

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

THURSDAY, MAY 7, 2009

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

The subcommittee met at 10:08 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Leahy, Lautenberg, Pryor, Shelby, and Alexander.

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL

STATEMENT OF HON. ERIC H. HOLDER, JR., ATTORNEY GENERAL

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning. The Subcommittee on Commerce, Justice, Science of the Senate Appropriations Committee will come to order.

The subcommittee this morning wants to give a very warm and cordial welcome to our Attorney General, Eric Holder. This is his first appearance before the Senate Appropriations Committee, and we welcome him. We want to hear the President's priorities, his agenda for essentially rebuilding and recapitalizing the Department of Justice.

The American people rely on the Department of Justice, and we are passionate about restoring it to what its original mission is. We know that you bring a great deal of experience as a career prosecutor, as a judge, and as someone who has been dedicated to protecting the American people from all kinds of crime.

As the Chair of the Commerce, Justice, Science Subcommittee, I want to look to you to be able to carry out the mandate. First of all, restoring the honor and integrity of the Justice Department. There are so many people who work at the Justice Department every day. Not only our gifted and talented legal teams, but all those who support them and then those who work in the field of Federal law enforcement, as well as those who administer those grant programs designed to deal with prevention and intervention.

They need to know that the Department of Justice is free from politics and ideology. And whether it has been what has happened

at the U.S. Attorneys Office, whether it has been the politics involved in giving out the juvenile justice grants, and, of course, the issues related to torture, we are going to hear from you how you want to restore that trust. And then what are the resources you need to be able to begin enforcing those laws that need to be enforced, as well as those that might have been overlooked as we fought other wars, particularly in the area of civil rights?

We are also concerned that in addition to fighting the global war against terrorism, we need to continue to protect our neighborhoods. We will be reviewing the budget for cops on the beat; the Byrne grants to make sure that they have resources that they need to fight local crime, and also, again, those very important grant programs that make such a difference in the lives of people in the local police departments. As you know, people interact with Justice at many different levels.

There are also new threats, particularly in the area of mortgage fraud, predatory lending, identity theft, cyber crime—all kinds of new, emerging things that were not pressing when you worked in Government more than a decade ago. The Internet seemed nothing more than an expensive toy for a few, and now it is an essential tool for law enforcement. But we now find the criminals are as good at using the Net as we are, and we don't want them to escape the net of justice.

There is also the issue of terrorism. During the last decade, with America under attack and our desire to protect the homeland, our law enforcement agencies have had to assume a new role, particularly the FBI. We will want to hear about that. And we will also want to hear about the President's plan for the closing of Guantanamo Bay.

I support the President's agenda for closing Guantanamo Bay, and at the same time, as a United States Senator, I want to make sure that we protect our neighborhoods and communities as we look at what is the honorable and right way to deal with the prisoners that are there.

We need to enforce the law. We need to respect international law. But we have to make sure that streets and neighborhoods are not going to be the repository of Guantanamo prisoners. So we are going to be asking questions about the President's policies.

We would like to hear from you today, as you present your budget. We know that the President has given us kind of the top line on the appropriations. We don't have the kinds of details we normally would have for this hearing, but we are pleased at the direction that he is going in.

We are also particularly pleased that he understands the role of our Federal law enforcement, not only our FBI, but also the Marshals Service, DEA, and ATF. We note the President has increased funding in those—the Marshals Service by an increase of \$198 million, DEA by close to \$100 million, et cetera.

For the cops on the beat, which goes to neighborhood initiatives, we know that the President has increased this by \$300 million. But we are deeply troubled that the Office of Justice Programs has been reduced by \$594 million just at the time when local communities are facing great stress, particularly those marvelous prevention programs. So we will go into this in more detail.

But I will save more focused comments for my questions. I would like to turn now to Senator Shelby for any comments that he might have.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chairwoman.

Attorney General Holder, welcome to the committee, and thank you for joining us to discuss the Department of Justice and its 2010 budget request.

First, I want to recognize and extend my appreciation and support to the men and women of the Department of Justice who protect the country from crime and terrorism. We owe them all a debt of gratitude.

The fiscal year 2010 budget request for the Department of Justice is \$24 billion. This is a \$950 million, or 4 percent increase over the 2009 request.

In keeping pace with the last administration, the Department continues to be, some people think, satisfied playing second fiddle to the Department of Homeland Security—I hope that is not true—whether it is drugs, gun tracing, explosive, jurisdiction, or the border war. During the last administration, the Department of Homeland Security's request grew 7 to 10 percent each year, while the Justice Department request decreased or remained flat until this year.

While the overall numbers for the Department appear to have improved, there is a disturbing theme throughout the request that advocates hugs for criminals, some people think, instead of catching and punishing them. I am specifically, Mr. Attorney General, referring to the Second Chance Act.

The DOJ 2010 budget press release sent out by your office highlights the Second Chance Act. Now that is not a bad thing, but there is no mention of Adam Walsh funding, for example. The welfare of terrorists, pedophiles, and career criminals is prioritized, some people believe, at the expense of child safety, crime victims, and law enforcement. I hope this is not the case.

Once again, this administration, like the previous one, has requested such an inadequate level of funding for the Adam Walsh enforcement that it essentially ensures the act's failure, which is disturbing. In a perfect world flush with resources, I would be supportive of funding the Second Chance Act, period. But the very idea of taking money from victims and law enforcement officers to educate and comfort terrorists, pedophiles, and career criminals I think is an abomination.

Let me say this again. The Department of Justice is requesting funds to educate and to mentor terrorists, pedophiles, and career criminals while requesting no funds for tracking the kinds of people that abducted and sexually assaulted Adam Walsh, Elizabeth Smart, Drew Sjodin, Polly Klaas, and Jessica Lunsford and others like them.

How can we look into the eyes of the parents of these children and tell them the Department of Justice and the administration are prioritizing criminals while being overfunding of the Adam Walsh Act?

Mr. Attorney General, the administration recently announced its intention to close the military detention facility at Guantanamo Bay, where 241 detainees are still being held. This will be a difficult and expensive undertaking for the Department.

The Los Angeles Times recently reported that the administration plans to possibly release the detainees into the United States. The Director of National Intelligence, Dennis Blair, went so far as to suggest that the administration is even considering providing these terrorists with taxpayer-funded subsidies to establish and supplement their new life in America. Gosh, I hope they don't come to my community.

I look forward to hearing whether this administration really intends to release these terrorist-trained detainees into our communities and give them public assistance and under what circumstances.

Last, Mr. Attorney General, I would like an explanation of the cost and burdens the department will have to undertake to begin the closure process. We want to work with you to ensure that the personnel under your direction involved in this process have the resources necessary to complete their mission safely.

And I do thank you again for appearing before the committee.

Senator MIKULSKI. Mr. Attorney General

STATEMENT OF ERIC H. HOLDER, JR.

Attorney General HOLDER. Good morning, Chairwoman Mikulski, Ranking Member Shelby, Senator Alexander. It is good to see you.

And I guess happy birthday, Senator Shelby. I understand you had a birthday yesterday?

Senator SHELBY. Thank you. I did, and I hope I have many more. Thank you.

Attorney General HOLDER. I am sure you will.

Senator MIKULSKI. I didn't know that. You really are a good detective.

Attorney General HOLDER. The FBI works for me. Due to the Presidential transition, the fiscal year 2010 budget request is being released in two parts. In February, the administration announced the top-line request for each agency, including the Department of Justice. Today, the President will transmit the fiscal year 2010 budget, which includes \$26.7 billion for the Department of Justice.

I appreciate the opportunity to appear before you today to highlight certain aspects of the budget and further discuss key priorities for the Department of Justice.

The President promised that from the day that he took office; America will have a Justice Department that is truly dedicated to exactly that: justice. As I mentioned, the fiscal year 2010 budget that will be transmitted today supports this vital task by investing a total of \$26.7 billion in our critical law enforcement mission, including protecting America from terrorism, fighting financial and mortgage fraud, getting more cops on the beat, reinvigorating civil rights enforcement, and providing essential resources for our prisons.

As I testified during my confirmation hearing earlier this year, I will also pursue a very specific set of priorities. First, I will work to strengthen the activities of the Federal Government to protect

the American people from terrorism. I will use every available tactic to defeat our adversaries, and I will do so within the letter and the spirit of our Constitution.

Adherence to the rule of law strengthens security by depriving terrorist organizations of their prime recruiting tools. America must be a beacon to the world. We will lead by strength. We will lead by wisdom, and we will lead by example.

Second, I will ensure that law enforcement decisions and personnel actions in the Justice Department are untainted by partisanship.

Third, I will revive the traditional missions of the Department. Without ever relaxing our guard against the fight against global terrorism, the Department must also embrace its historic mission in fighting crime, protecting civil rights, protecting the environment, and ensuring fairness in the marketplace.

