerto Rico.

INNOCENCE LOST

Question. Innocent Lost targets child prostitution and sex trafficking, and is a partnership between FBI, the National Center for Missing and Exploited Children, and the Justice Department's Child Exploitation and Obscenity Section. This is one of the FBI's most important missions. The request for this program is \$19 million.

Can you tell us about the partnership with the National Center for Missing and Exploited Children, and the impact the Innocence Lost program has had in just 8 years of existence?

Answer. The National Center for Missing and Exploited Children (NCMEC) supports the Innocence Lost National Initiative (ILNI) through training and analytic

resources. This partnership has resulted in a course, "Protecting Victims of Child Prostitution," which provides Federal/State/local law enforcement officers and prosecutors, as well as victim specialists, with a basic introduction to the child prostitution threat and how to work with child victims. To date, 1,300 individuals have received this training. The NCMEC also uses its intake system to maintain a repository on children who are suspected to be at risk of exploitation through prostitution. To date, the NCMEC has received more than 4,200 intake reports, with 940 pertaining to children under 14 years of age.

As of May 17, 2011, the ILNI had 572 pending cases, 599 informations/indictments, and 724 convictions. Furthermore, subjects of these investigations are regularly sentenced to terms of 25 years or more, while six have received life sentences. Since its inception, 1,628 children have been recovered and removed from the cycle of abuse.

Question. What are your plans for this vital initiative in the future?

Answer. FBI places a high priority on assisting child victims of sexual exploitation and plans to continue addressing this problem through ILNI. The ILNI targets criminal organizations engaged in the commercial sexual exploitation of children, such as child prostitution. FBI currently has 42 task forces and working groups addressing this threat. Investigations have identified national criminal organizations responsible for the sex trafficking of hundreds of children, some as young as 9 years old.

FBI currently has 26 formalized task forces and 16 ad-hoc working groups across the Nation addressing the threat. These task forces and working groups consist of approximately 240 State and local law enforcement participants.

FBI has developed a national database, the Innocence Lost Database (ILD), containing more than 22,000 records pertaining to offenders, associates and child victims. To date, 3,400 of these records pertain to child victims. This database serves as a national repository for intelligence and is available to Federal/State/local law enforcement 24/7 via Law Enforcement Online (LEO), which is a controlled-access communications and information sharing data repository. Future plans include a robust enhancement to the database to include a webcrawler to compare intelligence to social networking sites, as well as facial recognition to assist in identifying child victims.

Question. Is \$19 million an adequate request for this initiative?

Answer. The \$19 million request is sufficient to maintain current services.

INNOCENT IMAGES

Question. NCMEC reported to us that they are working with FBI in an effort to identify and rescue the children being victimized in child pornography. NCMEC also reported that it reviewed 13 million images and videos last year alone.

FBI also assigns an agent and four analysts from the Cyber Division/Innocent Images to work with NCMEC on Internet crimes against children, particularly child pornography. It seems clear that the problem of child pornography has exploded with the advent of the Internet. I know that your Innocent Images Initiative has been successful. The request is \$69 million for Innocent Images.

Is this an appropriate request?

Answer. The Innocent Images threat is large and FBI will prioritize its caseload to effectively meet investigative requirements within the \$69 million level.

Question. What more can we do to combat this insidious problem?

Answer. The Innocent Images National Initiative (IINI) program has collaborated with State, local, Federal, and international law enforcement partners, as well as private industry, to address this problem. Although the IINI program has been quite successful at combating the online threat of online child sexual exploitation, IINI recognizes that it cannot arrest its way out of this societal dilemma. Therefore, IINI has launched a national outreach program for elementary and middle schools to make children and parents aware of online dangers and the safety measures needed to prevent children from being sexually exploited. The program is called FBI Safe Online Surfing (SOS). Through May 2011, FBI has been able to reach approximately 140,000 students (from all 50 States) with this outreach initiative.

RELATIONSHIP BETWEEN INTELLECTUAL PROPERTY (IP) THEFT AND CRIME/TERRORISM

Question. A 2009 RAND study, as well as other analysis, concludes that there was clear evidence that terror groups, as well as organized criminal enterprises, engage in various forms of IP theft because it is a low-risk, high-profit enterprise.