PRESIDENT OBAMA'S EXECUTIVE ORDERS

The Department's work does not end with those priorities. On January 22, President Obama issued three Executive orders and a Presidential memorandum that gave significant responsibility to the Department. These orders require immediate interagency action regarding Guantanamo Bay detainees, specifically to: review the appropriate disposition of individuals who are currently detained there; to develop policies for handling individuals captured or apprehended in connection with armed conflicts and terrorist activities; and evaluate current interrogation practices and make recommendations as is necessary.

Now while implementing these orders, the Department will take necessary precautions to ensure decisions regarding Guantanamo Bay detainees account for safety concerns for all Americans. Executing these orders will have a significant workload and cost impact on the Department, and this budget reflects that need.

Last month, I, along with other U.S. Government officials, attended the Mexico-United States arms trafficking conference in Mexico. This was my first foreign trip as Attorney General. My attendance at this conference reflects my commitment to continuing the fight against the drug cartels. The United States shares the responsibility to find solutions to this problem, and we will join our Mexican counterparts in every step of the fight.

Now, \$26.7 billion is a significant amount of money that comes with a commensurate amount of responsibility. We will use these funds wisely and with transparency. Our internal efforts, which range from implementing the Department's new Unified Financial Management System to establishing internal controls to ensure that proper expenditure of Recovery Act funds, will demonstrate our commitment to accountability at the highest level.

PREPARED STATEMENT

Chairwoman Mikulski, Senator Shelby, and members of the subcommittee, I want to thank you for this opportunity to discuss the Department's priorities and for your support of our programs. I appreciate your recognition of the Department's mission and the important work that we do.

I look forward to working in partnership with this subcommittee and with Congress as a whole. I will be pleased to answer any questions that you might have.

[The statement follows:]

PREPARED STATEMENT OF ERIC H. HOLDER, JR.

Good morning Chairwoman Mikulski, Ranking Member Shelby, and Members of the Subcommittee. Thank you for the opportunity to appear before you today to highlight areas of the President's fiscal year 2010 Budget for the U.S. Department of Justice and further discuss key priorities for the Department. I would also like to thank you for your support of the American Recovery and Reinvestment Act and the fiscal year 2009 Omnibus Appropriations Act. I look forward to your continued support and appreciate your recognition of the Department's mission and the important work that we do.

The Department is responsible for defending the interests of the United States according to the law; ensuring public safety against threats both foreign and domestic; seeking just punishment for individuals who break the law; assisting our State and local partners; and ensuring fair and impartial administration of justice for all Americans. The Department's ability to meet its mission is dependent on funding that supports our operations and allows us to enhance our efforts in identified areas of need.

Today the President released the fiscal year 2010 Budget which includes \$26.7 billion for the Department of Justice. This is a 3.8 percent increase over the fiscal year 2009 appropriation. The Department's budget includes enhanced funding for: strengthening national security and intelligence programs; combating financial fraud; hiring additional police officers; enforcing civil rights; securing our Nation's borders; and expanding Federal detention and incarceration programs. More specifically, the President's fiscal year 2010 Budget request:

- Counters the Threat of Terrorism and Strengthens National Security.*—The request provides \$7.9 billion for the Federal Bureau of Investigation (FBI), including \$480 million in enhancements and \$101 million for continued support of overseas contingency operations and \$88 million for the National Security Division (NSD), to address the President's highest priority: protecting the American people from terrorist acts. Funding supports the detection and disruption of terrorists, counterintelligence, cyber security, and other threats against our National Security.
- Provides Funding to Begin to put 50,000 More Cops on the Street.*—The request expands the COPS Hiring Grants, and includes funding to begin hiring 50,000 additional police officers. Supporting the hiring of police officers nationwide will help States and communities prevent the growth of crime during the economic downturn.
- Combats Financial Fraud.*—The request includes resources for additional FBI agents to investigate mortgage fraud and white collar crime and for additional Federal prosecutors, civil litigators and bankruptcy attorneys to protect investors, the market, the Federal Government's investment of resources in the financial crisis, and the American public.
- Reinvigorates Federal Civil Rights Enforcement.*—The request provides a total of \$145 million for the Civil Rights Division to strengthen civil rights enforcement against racial, ethnic, sexual preference, religious, gender, and other forms of discrimination.
- Strengthens Immigration Enforcement and Border Security.*—The request supports resources for a comprehensive approach to enforcement along our borders that combines law enforcement and prosecutorial efforts to investigate, arrest, detain, and prosecute illegal immigrants and other criminals. This initiative also enhances the Department's ability to track fugitives from justice, combat gunrunners and shut down illegal drug traffickers.
- Supports Federal Detention and Incarceration Programs.*—The request provides \$6.1 billion for the Bureau of Prisons and \$1.4 billion for the Office of the Detention Trustee to ensure that sentenced criminals and detainees are housed in facilities that are safe, humane, cost-efficient, and appropriately secure.
- Expands Prisoner Reentry Programs.*—The request includes \$114 million for prisoner reentry programs, including an additional \$75 million for the Office of Justice Programs to expand grant programs authorized by the Second Chance Act that provide counseling, job training, drug treatment, and other transitional assistance to former prisoners.

As I testified during my confirmation hearing earlier this year, I will pursue a very specific set of goals:

First, I will work to strengthen the activities of the Federal Government that protect the American people from terrorism. I will use every available tactic to defeat our adversaries, and I will do so within the letter and spirit of the Constitution. Adherence to the rule of law strengthens security by depriving terrorist organizations of their prime recruiting tools. America must be a beacon to the world. We will lead by strength, we will lead by wisdom, and we will lead by example.

Second, I will work to restore the credibility of a Department badly shaken by allegations of improper political interference. Law enforcement decisions and personnel actions must be untainted by partisanship. Under my stewardship, the Department of Justice will serve justice, not the fleeting interests of any political party.

Third, I will reinvigorate the traditional missions of the Department. Without ever relaxing our guard in the fight against global terrorism, the Department must also embrace its historic role in fighting crime, protecting civil rights, preserving the environment, and ensuring fairness in the market place.

In addressing these priorities over the next several years, I look to the continued support of this subcommittee and Congress, as a whole, to ensure a systematic approach is implemented to target each one of the priorities outlined.

NATIONAL SECURITY: COUNTER-TERRORISM EFFORTS SINCE 9/11

Since the attacks of September 11, 2001, the highest priority of the Department has been to protect America against acts of terrorism. Despite repeated and sustained efforts by terrorists, there has not been another attack on American soil. The Department has improved significantly its ability to identify, penetrate, and dismantle terrorist plots as a result of a series of structural reforms, the development of new intelligence and law enforcement tools, and a new mindset that values information sharing, communication and prevention. Working with its Federal, State, and local partners, as well as international counterparts, the Department has tirelessly worked to safeguard America.

The FBI has transformed its operations to better detect and dismantle terrorist enterprises—part of the FBI's larger emphasis on threat-driven intelligence. As part of this strategic shift, the FBI has overhauled its counterterrorism operations, expanded intelligence capabilities, modernized business practices and technology, and improved coordination with its partners.

All of the Department's law enforcement components, especially those involved in national security efforts need reliable wireless communication capabilities. The ability of law enforcement to adequately communicate is vital in emergency situations and for day-to-day operations. Inadequate radio systems put our agents' lives, as well as those of the public, at risk. On average, the current Department radio systems are between 15 and 20 years old. The Integrated Wireless Network (IWN) Program is an interagency effort to provide secure, interoperable wireless communications that support the missions of the Federal agencies involved in this initiative. IWN will provide a range of secure and reliable wireless communications services, including voice, data and multimedia, to support Federal law enforcement, homeland security, and first responder operations. IWN will implement solutions to provide Federal agency interoperability with appropriate links to State, local and tribal public safety and homeland security entities. IWN will be deployed incrementally across the country by 2014.

SOUTHWEST BORDER VIOLENCE

Several weeks ago, this subcommittee held hearings with Special Agents in Charge of the Drug Enforcement Administration (DEA) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); and then with Acting DEA Administrator Michele Leonhart. These hearings provided you critical information on the Department's efforts to address this issue. I will not attempt to summarize what took place during the previous hearings regarding this matter, but I will highlight some of the work the Department has engaged in recently to address southwest border violence.

Illegal immigration and border security continue to be paramount concerns for the United States and the Department. The Southwest Border in particular is a vulnerable area for illegal immigration, drug trafficking, and the smuggling of illegal firearms. Implementing a comprehensive strategy involves collaboration and coordination at various levels of the government. Late last month, the Department announced increased efforts to be used in the fight against Mexican Drug Cartels. The Department, along with the Department of Homeland Security (DHS) and the Department of State, will invest \$700 million this year to enhance Mexican law en-

forcement and judicial capacity and work closely to coordinate efforts against the cartels through the Merida Initiative. The Department's coordination will include the FBI, DEA, ATF, U.S. Marshals Service (USMS) and the Criminal Division, who will work to investigate and prosecute cartel members for their illegal activities in the United States and with law enforcement colleagues to disrupt the illegal flow of weapons and bulk cash to Mexico.

The Mexican Cartel Strategy will allow the Department to commit 100 ATF personnel to the Southwest Border to supplement our ongoing Project Gunrunner, DEA will add 16 new positions on the border, as well as newly reconstituted Mobile Enforcement Teams, and the FBI is creating a new intelligence group that will focus on kidnapping and extortion. DHS is making similar commitments regarding southwest border resources. In addition, I have met with Secretary Napolitano to discuss increased coordination on various matters between the Department of Justice and DHS.

The Mexican Cartel Strategy is being led by Deputy Attorney General David Ogden. This strategy uses Federal prosecutor-led task forces that bring together Federal, State and local law enforcement agencies to identify, disrupt and dismantle the Mexican drug cartels through investigation, prosecution, and extradition of their key leaders and facilitators, and seizure and forfeiture of their assets. The Department is increasing its focus on investigations and prosecutions of the southbound smuggling of guns and cash that fuel the violence and corruption and attacking the cartels in Mexico itself, in partnership with the Mexican Attorney General's Office and the Secretariat of Public Security.

Earlier this month I, along with other U.S. government officials, attended the Mexico/United States Arms Trafficking Conference in Cuernavaca, Mexico. This was my first foreign trip as Attorney General. My attendance at this conference reflects my commitment to continuing this fight against the drug cartels. The United States shares the responsibility to find solutions to this problem and we will join our Mexican counterparts in every step of this fight.

IMPLEMENTING THE PRESIDENT'S EXECUTIVE ORDERS TO CLOSE GUANTANAMO

On January 22, President Obama issued three Executive Orders and a Presidential Memorandum that gave significant responsibility to the Department. These Orders, which are clearly important Presidential initiatives, require immediate interagency action to:

- review and effect the appropriate disposition of individuals currently detained by the Department of Defense at the Guantanamo Bay Naval Base;
- develop policies for the detention, trial transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations;
- study and evaluate current interrogation practices and techniques and, if warranted, recommend additional or different guidance;
- and review the detention of Ali Saleh Kahlah al-Marri.

The Department has begun implementing these Orders and the Memorandum. I have appointed an Executive Director to lead the Task Force on Review of Guantanamo Bay Detainees. I have also named two officials to lead the Task Force Reviews on Interrogation and Detention Policy.

The Guantanamo Detainee Review Task Force is responsible for assembling and examining relevant information and making recommendations regarding the proper disposition of each individual currently detained at Guantanamo Bay. The Task Force will consider whether it is possible to transfer or release detained individuals consistent with the national security and foreign policy interests of the United States; evaluate whether the government should seek to prosecute detained individuals for crimes they may have committed; and, if none of those options are possible, the Task Force will recommend other lawful means for disposition of the detained individuals.

The Special Task Force on Interrogation and Transfer Policies is charged with conducting a review to determine whether the Army Field Manual interrogation guidelines, when employed by departments or agencies outside the military, provide an appropriate means of acquiring the intelligence to protect the Nation, and whether different or additional interrogation guidance is necessary. This task force is also responsible for examining the transfer of individuals to other nations to ensure that such practices comply with all domestic and international legal obligations and are sufficient to ensure that such individuals do not face torture or inhumane treatment.

The Special Task Force on Detention Policy is charged with conducting a review of the lawful options available to the Federal Government for the apprehension, de-

tention, trial, transfer, release or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations.

The Presidential Orders and the Memorandum require me to coordinate or co-chair each of these interagency activities. These task forces also involve other Departments and agencies, including the Secretaries of Defense, State, Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Chairman of the Joint Chiefs of Staff and other officials.

While implementing these Orders the Department will take necessary precautions to ensure decisions regarding Guantanamo detainees account for safety concerns of all Americans. Executing these orders will have a significant workload and cost impact on the Department and this budget reflects that need.

FEDERAL AND STATE PARTNERSHIPS TARGETING FORECLOSURE SCAMS AND LOAN MODIFICATION FRAUD

As many Americans face the adverse affects of a devastating economy and an unstable housing market, the administration announced a new coordinated effort across Federal and State government and the private sector to target mortgage loan modification fraud and foreclosure rescue scams. These fraudulent activities threaten to hurt American homeowners and prevent them from getting the help they need during these challenging times. The new effort aligns responses from Federal law enforcement agencies, State investigators and prosecutors, civil enforcement authorities, and the private sector to protect homeowners seeking assistance under the administration's Making Home Affordable Program from criminals looking to perpetrate predatory schemes.

The Department, in partnership with the U.S. Department of Treasury, the Department of Housing and Urban Development (HUD), the Federal Trade Commission (FTC) and the Attorney General of Illinois, will coordinate information and resources across agencies to maximize targeting and efficiency in fraud investigations, alert financial institutions to emerging schemes and step up enforcement actions. As part of this multi-agency effort, the Department has outlined ways to crack down on mortgage fraud schemes. The FBI is investigating more than 2,100 mortgage fraud cases. This number is up almost 400 percent from 5 years ago. The Bureau has more than doubled the number of agents investigating mortgage scams, created a National Mortgage Fraud Team at Headquarters, and is working hand-in-hand with other partnering agencies.

In addition to focusing on fraudulent scams, I am committed to ensuring that homeowners who may be having difficulty making their mortgage payments do not experience discrimination and can benefit in equal measure from legitimate loan modification programs and other Federal programs to provide mortgage assistance and stabilize home prices. Lending discrimination prevents those who are discriminated against from enjoying the benefits of access to credit, including reasonable mortgage payments, so they can stay in their homes and provide much needed stability for their neighborhoods.

Discrimination in lending on the basis of race, national origin, or other prohibited factors is destructive, morally repugnant, and against the law. We will use the full range of our enforcement authority to investigate and prosecute this type of unacceptable lending discrimination.

UNIFIED FINANCIAL MANAGEMENT SYSTEM

Lastly, the Department continues to address ways to improve work efficiency and productivity. One important and complex effort in the Department's management arena is the implementation of the Unified Financial Management System (UFMS). Once fully implemented, UFMS will result in more accurate, timely and useful financial information that can better support management decisions and actions. UFMS will also enhance the Department's accountability, accuracy, and transparency as it relates to financial performance, internal controls, and standard business practices. Significant achievements and progress have been made on UFMS, and details of our future plans are provided in our Congressional request.

UFMS is a critical element in the long-term health of the Department's financial operations and we look forward to working with the subcommittee as we move forward with UFMS implementation.

CONCLUSION

Chairwoman Mikulski, Senator Shelby, and Members of the Subcommittee, I want to thank you for this opportunity to discuss my priorities for the Department.

Today I have highlighted critical areas that require attention and resources so that the Department can fulfill its mission to enforce the Nation's laws and help

protect national security. I hope you will support me in these worthy investments. As always, we are aware that there are tough decisions and challenges ahead and I look forward to working with you as we move forward.

Once again, thank you for inviting me here today. I am pleased to answer any questions you might have.

Senator MIKULSKI. Well, first, Mr. Attorney General, we want to salute you on these priorities and believe that in your official statement, too, where you say you want to counter the threat of terrorism and strengthen national security; make sure we are providing cops on the beat, 50,000 of them; strengthen the Southwest border initiatives, both dealing with the Mexican cartels as well as others; and combating financial fraud—we believe these are very important priorities.

Let me get, though, right to what is a headline topic, which is the Guantanamo Bay closing. We on the committee attended this time last week a hearing on the supplemental, and we heard the outstanding testimony of Secretaries Gates and Clinton, where we listened to the Departments of Defense and State. But a significant part of what needs to happen will be at Justice. So we are going to ask a little bit about the supplemental as well as this, what is in the fiscal year 2010 budget request.

As we understand for Guantanamo, the Justice Department is asking for \$30 million to begin the closing of Guantanamo Bay and then has a placeholder for fiscal 2010 for additional funds related to the closing of Guantanamo Bay. Could you tell me—I mean, you have got \$30 million here, and what it says is you have got three task forces. That just strikes the committee as an awful lot of money to pay for bureaucracy, three task forces.

We do not minimize the role of these task forces, which are detention review, interrogation policy, et cetera. But what would this \$30 million do, and is this laying the groundwork for the dumping of terrorists into State and Federal prisons?

REVIEW OF DETAINEE CASES

Attorney General HOLDER. Well, Madam Chairwoman, these are, as you indicated, not ordinary task forces. We were asked to set them up with short deadlines. There are, obviously, as you indicated, extraordinary consequences to the work that these task forces will do for our country and for the world, for that matter.

We had to take extraordinary measures to stand up these full-fledged classified task forces to put in place these classified legal review structures utilizing dozens of attorneys and subject matter experts from around the country. Now, to be more specific, we stood up a temporary classified organization at the top secret SCI level.

There are tens of thousands of pages of classified documents that have to be reviewed, thousands more that have to be translated. There are now over 80 attorneys, including several dozen who are detailed to Washington from our field offices, who are involved in this effort. We have paralegals with classified clearances that are needed and are involved in the effort.