Are you aware of any specific Government-wide systematic review of the ties between and among terror groups and/or organized crime and IP theft?

Answer. FBI, as a partner in the National Intellectual Property Rights Coordination Center (IPR Center), recently conducted a threat assessment of IPR violations to the United States. The resulting document, entitled “Intellectual Property Violations: A Baseline Global Assessment of the Threats to United States’ Interests at Home and Abroad”, is a comprehensive analysis of the global threat to United States interests from criminal IPR violations including, the nature of the threat, the magnitude, the types of offenders committing these offenses, and its source. In analyzing the types of offenders, the assessment considered the role of criminal organizations including criminal enterprises, traditional organized crime groups, terrorist organizations and gangs. Among other things, the assessment identified the types of goods that are most often counterfeited or pirated by these types of offenders, the role they play in committing IP crime (e.g. manufacturing, distribution, retail), and where they are generally located.

The contributors to this report conducted interviews with IPR experts in the United States, China, and India, including experts in government, industry, and academia. Researchers analyze relevant United States Intelligence Community (USIC) reporting information from Federal law enforcement investigations, industry generated reports, and other open source research.

In addition, in §402(b) the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (PRO IP Act), Public Law 110–403, the Congress directed the Department, subject to the availability of appropriations, to develop a long-range plan to identify and address the links between organized crime and IP. Although this portion of the PRO IP Act remains unfunded, the Department has taken a number of steps to implement the goals of this provision. For example, consistent with its long-term commitment to fighting organized crime in all forms, the Department has incorporated IP into its International Organized Crime Strategy; the Attorney General’s Organized Crime Council (AGOCC) has prioritized IP enforcement, adopting as part of its 2010 Action Plan a specific goal to enhance law enforcement coordination in this area; and the Department’s IP Task Force has designated the investigation and prosecution of IP crimes perpetrated by organized crime groups a law enforcement priority. More detailed information on these efforts are included in the Department’s fiscal year 2009 and fiscal year 2010 PRO IP Act Reports. See <http://www.cybercrime.gov/proipreport2010.pdf> and <http://www.justice.gov/criminal/cybercrime/proipreport2009.pdf>.

Question. If not, are you aware of any plans within the Department of Justice or any other Department or agency to conduct such a review?

Answer. FBI, as a partner in the National Intellectual Property Rights Coordination Center (IPR Center), produced the “Intellectual Property Violations: A Baseline Global Assessment of the Threats to the United States’ Interests at Home and Abroad” as a comprehensive analysis of the global threat to the United States interests from criminal IPR violations.

IMPACT OF A GOVERNMENT SHUTDOWN ON FBI

Question. Director Mueller, I hope the Government does not shut down, but this is a reality at FBI that should be discussed, specifically the national security and public safety implications.

Can you tell us what happens at FBI in the event of shutdown?

Answer. FBI must be able to respond to contingencies during a lapse of appropriations that are reasonably likely to compromise the safety of human life or protection of property in some significant degree. Accordingly, in the April 2011 contingency plan all FBI agents and support personnel in the field were considered “excepted” from furlough. This includes the 56 domestic field offices, 400 resident agencies, 61 Legal Attaché (LEGAT) offices, and 14 LEGAT sub-offices.

At FBIHQ, a total of 59 percent of staff were considered excepted in the April 2011 contingency plan, including 90 percent of the agents, 88 percent of intelligence analysts, and approximately 49 percent of other support personnel. These positions provide direction and investigative support to all field operations and excepted FBIHQ functions.

Question. Do you believe that a Government shutdown could have an impact on FBI’s counterterrorism mission? Would it have an impact ongoing investigations?

Answer. While a total of 89.3 percent of FBI personnel were excepted and not subject to furlough in the April 2011 contingency plan, a Government shutdown could have a negative impact on FBI’s counterterrorism mission as critical support functions provided by the remaining furloughed employees would not be available.

Question. Are any agents or intelligence analysts furloughed? If so, where are they located and how is this determined?

Answer. In the April 2011 contingency plan, 10 percent of agents and 12 percent of intelligence analysts at FBIHQ would be furloughed. The decision to furlough takes into account the safety of human life or protection of property. However, FBI does not anticipate furloughing any staff in fiscal year 2011.