We have travel and lodging for those staff that is included in this money. And we are also having to backfill the positions in the field

so that our traditional law enforcement work doesn't suffer as a result of the work the task forces have to do.

Now all of this work has to be done in a secure, classified environment, using secure networks and classified capable computers, scanning devices, phones, and copiers. And as you know from your Intelligence Committee work, this is material and equipment that is very expensive. We also have secure electronic document handling capabilities that we need. We have to outfit these task forces with, in essence, the secure equipment that is required for the work that they are doing.

We have also entered into an automated litigation support arrangement to support the massive document review effort that the task forces will have to do.

Senator MIKULSKI. Mr. Attorney General, what you are saying is that though it sounds like 241 prisoners, which is not a large number—I mean, in Maryland I have got 600 prisoners awaiting Federal trial. But the highly sensitive nature of who these prisoners are requires that everything occur in highly classified situations because of the nature of the information involved. Is that correct?

Attorney General HOLDER. Yes. That is correct.

Senator MIKULSKI. So it is just not an inventory about a person and what did he do and how bad he is and what we should do. So the cost and expense, particularly with them being off the coast of Cuba and our coast, require a great deal of expenditure just to maintain the security and the classification of this and that we do it in an appropriate way. Is that correct?

Attorney General HOLDER. That is correct.

Senator MIKULSKI. Now when will these task forces be done?

Attorney General HOLDER. The task force that is making the individualized determinations on the detainees is supposed to be done by January of next year. The other two task forces are supposed to be finished by July of this year.

Senator MIKULSKI. When would you anticipate that this be done and that prisoners would begin to leave Guantanamo to places yet to be determined?

Attorney General HOLDER. I am not sure. We are still in the process of making those individualized determinations, and we haven't come to a conclusion yet as to when we will be in a position to actually ask specific countries if they would take specific detainees. We are doing this on a rolling basis, and we have not gotten to that point yet.

I would expect in the next few months, though, that we would probably start that process.

Senator MIKULSKI. But Mr. Attorney General, are you saying that there is no immediate or imminent release of prisoners who would be placed on the shores of the United States of America?

Attorney General HOLDER. No. As I said, we are still in the process of making individualized determinations as to where these people should go. And paramount in our concern is the safety of the American people. We are not going to put at risk the safety of the people of this country in any determination we make with regard to the disposition of any of these individuals.

Senator MIKULSKI. Well, I am glad to hear that safety of our people is the number one concern. Could you tell us what would be the

general policy and consultation that you would have? Because I think the fear that many have, whether they are Governors or those of us who are elected national officials, is that we don't wake up one day and we hear that there are 100 people coming, and they are just going to be—I don't mean dropped off. We would be very concerned about not proper consultation. Do you anticipate them going to Federal facilities? What is your process?

We understand that the President and you can't go to another country and say, "Please, take some of these prisoners," unless we, ourselves, also evaluate our responsibility. But what would be your timetable? What is your role and the President's in consultation so that we are aware of this? These are not just any old prisoners.

DISPOSITION OF DETAINEES

Attorney General HOLDER. Yes. With regard to the disposition of all of these detainees, we will be consulting. And that is, in fact, what I was in Europe doing last week, talking to our allies about the possibility of making transfers to some of those countries. We are talking to our allies in the Middle East as well for the disposition of possible transfer.

Senator MIKULSKI. But who are you going to talk to in the United States?

Attorney General HOLDER. Well, if the decision is made to have people come to the United States. And I say "if." That determination has not been made yet. We would obviously be consulting with State and local officials, and Federal officials to do that in the way that we would want and make sure, as you say, that surprises did not occur.

But I really want to emphasize that determinations have not been made yet with regard to any individuals about where any specific people are going.

Senator MIKULSKI. Well, let me tell you what I worry about. First of all, of course, the safety of our communities. One of the things that happened to me during the Bush administration was when I woke up to a headline coming from the Department of Justice and the Bureau of Prisons that they were going to put a prison, a 1,700-person detention facility, in Maryland. And they chose two African-American communities as their site, and nobody had talked to me. No one had talked to Governor Ehrlich, a Republican Governor.

And all of a sudden, we were facing this, and it was going to hold everything from Federal prisoners awaiting trial to potentially holding terrorists. I launched like Sally Ride going into orbit about this, as did also Governor Ehrlich.

It is not that we don't understand Federal responsibility, but wow. And also, it was going to be a privately operated prison by a Mississippi company. So we can't have that.

Can I have your assurances that nothing would be done in States and local communities without consultation with us and also consultation with Governors?

Attorney General HOLDER. Well, Madam Chairwoman, I give you that promise with regard to all that the Justice Department and all of the components that we have will do. We want to have a good relationship with this committee, and with other Members of Con-

gress. We want to work in partnership, and I truly mean that—in partnership—so that we establish priorities to carry out the work that we think is important, but also what Members of Congress, and this committee think is important. We are looking to work together to solve the common problems that we all face.

Senator MIKULSKI. Well, thank you.

I know we are going to have a lot to talk about, but I thank you for your candor. What you are saying is that right now you are doing an inventory of who is there at Guantanamo Bay and what is the right way to dispose of them, as well as also doing a real evaluation about what are the best interrogation policies that get the best information under the rule of law. Is that correct?

Attorney General HOLDER. That is correct.

Senator MIKULSKI. Senator Shelby.

Senator SHELBY. Thank you, Madam Chairman.

Attorney General Holder, about more than a month ago, my colleague from Alabama, Senator Sessions, who is now the ranking or top Republican on the Judiciary Committee that you will deal with a lot, he wrote you a letter dated April 2 regarding, among other things, the legal authority of the United States of America through the Justice Department, asking whether the Federal Government has the current legal authority to admit any prisoner held at the military detention facility in Guantanamo Bay who participated in terrorist-related activities into the United States. He sent a follow-up letter on May 4 to you.

My question to you, in view of the statutes, as you are very familiar with, and the Court of Appeals for the District of Columbia decision, does the U.S. Government have the authority to admit these terrorists into the United States if you move them from Guantanamo Bay into some of our communities? And if you think they do, could you provide for the committee a written response as to the authority of that?

First, do you think you have the authority to do that?

Attorney General HOLDER. Well, I think—

Senator SHELBY. To bring terrorists into the communities?

DETERMINATIONS TO TRANSFER DETAINEES

Attorney General HOLDER. Well, as I indicated in my opening statement, the purpose of this review is to make individualized determinations as to what should happen to the detainees, and the paramount consideration that we will have is the safety of the American people. Transfer or release of these detainees will only happen in those instances where we are convinced that that can be done in a way that the communities that receive them—overseas, with our allies—will not have any impact on the safety of the place that is receiving them.

Senator SHELBY. Excuse me a minute. Excuse me.

Are you saying that, one, you believe you have the legal authority to bring terrorists into this country and disperse them around the country in the communities? Do you believe you have that?

Attorney General HOLDER. The underlying premise I don't agree with. We don't have any plans to release terrorists.

Senator SHELBY. No, I asked if you have the authority first. Do you have the authority under the law to do this? To bring terrorists into this country and bring them into the community?

Attorney General HOLDER. And what I am saying is that with regard to those who you would describe as terrorists, we would not bring them into this country and release them. Anybody who we consider to be a terrorist, as I think you are using the word.

Senator SHELBY. A terrorist or a former terrorist or whatever, or terrorist trained, all of that.

Attorney General HOLDER. And again, as I said, with regard to the release decisions that we will make, we will look at these cases on an individualized basis and make determinations as to where they can appropriately be placed.

Senator SHELBY. Isn't that a dicey thing to do? Do you know of any community in the United States of America that would welcome terrorists, former terrorists, would-be terrorists, people trained as terrorists that have been incarcerated at Guantanamo Bay?

Attorney General HOLDER. Well, again, it will not be the intention of this task force review, the intention of this administration or this Attorney General to place anybody in any part of this world who is a risk to the community, to the country that is receiving these individuals.

You have to understand that we are going to be making decisions with regard to these people. Some are going to be released. Some are going to be tried. Some will be detained on a fairly extended basis. And so, those who will be released are those who we think can be released and be released on a safe basis.

Senator SHELBY. Of course, as the Attorney General, you are familiar with a number of terrorists that have been released to their various countries and have wound up as leaders in terrorist activities, killing our soldiers, our allies, and everything else. You are aware of what the track record is there, where people have been released, and most of them have come back as some of the top terrorists of the world?

Attorney General HOLDER. I am not sure if I would say "most." I know that with regard to the Saudi program, for instance, that re-education program that they have used, about 10 percent of those apparently have returned to the battlefield, a not insignificant number. But we will do all that we can in those release determinations that we make to ensure that those people who we think will pose a danger if released, in fact, do not get released.

Senator SHELBY. Could you say here today that the top priority of your office as the Attorney General of the United States would be to protect the American people from terrorist activity at any cost?

Attorney General HOLDER. I spend every waking moment of my life now thinking about how I can ensure the safety of the American people. The responsibilities of this job are enormous, and they have become more enormous since September 11.

In talking to my predecessors, Attorneys General Ashcroft, Gonzalez, and Mukasey, I understand in a way that I did not before I had this job the heavy responsibility that being Attorney General now is.

Senator SHELBY. If I could shift a little bit to the explosives trafficking in Mexico that you alluded to earlier? In April, the Associated Press reported that Mexico has seized more than 2,702 grenades since the start of the new president's term in December 2006. There has been a lot of focusing from your office, too, on the trafficking of firearms to Mexico and tracing the origins of firearms recovered at crime scenes.

But we have heard little in regard to the serious threat from explosives trafficking. Does the Department of Justice have adequate resources in Mexico in identifying these recovered explosives, one? Does the Department of Justice have adequate resources at the U.S. Bomb Data Center to trace the enormous increase in grenades recovered in Mexico and analyze the data from these traces?

And what efforts, Mr. Attorney General, has the Department of Justice taken to provide explosive training to Mexican military and law enforcement authorities? And I guess, last, how can we help you in this regard in the funding of these activities that I think are very important?

ARMS TRAFFICKING ACROSS THE SOUTHWEST BORDER

Attorney General HOLDER. We think we have been helpful to our Mexican counterparts by moving resources to the Southwest border—ATF agents, DEA agents, FBI agents—as well as increasing our presence within Mexico to deal with the arms trafficking that is going on there and also with the issue that you raised regarding explosive devices that are found there.

We have in our budget additional resource requests in that regard. I think the facility that is located in Alabama can be a critical part in helping our Mexican counterparts in focusing there. More generally, the facility will be critical in the work that the Justice Department should have the responsibility for dealing with explosives and the crime that can be committed using explosive devices.

Senator SHELBY. I agree.

Attorney General HOLDER. That is a very, very important—

Senator SHELBY. I am glad to hear that because there is a tug-of-war for appropriations going on up here, wittingly or unwittingly, between the Department of Homeland Security and the Justice Department. But I believe that a lot of this responsibility lies with the Justice Department.

Thank you, Madam Chair.

Senator MIKULSKI. Thank you.

Senator Lautenberg, ordinarily we would be alternating party. But I am taking people in their order of arrival. I am going to turn to Senator Alexander now.

Senator Alexander? And then we will come right over to you, Senator Lautenberg.

Senator ALEXANDER. Thank you, Madam Chairman.

Thank you, Senator Lautenberg. I appreciate that.

Mr. Attorney General, welcome. Thank you for being here.

Attorney General HOLDER. Good morning.

Senator ALEXANDER. And thank you for your service.

I have a few questions about the interrogation of enemy combatants. I thought President Obama's first instinct was a good one

when he said that we should look forward. But apparently, not everyone agrees with that. I notice a Member of the House of Representatives yesterday said that she wanted a full top-to-bottom criminal investigation.

So these are my questions. Number one, what directions or guidance have you received from the President or his representatives or anyone at the White House concerning an investigation of the interrogation of enemy combatants?

INVESTIGATION OF INTERROGATIONS

Attorney General HOLDER. Well, as we have indicated, for those people who were involved in the interrogation and who relied upon, in good faith, and adhered to the memoranda created by the Justice Department's Office of Legal Counsel, it is our intention not to prosecute and not to investigate those people.

I have also indicated that we will follow the law and the facts and let that take us wherever it may. I think a good prosecutor can only say that. But so I think those are the general ways in which we view this issue.

Senator ALEXANDER. Thank you, Mr. Attorney General.

Well, my second question would be should you follow these facts and continue in an investigation, if you are investigating lawyers at the Department of Justice who wrote legal opinions authorizing certain interrogations, wouldn't it also be appropriate to investigate the CIA employees or contractors or other people from intelligence agencies who asked or created the interrogation techniques or officials in the Bush administration who approved them?

Or what about Members of Congress who were informed of them or knew about them or approved them or encouraged them? Wouldn't they also be appropriate parts of such an investigation?

OFFICE OF PROFESSIONAL RESPONSIBILITY INQUIRY

Attorney General HOLDER. Well, there is, as has been publicly reported, an OPR inquiry into the work of the attorneys who prepared those OLC memoranda. I have not reviewed it. It is not in final form yet. I have not reviewed that report.

I will look at that report and make a determination as to what I want to do with the recommendations. It deals, I suspect, not only with the attorneys, but the people that they interacted with. So I think we will gain some insights by reviewing that report.

Our desire is not to do anything that would be perceived as political, as partisan. We do want to look forward to the extent that we can do that. But as I said, my responsibility as Attorney General is to enforce the laws of this Nation. And to the extent that we see violations of those laws, we will take the appropriate action.

Senator ALEXANDER. So you would follow, the investigation could follow to the people who asked for the—I mean, if you are going to investigate the lawyers whose opinion was asked about whether this is legal or not, I would assume you could also go to the people who created the techniques, the officials who approved them, and the Members of Congress who knew about them and may have encouraged them?

Attorney General HOLDER. Hypothetically, that might be true. I don't know. What I want to do is look at, in a very concrete way,

what that OPR report says and get a better sense from that report what it says about the interaction of those lawyers with people in the administration and see from there whether a further action is warranted.

Senator ALEXANDER. My last question is once we begin this process, the question is where is the line drawn? According to former intelligence officials, renditions—and by “renditions,” we mean moving captured people from our country to another country where they might be interrogated or even worse—those renditions were used by the Clinton administration, beginning in the mid 1990s to investigate and disrupt Al-Qaeda.

That is the testimony before Congress from Michael Scheuer. He said it began in late summer of 1995. “I authored it. I ran it. I managed it against Al-Qaeda leaders.”

The Washington Post says that the former Director of the Central Intelligence Agency George Tenet said there were about 70 renditions carried out before September 11, 2001, most of them during the Clinton years.

Mr. Attorney General, you were the Deputy Attorney General from 1997 to 2001. Did you know about these renditions? Did you or anyone else at the Department of Justice approve them? What precautions were taken to ensure these renditions or any interrogations of such detainees on, by, or behalf of the United States Government complied with the law?

TREATMENT OF TERRORISM SUSPECTS

Attorney General HOLDER. I think the concern that we have with renditions is renditions to countries that would not treat suspects in a way that is consistent with the treaties that we have signed. If there is a rendition taking a person to a place where the possibility is that person might be tortured, that is the kind of rendition I think that is inappropriate.

Now, from my memory of my time in the Clinton administration, I don’t believe that we had renditions where people were taken to places where we had any reasonable belief that they were going to be tortured. And that would be the concern that I would have.

I wouldn’t want to restrict the ability of our Government to use all the techniques that we can to keep the American people safe. But in using those tools, we have to do so in a way that is consistent with our treaty obligations and our values as a Nation.

Senator ALEXANDER. But I think you can see the line of my inquiry, which is that if we are going to ask lawyers who were asked to give legal opinions, we are going to investigate them. Jeopardize their career, second-guess them, and look back. Then where does that stop?

I mean, do we not also have to look at the people who asked for those techniques, at people who approved those techniques, at Members of Congress who knew about and encouraged the techniques perhaps? Or in your case, in the Clinton administration, we don’t know what the interrogations were then. Perhaps you do. And the question would be whether you approved them?

I prefer President Obama’s approach. I think it is time to look forward, and I hope he sticks to that point of view.

Thank you, Madam Chair.

PROSECUTOR DISCRETION

Attorney General HOLDER. Well, I will note that the OPR inquiry was begun in the prior administration and also will note that I am a prosecutor. I have been a career prosecutor and, I hope, a good one.

And a good prosecutor uses the discretion that he or she has in an appropriate way and has the ability to know how far an inquiry needs to go to satisfy the obligations that prosecutor has without needlessly dragging into an investigation at great expense, both personal and professional, people who should not be there.

And that would be the kind of judgment that I hope I would bring to making the determinations that you expressed concern about.

Senator ALEXANDER. Thank you, Madam Chairman.

Thank you, Mr. Attorney General.

Senator MIKULSKI. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Madam Chairman.

And welcome, Mr. Attorney General. We have had the opportunity to work together in the past.

As a matter of fact, nearly 10 years ago, the aftermath of the slaughter at Columbine—13 young people killed, 26 wounded. We worked to close the gun show loophole. It passed the Senate 51–50. Vice President Gore breaking the tie. And at the time, you urged the House to follow the Senate’s lead to close this loophole.

It is 10 years later. The loophole still exists. Do you think it is time for Congress to try again to get this sensible legislation in place?

GUN VIOLENCE

Attorney General HOLDER. Well, I think we have got to use our creativity. We have got to use the tools that we already have. We have to use the budget that we have proposed to come up with ways in which we arm our State and local partners with the tools that are necessary to combat the gun violence that I think still plagues our country.

There are a variety of things that I think that we can do, and we want to work with this committee and other Members of Congress, listen to our State and local partners and try to determine what is it that we can do to help them with regard to reducing the gun violence that they still confront.