Question. FBI has agents and personnel stationed overseas. How would a shut-down affect them?

Answer. In the April 2011 contingency plan, all FBI agents and support personnel stationed overseas are considered excepted from furlough. However, overseas personnel would be operating without the support of those FBIHQ employees not excepted from furlough.

OTMs—OTHER THAN MEXICANS

Question. As we discussed earlier this week, I read an alarming column in Texas Monthly. It stated that the head of the Texas Department of Public Safety testified before the Texas Senate Finance Committee, conveying statistics that law enforcement officials in the Rio Grande Valley had apprehended 287 illegal aliens categorized as “OTMs” or “Other Than Mexicans”. The OTMs came from countries that are home to active al Qaeda cells or Taliban activity—Yemen, Iran, and Pakistan.

The article also cited a General Accounting Office statistic that law enforcement catches less than 6.5 percent of the criminal activity coming across the border, and it was extrapolated that these 287 OTMs captured represents only 6.5 percent of the threat crossing the border.

Is it possible that some of these OTMs are potential terrorists or could have terrorist ties? Do you believe terrorists are attempting to enter the United States through the Southwest Border and can you discuss your understanding of this situation?

Answer. FBI remains concerned that terrorists seek to exploit the Southwest Border as a means of gaining access to the United States. Two recent arrests near the United States-Mexico border indicate that some Special Interest Aliens (SIAs) advocate violent Islamic extremism or have some connections to overseas terrorist organizations.

United States border authorities in January 2011 arrested Tunisian national and formerly Montreal, Canada-based imam, Said Jaziri, after he allegedly paid a Tijuana-based smuggling group to take him across the United States-Mexican border in the trunk of a vehicle. Prior to his deportation by Canadian authorities in 2007, Jaziri publicly advocated for the imposition of Sharia law in Canada and called for the death of the Danish newspaper cartoonist who drew pictures of the Prophet Muhammad.^{1 2}

In April 2011, Ahmed Muhammed Dhakane, an ethnic Somali was sentenced to 10 years in prison for failing to acknowledge ties to an East African extremist group and lying on an asylum application. Dhakane was arrested on immigration charges in Brownsville, across the Rio Grande from Matamoros, Mexico in March 2008. It was discovered he provided false information on his entry into the United States and controlled a large-scale human smuggling enterprise.³

FBI believes that the illicit flow of SIAs across the United States-Mexico border into the United States offers al Qaeda and affiliate organizations a potential opportunity for smuggling a terrorist operative or supporter into the United States. Many of the human smuggling networks that operate between Latin America and the United States are connected with smugglers from other parts of the world and these networks are willing to smuggle undocumented persons of any nationality, provided that the individual is able to pay the smuggling fee. FBI and its law enforcement and intelligence partners continue to investigate aliens and human smuggling networks with possible connections to terrorist organizations who may be seeking access to the United States via the Southwest Border.

¹Los Angeles Times, “Controversial Muslim cleric is arrested while sneaking into the U.S.”, 27 January 2011.

²UK Daily Mail, “Controversial Muslim cleric caught being smuggled into the U.S. over Mexico border”, 28 January 2011.

³Associated Press, “Somali sentenced for lying about terrorism links”, 28 April 2011.

[Monday, February 21, 2011]

OTHER THAN MEXICANS

(posted by Patricia Kilday Hart at 7:10 p.m.)

Department of Public Safety Director Steve McCraw testified before Senate Finance today, sharing his concern that crime in Dallas, Houston, Austin and San Antonio is very much connected to Mexican drug cartels, operating through the potent prison gangs Texas Syndicate and Texas Mafia.

For most, that's not particularly "new" news. But McCraw also shared some statistics that gave his audience great pause: Last year, law enforcement agencies operating in the Rio Grande Valley apprehended what they refer to as 287 OTMs—illegal immigrants from countries with active al Qaeda cells or Taliban activity. Places like Yemen, Iran, Pakistan, etc. Even more startling was a Federal Government Accountability Office statistic that law enforcement's net catches only about 6.5 percent of the criminal activity coming across the border. In the hearing, Senator Dan Patrick suggested that we could extrapolate that the 287 potential "terrorists" represents only 6.5 percent of the total threat.