So I think, as I said, there are a variety of things that we can do, and we will look at all of those possibilities and then, I think, make determinations on the basis of the interaction we have with our partners, the interaction that we will have in the executive branch, the consultations we will have with Members of Congress to decide exactly which tools are going to be the ones that will be the most effective.

Senator LAUTENBERG. Yes, but doesn’t it offend the sensibilities to know that guns can be bought at gun shows where your name isn’t asked, no Social Security number is asked, no picture is taken, no reason for the gun purchase. Is it sporting? Is it hunting? None of that.

And here, like again the Columbine massacre, a young woman bought these guns without question, gave them to the two fellows who killed all their friends. Doesn't it strike you as kind of an anomaly in our pursuit of law and justice, protecting our citizens, that this is kind of a foolish way to turn our back on these things? Which is what happens, Mr. Holder.

I was traveling out West in a State where gun ownership is a matter of pride to lots of people. But the place was jammed, and there were unlicensed gun dealers selling weapons without asking questions.

When I asked the question about sensibilities, I don't know whether that ever gets us to the end of line, but it sure sticks out like a flaw in our system as far as I am concerned. And I hope that you will be able to pursue this aggressively.

The Recovery Act provides \$10 million for the administration's Southwest border initiative, focused on reducing gun trade that fuels so much of the violence in Mexico. Can we be assured that the DOJ's efforts to stop the flow of guns to Mexico will not interfere with resources that are designed to stop domestic gun trafficking within our country?

Attorney General HOLDER. That is actually a very legitimate concern, Senator. We are going to help our Mexican counterparts with the issues, the problems that they confront. We have drugs flowing from Mexico into this country, a lot of guns flowing from this country into Mexico.

And the resources that we are moving to the Southwest border, we are doing on a temporary basis to try to help our Mexican counterparts with regard to their efforts and being mindful of the fact that as we move those resources to the Southwest border, that we are not doing anything that would weaken our efforts in other parts of the country.

So we are trying to do it in a way that is sensitive to the needs of the places in which these agents and other personnel come from so that we can be helpful to our Mexican counterparts without weakening the efforts that we are making there.

But I also think there is a collateral impact in helping our Mexican counterparts. To the extent that we stop the flow of arms into Mexico, we will necessarily confront, I suspect, people who are also illegally trafficking in guns in this country. And so, I think there is a collateral impact, a positive impact in helping our Mexican counterparts.

But I think you are right to raise that concern, and I think it is one that we are being sensitive to.

Senator LAUTENBERG. You and I had the opportunity to work together some years ago on the issue of racial profiling. It was unfortunately highlighted in our State of New Jersey, but across the country, we saw incidents of that nature. Now new leadership—how is DOJ addressing this continuing problem?

RACIAL PROFILING

Attorney General HOLDER. Well, that is an issue that we focused on in the Clinton administration. It is something that will be a priority for this administration as well.

Profiling is simply not good law enforcement. If you devote the limited resources that we have in law enforcement on the basis of profiling, on the basis of nontraditional techniques—we have a good basis for predicates—you will focus on somebody, and the person who, in fact, you ought to be concerned about slips right on by.

So I think we have learned a lot from the efforts that we did in the 1990s working with you and with others, and our hope would be to replicate those efforts. That is still something that is a priority for us. It has a negative impact also on the communities in which that is practiced and tends to breed disrespect for law enforcement and for the criminal justice system. And we have to avoid that.

Senator LAUTENBERG. Thanks. The anomaly in New Jersey that took place was when our attorney general-to-be was stopped at a roadside rest place and questioned and so forth, and his—the only thing they could accuse him of was “driving while black.” And that is what caused that stop.

The last question, Mr. Holder, in the last administration, the COPS program was nearly decimated with serious cuts in funding. The Recovery Act contains \$1 billion for the COPS program, which I think is a great start.

How do we make up for the deficit that occurred in having people trained and available as a result of the neglect of this program?

COPS PROGRAM

Attorney General HOLDER. I think the billion dollars that the Recovery Act provides will give us a leg up on the efforts that we have to use to reinvigorate the COPS program. We have about \$300 million in the budget for next year, and I think we have to keep that effort up.

Our aim is to put 50,000 new police officers on the street. I think that what we have done in this first year is significant, but we must continue those efforts on a year-by-year basis. I think we have to see a lot of what we are doing this year as really downpayments on efforts to revitalize programs that I think we should focus on and revitalize efforts that perhaps have been neglected in the recent past.

Senator LAUTENBERG. And I close, Madam Chairman, with congratulations to the Attorney General for filling the positions that he has with highly capable people and for the zeal and the vigor with which you are pursuing your responsibility. And we thank you for that.

Attorney General HOLDER. I look forward to working with a young man from New Jersey, who I think is going to be a great U.S. attorney.

Senator MIKULSKI. Mr. Attorney General, Senator Shelby and I have another round.

I would like to pick up on the Southwest border initiative and ask you some questions in that area. Much has been in the news about swine flu, H1N1. Reaction to that virus was at times a near panic, as we were concerned of a pandemic in the United States. But I believe there is another “pandemic” in the United States, and that is the insatiable demand for drugs.

And as long as we have an insatiable demand for drugs, we are going to be funding the Taliban in Afghanistan and we are going to be emboldening and empowering the Mexican cartels. There is a great deal in your appropriations request about increased agents and the technology they need.

First of all, let us deal with that. In other words, it sounds almost like a Petraeus strategy meets Mexico and our border, which is more troops, more gear, more technology. I don't dispute that. Obviously, it had an impact. But also we need to look at the other side of that, which is the insatiable demand.

Let us talk about the actual violence and what is going on. This committee, meaning the Appropriations Committee, has already funded staff. We have provided five additional helicopters. We have been providing money, resources, and manpower.

Could you tell us what exactly you intend to do with the Southwest border initiative? How many agents, how many attorneys are needed? What do you see, and what do you estimate the cost for that to be? Because we want to do that. Then I will come to the demand side.

SOUTHWEST BORDER INITIATIVE

Attorney General HOLDER. Yes, in 2010, our request is for \$231 million for the Southwest border. That is for about 1,200 new positions—632 agents, about 110 attorneys. This would include 34 ATF agents, about 70 DEA agents.

I think there is clearly a need for a balanced strategy, and we will talk about the other part of that in your next question, for us to have a strong enforcement presence to deal with the problem of the drugs flowing into our country. But I think there also has to be an effort to deal with the demand side as well. So with regard to the enforcement side, that is what we are requesting in the 2010 budget.

Senator MIKULSKI. So, as I understand, essentially for enough manpower, you hope to deploy 632 agents and over 100 attorneys. As well as 528 agents for the Marshals Service. Are those new agents, or are those agents that you are going to redeploy from other areas?

Attorney General HOLDER. I believe these are all new positions. The 1,200 or so, the 1,187 are all new positions with regard to agents and attorneys.

Senator MIKULSKI. You know, we are placing an awful lot of stress on the Marshals Service, and I just want to bring this to your attention in a spirit of cordiality. We have asked them to take on the Adam Walsh Act in addition to the protection of the judges, the transportation of prisoners, who are increasingly violent, and the pursuit of the fugitive warrants. And now they are going to be intensively involved in the Southwest border initiative.

And I would hope, as we go through this process, in addition to looking at the FBI, DEA and ATF, that we also look at what we are asking the marshals to do for this initiative, which is much needed, in addition to what else have we have asked them to do regarding the Adam Walsh Act, which the ranking member has addressed. We want to support you in that.

But let us go to the first line of defense, which is local law enforcement in the border communities, and then also the whole issue of the demand side. We see that the President has asked for more cops on the beat. But when we look at our stressed border communities, do you see additional funds and resources going into those local law enforcement agencies? Because crime and violence will flow back and forth across the borders. How do we look at how we are partners with our border law enforcement?

ASSISTANCE TO STATE AND LOCAL PARTNERS

Attorney General HOLDER. Well, we have in our budget request a total of \$2.6 billion for State and local funding, and that is in addition to money that is included in the Recovery Act of about \$4 billion. And I think that is a recognition of the fact on the part of this administration that for us to be really effective in our law enforcement effort, we have to have good State and local partners, and to the extent that we can, we need to meet the needs that they have. We have to assist them to the extent that we can.

The Southwest border is a place of particular attention for us, and we will be helping our State and local partners there, drawing from the pools that I have talked about. But also the significant amounts of money that we have asked for is a recognition of the fact that the attention that we devote to the Southwest border has to be replicated in other parts of the country as well.

We need our State and local partners to have the technology and the resources that they need. And we have, as I said, come up with pretty substantial amounts of money both in terms of State and local funding, plus the COPS program to help our State and local partners.

Senator MIKULSKI. Well, let me ask you this, conceptually. We want to support our border partners, our border communities. But what I don't want is for it to be at the expense of other States. So while I want to protect the Southwest border initiative, I also want to protect southwest Baltimore.