McCraw gave the Finance Committee solid reasons to believe that investment in border security operations reaps dividends. Last year, thanks to an additional State-funded DPS presence on the border, drug seizures increased 124 percent and cash seizures jumped by 137 percent.

Neither the Senate or House proposed bills cut too deeply into DPS border operations, but my prediction is that this is one area of the budget that won't be trimmed.

Question. Does the FBI get involved when these individual are captured? What do you believe can be done to prevent this situation?

Answer. The Department of Homeland Security's (DHS) Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) are the primary Federal agencies that are involved in the interdiction and removal of aliens entering the United States illegally. That said, if CBP or ICE determine that a captured illegal alien warrants further scrutiny, those individuals are first interviewed by their investigative elements. If they believe a nexus to terrorism exists, FBI is called in for further investigation.

FBI defers to DHS to provide information on preventive measures.

I also understand there have been a number of Somalians attempting to illegally enter the country through the Southwest Border, and that there are some serious issues because there is no official government in Somalia to deport them to.

Question. What is the process once a Somalian or individual captured from a country without a recognized government is in our custody?

Answer. In this instance, FBI would not be involved as this is an immigration issue. DHS' Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) would be the lead agencies for this matter. DHS will determine the appropriate means for cases involving such an alien. In some cases, DHS may choose to place the alien in immigration judge proceedings conducted by DOJ's Executive Office for Immigration Review.

LACK OF SUPPORT FOR SOUTHWEST BORDER EFFORTS

Question. DOJ components are often overlooked by the administration when crafting Southwest Border budgets and legislation.

Director Mueller, I am concerned that only \$130 million of FBI's \$8.1 billion total request is dedicated to Southwest Border activities. I understand FBI requested more resources in last year's Southwest Border supplemental. I also understand that FBI was directed to request no new enhancements in the fiscal year 2012 request—yet DOJ was burdened with more than \$1 billion of unrequested programs or new enhancements.

(New or unrequested programs—COPS Hiring for \$600 million; Medical Malpractice Grants for \$250 million; Juvenile Justice Race to the Top; Community Based Violence Prevention Grants; Violence Against Law Enforcement Officer grants).

Could you discuss what FBI is doing to address violence and corruption along the Southwest Border and what resources you still need?

Violence

Answer. In addition to the standard deployment of resources to gang squads, drug/High Intensity Drug Trafficking Areas (HIDTA) squads, violent crime squads,

and task forces in field offices along the Southwest Border, FBI has the following resources/initiatives to address Southwest Border violent criminal activity:

Hybrid Squads.—Each hybrid squad consists of at least one supervisory special agent, five special agents, one Intelligence Analyst, and five professional staff positions. Hybrid squads address the cross-programmatic threat posed to the United States by Mexican Criminal Enterprises (MCEs) operating on the Southwest Border and allows for the implementation of a cross-programmatic, multi-agency approach to the investigation of significant crimes perpetrated by MCEs, including:

- murder;
- kidnapping;
- extortion;
- home invasions;
- drug and weapon trafficking;
- money laundering;
- alien smuggling (particularly SIA);
- Assault or killing a Federal officer; and
- other violent crimes being perpetrated by the MCEs in order to impact the cross-border criminal violence created by those MCEs in their AOR.

—Regarding the Southwest Border, the most critical element in fiscal year 2012 is sustainment of the 78 positions (44 agents) received in the fiscal year 2010 border security supplemental, which was requested in the fiscal year 2012 President's budget.

—Southwest Border Rapid Deployment Team to respond to crises such as the recent shootings of ICE and CBP agents.

—Intelligence Collection and Exploitation Unit:

- Partners with other Federal agencies (ICE, CBP, National Security Agency [NSA]) for intelligence sharing at FBIHQ in Washington, DC;
- Participates in the El Paso Intelligence Center (EPIC) in the field.

Southwest Regional Intelligence Group.—Serves as the clearinghouse of all FBI activities involving Mexico and is housed at EPIC. It was established to remedy any intelligence gaps along the Southwest Border.

OCDETF Co-located Strike Forces.—Strike Forces serve as the DOJ's primary prosecutor-led, multi-agency task forces aimed at aggressively targeting the highest-level drug-trafficking organizations. FBI has 118 personnel (87 agents and 11 intelligence analysts) assigned to the OCDETF Strike Forces. Approximately two-thirds are on Strikeforces that address Southwest Border-related issues. There are tactical partnerships between FBI's Hostage Rescue Team and CBP's Border Patrol Tactical Unit.