I believe Southwest border violence is a very significant threat and if we don't intervene aggressively now, it will have horrific consequences to our security. But at the same time, we don't want them competing with Alabama, Utah, Arkansas, et cetera, for available resources.

Is that the way you see it for your cops and your interventions and interdictions and preventions?

Attorney General HOLDER. Yes, and that is why I think our requests are as large as they are. So that we will have the ability to do all of the things that you just talked about, which is to give attention to the Southwest border, but also not lose focus on the very important priorities that we have in other parts of the country.

Senator MIKULSKI. Yes, but are they going to be sequestered, or if there is going to be funding for cops on the beat, will there be a focus on the Southwest border communities in addition to other funds for other State and local jurisdictions to compete? Or is it all one big pot?

Attorney General HOLDER. Well, we have money that is set aside for the Southwest border, but we also have substantial amounts of

money that go for other State and local efforts that we are making. So there is not necessarily that competition.

I would also say that when we look at the Southwest border, we have to understand that the efforts that we make there will have residual positive impacts in other parts of the country. When we announced the takedown of Project Xcellerator 6 or 7 weeks or so ago, we indicated that some of the people who were arrested in connection with the Mexican cartels, and we think Southwest border, were involved were from Maryland. And we had arrests in Maryland in connection with that and in a variety of other States.

So that—

Senator MIKULSKI. But people in Maryland, Alabama, and so on are using drugs. I don't want to get into semantics about what is sequestered. I think we have got a good picture and really want to support the policy. But I want to go to the demand side, and I really salute Secretary Clinton, when she went to Mexico, and took ownership for our insatiable demand for drugs.

And I just want to speak about my own beloved Baltimore. We were on our way. We had a great renaissance momentum, and then, bang, in came cocaine. And we have never recovered from it. Cocaine really took generation after generation of young people in the Baltimore community, across all ethnic and class lines. It brought in so much money that it enabled crooks to arm themselves at times where they had more and better arms than our cops on the beat, et cetera.

Each administration has been rather tepid, timid and uneven in dealing with demand. We have tried "just say no." Just say no a little bit more. Let us do a little bit more here or there.

With the Obama administration and your leadership—and I am looking to Secretaries Sebelius and Arne Duncan, just across the board, is the administration developing a comprehensive strategy to really work at the local level? Because it has got to be fought at the local level to deal with this demand side.

Attorney General HOLDER. Well, I would totally agree—

Senator MIKULSKI. And I am not talking about hugs for crooks. I am talking about the kind of juvenile justice prevention programs, et cetera, where we do this early intervention.

JUVENILE JUSTICE PROGRAMS

Attorney General HOLDER. No, I totally agree with you. If you look at the request we have made on the juvenile justice side, we have a request for \$317 million. The Drug, Mental Health, and Problem-Solving Courts Program, we have \$59 million.

And there is a recognition of the fact that we have to do something on the demand side. As a local judge here in Washington, DC, I witnessed that.

Senator MIKULSKI. You saw it.

Attorney General HOLDER. I saw that. I sent, unfortunately, too many young men and women to jail because of drug problems that they had and the crimes that they committed as a result.

Senator MIKULSKI. But let me ask a question, are you developing a comprehensive approach with other Cabinet members? Is that underway?

Attorney General HOLDER. Yes, we are.

Senator MIKULSKI. Good. Well, we will come back. I know Senator Shelby has to ask questions, and I know your time is very limited.

Let me just conclude by saying some things are really working well. And one of the things that I know you witnessed as a lawyer, a resident, a judge in this town, is the way we all worked so well on the sniper case. And it is these local task forces that I am going to emphasize.

Do you remember when Washington was gripped by the fear of the sniper? All games were canceled for children. We were afraid to get out of our car and walk into a Burger King. A beloved FBI employee was shot coming home from Home Depot.

And the fact that with our local law enforcement around the Beltway working with the Federal officials, we were able to catch that sniper. That kind of cooperation continues to exist and what we need to build on.

I am very proud of the kind of task forces that are being used in Maryland right now, and I hope that we could have the emphasis on task forces. One just broke up a cell phone ring in Maryland State prisons, where guys were sitting there ordering lobster, shrimp, and ordering contract killing. But thanks to the task force approach, we were able to intervene and stop them.

And while we are doing fighting against violent, repugnant people, we also have now a task force against mortgage fraud, where another type of predator is stalking our communities, particularly our low-income residents. So we have got a lot to build on, and if we can work together, I think we can make a difference and also make that change that President Obama wants.

So I want you to know I think all of us feel that in many ways at the local level it is working if we can keep that momentum going through these task forces.

Senator Shelby.

Senator SHELBY. Thank you, Madam Chairman.

Mr. Attorney General, I want to go back into the area that Senator Alexander was questioning you earlier on. I believe you went to the Department of Justice as the Deputy Attorney General in 1997. Is that correct?

Attorney General HOLDER. That is correct.

Senator SHELBY. I remember. During that time—and you were there from 1997 until the Bush administration went into office, 2001. During that time, I happen to have been the chairman of the Intelligence Committee from 1997 to the summer of 2001, after you had left. And of course, we interacted with the Justice Department.

As the Deputy Attorney General, you were involved. You were a very active deputy, as I recall, and the Intelligence Committee dealt with, of course, the CIA and everything that goes on.

Senator Alexander went through some chronological events coming from Director Tenet and others as to what happened as far as rendition and interrogation of would-be terrorists and terrorists during the period before—during the Clinton years when you were active there.

I wasn't clear as to the answer a few minutes ago. So I am going to ask this question again. During your tenure as the Deputy Attorney General of the United States, 1997 to 2001, did you know

about these renditions? And if you didn't know, why didn't you know because people in Justice knew?

INTERROGATION TECHNIQUES

Attorney General HOLDER. Now I would have to look back. I don't know the exact numbers that Senator Alexander—

Senator SHELBY. No, did you know about them? I didn't say how many. That was Tenet's testimony, I believe, that has been in the record and in the papers that there were 70 or more. But did you know about them generally, and did you know about interrogation techniques at that time?

Attorney General HOLDER. Well, I certainly knew generally that there were renditions that were occurring. I can't honestly say that I knew about specific interrogation techniques that were being used at that time.

Senator SHELBY. Would you check the record and furnish this to the committee? We think this is an important question because a lot of this just didn't start during the Bush administration is what I am saying. This interrogation, rendition of terrorists had been going on before the Bush administration.

Attorney General HOLDER. I think, as a distinction, and that is the focus of the concern that we have with regard to Guantanamo and the things that preceded it is that we had American agents, representatives of our Government perhaps, involved in the use of techniques that we didn't think were appropriate.

Now I will certainly look at the records—

Senator SHELBY. Will you do that, just for the record? And did you or the Attorney General that you were working with, day in, day out, or anyone else under your jurisdiction at the Department of Justice then approve these renditions and interrogations? You had to. But I will wait for your record to show.

Attorney General HOLDER. We will review those records, and I will provide you with a response.

Senator SHELBY. And Mr. Attorney General, if so, what precautions were taken to ensure that the renditions and any interrogations that were going on in the intelligence communities regarding such detainees, what precautions were made? In other words, what steps did you go through to see that they complied with the law at that time? Can you furnish that for the record?

Attorney General HOLDER. Sure. I will go through that—

Senator SHELBY. You might have to go back because I know it was a while back. But you were in a very important job, as I remember interacting with you.

Attorney General HOLDER. We will look at those records and see what are the numbers, to the extent that I can provide those.

Senator SHELBY. Absolutely.

Attorney General HOLDER. And the protections that we used. It may be that I have to do this in a classified way, but we will provide you with those.

Senator SHELBY. That is okay. We can do that.

Attorney General HOLDER. That is fine.

Senator SHELBY. Okay. I would like to get into some other things now.

The GAO study. In April 2009, Mr. Attorney General, a GAO study concluded that ICE is not participating or contributing to several important intelligence and coordination centers. As a result of this lack of cooperation, according to the Government Accountability Office, our Government's war on drugs is not as productive as it should be.

The GAO recommended that the Secretary of DHS direct ICE to contribute all of its relevant drug-related information to the DEA Special Operations Division and ensure that if ICE fully participates in both SOD and in the OCD fusion center.

My question to you, is ICE contributing all of its relevant drug-related information to the DEA's Special Operations Division? And if not, why not? And if you don't know that, if you could furnish that for the record?

DRUG INTELLIGENCE INFORMATION

Attorney General HOLDER. I share the concern that you have expressed, and I have raised that with Secretary Napolitano, who I have worked with as a U.S. Attorney in the Clinton administration. And we are, together, trying to address that issue and trying to make sure that both of our agencies are contributing all of the intelligence information that we have. And given the resources, given the agencies that we have stood up, I think we will make progress in that regard.

Senator SHELBY. Are there other agencies that have not participated or refused to participate? It looks to me like you have got to coordinate this, and the Department of Justice should be right at the top of it.