FBI Border Liaison Officers.—Border Liaison Officers work to establish relationships and exchange information with Mexican law enforcement with the goal of easily sharing vital intelligence.

Training for Mexican Law Enforcement.—Mexican American Law Enforcement Training; Latin American Law Enforcement Executive Development Seminars; FBI anti-kidnapping training.

—New partnerships with local law enforcement.

—Cartel Murder Initiative—Dallas, Texas FBI Field Division—Dallas, Texas Police Department.

In addition, the FBI's MS-13 National Gang Task Force has instituted the Central American Fingerprint Exchange (CAFE) initiative, as well as the Transnational Anti-Gang initiative (TAG), which coordinates the sharing of gang intelligence between FBI and its law enforcement partners in El Salvador, Guatemala, Honduras, and the United States.

CAFE was developed to collect and store existing biometric data/fingerprint records from El Salvador, Guatemala, Belize, Honduras, as well as Chiapas, Mexico. These records are being integrated into the general database of FBI's Criminal Justice Information Services Division, and will be accessible to all Federal, State, local, agencies in the United States through the Integrated Automated Fingerprint Identification System (IAFIS). CAFE will enable participating countries to conduct fingerprint identification and analysis by providing system hardware and training.

TAG was created to assist in combating the growing threat posed by transnational gangs and drug cartels in Latin America. The objective of TAG is to aggressively investigate, disrupt, and dismantle gangs whose activities rise to the level of criminal enterprises. TAG combines the expertise, resources, and jurisdiction of participating agencies involved in investigating and countering transnational criminal gang activity (specifically MS-13 and 18th Street), in the United States, El Salvador, Honduras, Guatemala, and Mexico. Through information sharing and open communication with the Policia Nacional Civil (PNC) of El Salvador, the TAG is in

a position to acquire and disseminate valuable information previously unavailable to FBI field offices. Utilizing the support of the host countries and participating law enforcement agencies, the TAG employs a comprehensive approach to address the threat which MS-13 and 18th Street present to the United States and to Central America.

Public Corruption (PC)

As of February 23, 2011, there were 127 agents dedicated to PC investigations along the Southwest Border. These agents coordinate efforts with Federal, State, and local law enforcement partners, including 13 FBI-led Border Corruption Task Forces (BCTFs) and 1 Border Corruption Working Group (BCWG) along the Southwest Border and 1 National Border Corruption Task Force at FBIHQ in Washington, DC.

QUESTIONS SUBMITTED BY SENATOR SUSAN COLLINS

Question. The recent Homeland Security and Governmental Affairs Committee report on Fort Hood found a failure of the Federal Bureau of Investigation (FBI) to adequately share critical information at the Joint Terrorism Task Forces (JTTFs). Namely, the JTTF in San Diego failed to share all the information it had about an Army Major's relevant communications with a suspected terrorist with the Washington JTTF, FBI headquarters (FBIHQ), and the Department of Defense (DOD). While it sent a memo to the Washington JTTF (as Major Hasan was stationed at Walter Reed Hospital at the time), and copied FBI Counterterrorism Division, FBI only considered it to be a "discretionary lead". The Washington JTTF spent 4 hours on the last day of the 90-day due date to review the request and respond, and while the San Diego JTTF believed the analysis to be "slim", at no time did FBIHQ interject or coordinate intelligence analysis or the investigation.

Similar to the situation that existed prior to the 9/11 attacks, the failure to share critical information resulted in deadly tragedy. The 9/11 Commission report found that:

"The FBI did not have the capability to link the collective knowledge of agents in the field to national priorities. The acting director of the FBI did not learn of his Bureau's hunt for two possible al Qaeda operatives in the United States or about his Bureau's arrest of an Islamic extremist taking flight training until September 11. The Director of Central Intelligence knew about the FBI's Moussaoui investigation weeks before word of it made its way even to the FBI's own Assistant Director for Counterterrorism." (p. 352).

I am afraid that, since 9/11, the message that information sharing is critical has dissipated, and the Fort Hood incident indicates that FBI's field offices still do not adequately communicate with FBIHQ, much less other agencies.

What has been done since Fort Hood and 9/11 to ensure that field offices are sharing information with a central headquarters office that coordinates counterterrorism intelligence, analysis, and investigations?

Answer. Since 9/11, FBI has made steady progress in the realm of information sharing, moving ahead simultaneously in three ways:

- Creating processes that make information sharing quicker, easier, and more effective;
- Creating a culture that values and encourages information sharing; and
- Creating organizational structures to advocate for information sharing and provide oversight to information sharing practice.

The most important progress has come with the creation and maturation of the Field Intelligence Groups (FIGs). The FIGs are composed of intelligence analysts, special agents, and other specialty staff such as language analysts and surveillance personnel, each of whom plays a role in the collection, analysis, production, and dissemination of intelligence. Specifically regarding information sharing, the FIGs disseminate information obtained by the field office that might be of value to other law enforcement or intelligence community partners.

Generally, information is shared in the form of Intelligence Information Reports (IIRs), which are sent not only to others in FBI, but also to FBI's partners in the U.S. intelligence community, to DOD and the Department of Homeland Security (DHS). Most IIRs contain "tearlines" so that the gist of the information is also shared with State and local law enforcement, as well as with our foreign partners. A recently developed product is our Situational Information Report (SIR). SIRs are the primary means by which field offices share timely and detailed unclassified in-

formation on matters relevant to entities within their domain, including State, local, and tribal partners.

When FIGs were first established, IIRs that they drafted were all sent to FBIHQ for review and editing before being disseminated outside FBI. Starting this year, IIRs have been disseminated directly by FIGs, reflecting the higher level of professionalism created by several years of training, oversight, and experience. This direct dissemination means that information sharing is both faster and more extensive.

On December 31, 2010, FBI created six Regional Intelligence Groups (RIGs) to facilitate information sharing among FIGs and to carry out analysis of developments that extend beyond the purview of a single field office. RIGs support the field offices in their efforts to identify risks and threats, and to develop an understanding of how these risks and threats impact the region. As emerging threats and trends that transcend field office boundaries emerge, the RIGs will facilitate awareness of regional field office collection postures to identify opportunities for shared source exploitation. All products produced by FIGs and RIGs are also shared with the appropriate FBIHQ mission program managers.

Moreover, information sharing with Federal, State, and local law enforcement partners in JTTFs and Federal-level centers like the National Counterterrorism Center (NCTC) and Terrorist Screening Center (TSC) have been instrumental in focusing investigations on terrorist organizations and operations. FBI has mandated that JTTF members receive hands-on training on key FBI databases and systems. Database training is now required for all JTTF members including special agents, Task Force Officers, intelligence analysts and other personnel assigned to JTTFs who have access to systems and conduct investigative work. Use of community outreach, as well as law enforcement and private sector partnerships, in programs such as Tripwire, which identifies groups or individuals whose suspicious behavior may be a precursor to an act of terrorism, have resulted in significant tips and leads for FBI that have in turn led to timely intercept of terrorist activities. FBI has created a shareable database known as eGuardian that contains information regarding threats or suspicious incidents that appear to have a nexus with terrorism.

In 2010, DOD decided to adopt eGuardian for its own use. Also in 2010, FBI and DOD entered into a Memorandum of Understanding, that requires FBI Counterterrorism Division and field offices to notify "a DOD representative in" the national JTTF when an assessment or investigation is initiated regarding a military or DOD-affiliated individual. These efforts will greatly facilitate the exchange of suspicious activity reports between FBI and the DOD.

Finally, FBI has been a supporter of State and local Fusion Centers, which have become another avenue for information sharing between the Federal Government and State, local, tribal, and private sector entities. FBI encourages its field offices to maintain a close working relationship with the FIGs and the Fusion Centers in their area of responsibility.

A particularly noteworthy recent development was the decision in February 2011 to appoint an additional Deputy Assistant Director (DAD) within the Directorate of Intelligence to manage a program of "intelligence integration". The point is to move beyond merely sharing information and toward collaborative work on understanding the significance of the information that is shared. FBIHQ Counterterrorism Division continues to serve as the coordinator for counterterrorism investigations, while the new DAD for Intelligence Integration is working to ensure that these investigations receive support from intelligence analysis that brings together and integrates intelligence and information from every possible source.

Question. Some of the recent terrorist plots remind us that the key to disrupting an attack is often the action of an alert citizen who, in the course of his or her everyday business, notices and reports a suspicious activity.

Previously, Senator Lieberman and I authored a provision, which became law, that we refer to as the "See Something, Say Something" law. The provision was a response to a lawsuit against citizens who were sued after reporting suspicious activity aboard a US Airways flight that was about to depart Minneapolis in 2006. It provides protection from lawsuits when individuals report suspicious activity in good faith regarding potential threats to the transportation sector.

We introduced a bill this Congress that would expand this protection beyond the transportation sector, encompassing good faith reports of suspicious activity that may indicate that an individual is engaging in or preparing to engage in terrorist acts in general. NYPD Commissioner Kelly endorsed this legislation, saying it makes "eminent good sense . . . and I certainly would recommend that it be expanded."

Do you think that if this bill were to be enacted into law it would increase the likelihood that more terrorist plots would be disrupted thanks to the actions of vigilant citizens?

Answer. While it would appear that such a law, if enacted, would increase the likelihood that more terrorist plots would be disrupted, the Department does not have any data to support or refute this assertion.

Question. Late last year, the Inspector General of the Department of Justice issued a report finding widespread cheating by employees of FBI on the standard examination to test knowledge of the Domestic Investigations and Operations Guide (DIOG). We exchanged regarding this unfortunate finding.

The examination is designed to ensure that FBI employees understand all the investigative authorities—and the limits and civil liberties restrictions to those authorities—in investigating individuals in this country. This is all the more important with the extended authorities that FBI has post-9/11, especially with regards to domestic intelligence gathering. But there were many egregious cases of cheating, including those involving high-level Special Agents in Charge, and cybercrimes investigators using their computer skills to hack into code to reveal answers.

It is fully recognized that Director Mueller has endeavored to maintain the core principle of integrity within FBI and has strived to transform FBI into an agile agency that is well-suited to defend against crimes and other terrorism threats.

A December letter concerning this incident indicates that FBI will be releasing the next edition of the DIOG, and that FBI employees will be tested on their knowledge of the new DIOG. Please provide a status update on that effort.

Answer. FBI's Corporate Policy Office, in coordination with the Training Division, Office of the General Counsel and Office of Integrity and Compliance, is preparing an updated online overview course, along with updated FAQs, training aids, and summary charts that highlight key tenants of the DIOG and the changes from the original version. All operational personnel will be required to complete the new training course when the updated DIOG is published in July 2011.

Question. It was recently reported that Umar Patek was arrested in Pakistan earlier this year based on a Central Intelligence Agency (CIA) tip and is in the process of being turned over to the Indonesian intelligence authorities by Pakistani intelligence. Umar Patek is a senior commander of al Qaeda's Southeast Asian affiliate, Jemaah Islamiyah, and was the field coordinator for the 2002 Bali nightclub bombings and the last at-large member of the Hambali network that collaborated with Khalid Sheik Mohammed on a planned "second wave" of attacks on America after September 11, 2001.

Although Patek's purpose for being in Pakistan has not been disclosed, it would not be uncommon for leaders of al Qaeda's regional affiliates to meet with al Qaeda's senior leadership to discuss funding, recruiting, and current and future operations. It has also been reported that he was in Yemen before his trip to Pakistan. This is a person with intimate knowledge of al Qaeda's leadership, networks, and possibly future or current plots targeting America and other locations.

Please provide an update on the U.S. Government's involvement with this apprehension and if there is an effort to get him into our custody so that U.S. interrogators can directly determine if he is aware of threats to the Homeland.

Also, please explain if we had captured Umar Patek ourselves overseas, or any major al Qaeda leader, where would the terrorist be detained and interrogated?

Answer. FBI defers questions on this matter to CIA.

SUBCOMMITTEE RECESS

Senator MIKULSKI. We're going to just recess now, and reconvene in SH-219, for classified testimony on the national security budget of the FBI. And we'll look forward to seeing all members there. Don't stop for phone calls. We'll see you there.

[Whereupon, at 11:15 a.m., Thursday, April 7, the subcommittee was recessed, to reconvene in closed session in SH-219.]