Attorney General HOLDER. Well, I would like to think that we have a special expertise in the Justice Department in that regard.

Senator SHELBY. Absolutely.

Attorney General HOLDER. And we will work with our partners at DHS to ensure that ICE becomes fully involved in that effort.

Senator SHELBY. Ballistics, very important, I think. General, Secretary—I want to call him “Secretary.” Attorney General Holder, while the President recently endorsed the use of ballistics imaging as part of the effort to end gun violence along the Southwest border, the committee has been informed that DHS, Department of Homeland Security, is not coordinating their gun investigations through the ATF, which is—

Are there any official memorandums of understanding or policies in place that you know about requiring the use of NIBIN by DHS law enforcement? And if you want to do this for the record, that is okay. And could you provide a copy to the committee, the chairman, and others, if you could?

And what is the extent of DHS, Department of Homeland Security's coordination with the ATF's project Gunrunner, if you know? And if you don't know offhand, I know I am asking you a lot of questions.

Attorney General HOLDER. Sure.

Senator SHELBY. But we would like to know for the record because we fund all these things.

COORDINATION BETWEEN DOJ AND DHS

Attorney General HOLDER. Right. We will provide for the record answers to the specific questions that you have asked. But I will say that, generally, I think Secretary Napolitano and I both agree that coordination between DHS and the Justice Department has not necessarily been as good as it needs to be. That is an issue.

[The information follows:]

NIBIN, PROJECT GUNRUNNER, AND BALLISTICS IMAGING

The Department does not have an MOU in place with DHS that requires their use of NIBIN. The Department is working towards increased communications with DHS but is not aware if DHS has a policy that requires their use of NIBIN. Within the Department of Justice, ATF is preparing an internal directive that outlines a process for entering information into NIBIN. Once the directive is issued, the Department will furnish a copy to DHS to provide guidance so that they can participate in Project Gunrunner.

Attorney General HOLDER. And let us be very frank about that, that we have not worked together in a way that is efficient and effective.

Senator SHELBY. But the Justice Department has got a lot of expertise in this area, hasn't it?

Attorney General HOLDER. Oh, absolutely. And DHS brings things to the table as well. We need to come up with ways in which we coordinate our efforts so that we can be most effective. But the concerns that you raise are very legitimate ones, and we are trying to address them.

Senator SHELBY. Are you going to be assertive in this area to make sure that the expertise of Justice is shared and used in this area?

Attorney General HOLDER. I wouldn't have taken this job unless I was here to advance the interests of an institution in which I grew up and which I love. I have great faith in the men and women who work in this department. I think we are experts in a whole bunch of areas and—

Senator SHELBY. But some of us on the Appropriations Committee, both Democrats and Republicans, we see at times parallel initiatives that we don't need, and it is very costly, in other words, to reinvent the wheel. And you have got the big wheel in Justice, and we want to make sure that you are well funded and keep it.

Attorney General HOLDER. We want to be well funded. I will be assertive. But we also want to work with members of this committee to identify those areas where you think that there is duplication of effort so that we minimize that and that we work efficiently together. As I said, we want to be working in partnership with you all as well.

Senator SHELBY. Absolutely.

Madam Chairman, if you would let me, one last thing? I mentioned in my opening statement that there are a number of Adam Walsh provisions that will soon expire. Does the Department have a legislative plan regarding these expiring provisions of the Adam Walsh Act, which I think and others thought was a good piece of legislation? And does the Department support reauthorization of these provisions designed to protect children from pedophiles and sexual predators?

Attorney General HOLDER. Yes. We support the Walsh Act. We have asked for \$381 million, which is a 5 percent increase over fiscal year 2009, and that would support 50 new Marshals Service deputies and a \$16 million increase there as well. The Walsh Act we think is important, and it is something that we support.

Senator SHELBY. Thank you.

Thank you for your indulgence, Madam Chairman.

Senator MIKULSKI. Excellent questions, Senator Shelby.

In the order of arrival, I am going to turn to Senator Pryor, one of our newest members and then, of course, have as our wrap-up hitter, the chairman of the Judiciary Committee. We are so fortunate to be able to have him as both the premier authorizer also to bring that wisdom and skill and experience to appropriations.

Senator Pryor.

Senator PRYOR. I agree. Thank you, Madam Chair.

Senator MIKULSKI. Go ahead.

Senator PRYOR. Thank you very much.

General Holder, let me start with something that the last administration attempted to do, and that is they tried to—in their fiscal year 2009 budget, they tried to consolidate the 38 Federal law enforcement assistance programs like COPS, et cetera, into three competitive grant programs. They also, in our view, were going to try to under fund those.

But do you have any plans to do any consolidation along those same lines?

GRANTMAKING TO STATE AND LOCAL GOVERNMENTS

Attorney General HOLDER. I am not sure I am totally familiar with what the prior administration did. Our hope is to have sufficient amounts of money in the programs that we think are important, COPS being among them. Certainly Byrne and JAG grants.

We want to have flexibility so that we can be responsive to the needs of our State and local partners and be most effective in using the resources that we have.

Senator PRYOR. I would encourage you, if you are thinking about any changes, to certainly reach out to State and local people because they really rely on those grants, and that is, in a lot of ways—in a lot of places and a lot of ways, that is really critical funding on a local level.

Let me ask about—there was a story this morning in the Washington Post about the—it wasn't totally about the SCAAP program, the State Criminal Alien Assistance Program. As I understand it, are you going to try to eliminate that program?

I know there has been some problems. Some of the States and local law enforcement have not been real pleased with some of the administration of it. But I think that many of them have said that the program is very popular, et cetera.

Do you know the status of that and what the plan is for that, and why?

Attorney General HOLDER. We are not asking for additional monies for SCAAP in the budget for next year. But one of our priorities is making sure that our Nation's borders are protected. And although we seek to eliminate funding for SCAAP, we have, we think, other monies in the budget. There is \$3.4 billion in DOJ re-

sources to help curtail illegal immigration and combat the violence associated with border gangs.

We think that the SCAAP program, although it has had a value, we think we can give greater value by dealing with the problem in an enforcement way as opposed to using the limited resources that we have to help on the detention side.

I will say, however, that this is obviously a budget proposal that we have, and to the extent that you have strong feelings about the SCAAP program, I would be more than glad to interact with you, talk to you about that, and see if there are ways in which we can meet your concern.

Senator PRYOR. Yes, I would like to talk about that. I just want to make sure that we are not dropping something that we really need. If you think that you have really got it covered in other ways, other areas, I certainly would like to hear more about that.

The last question I really had was about this issue where the—I think Congress Daily actually had a little story on it today about the dispute between the Department of Justice and the Inspector General's Office regarding the FBI's terrorist watch list. The IG has been critical of the FBI to the extent that the FBI apparently quickly adds and quickly removes people from the list.

I would like to ask you about that criticism, if we can call it that, from the IG and how you respond to that and if there is any changes that need to be made?

IG REPORT ON THE TERRORIST WATCH LIST

Attorney General HOLDER. Yes, we have a great IG, Glenn Fine, I have worked with and known him for a long time.

I have not actually seen the report, but it is my understanding that the concerns that were raised in the report are serious ones. But that with regard to the issues that were raised by the inspector general, they have actually been met. Those concerns have been met by the FBI. Changes have been made in response to the issues that were raised by the inspector general.

But I will be reviewing the report, and I will be talking to the director of the FBI just to make sure that that, in fact, is the case. But that is my understanding.

Senator PRYOR. Great. Yes, if you could—if that is not correct or if you check back on that and you have a concern there, I wish you would check back with us on that.

Attorney General HOLDER. I will do that.

Senator PRYOR. Thank you very much.

Thank you.

Senator MIKULSKI. Thank you, Senator Pryor.

I just want to comment. On June 4, we are going to hold our hearing on the FBI budget request, and the committee will do something different this year. We will hold a public hearing on the public programs of the FBI. But as you know, after the terrible attack on 9/11, we gave the FBI the responsibility of being an agency within an agency, with a significant national security responsibility.

The committee has observed over the years that there are certain questions we can't ask in a public setting. One of which would be the greater detail of what the gentleman just raised that we need

to pursue. So we will have a public hearing with the FBI and followed by a classified one on how the FBI is waging the global war against terrorism, and we look forward to your active participation.

Now, we turn to the number one on Judiciary and number one advocate of all that is good about the Justice Department.

Senator LEAHY. I figure being number one at the Judiciary is a punishment for past sins, and you and I, Madam Chair, remember the good nuns explaining how that works.

Senator MIKULSKI. Do you want me to sit here and remember past sins?

Senator LEAHY. No, no, no. I remember the good nuns telling us about how it catches up with us.

Mr. Attorney General, it is good to see you. And I know you will also be before the Judiciary Committee, but I wanted to ask you about the Justice for All Act. In 2004, we passed that, a number of us—Republicans and Democrats together. It is a crucial bipartisan law, trying to improve the quality of justice for all Americans using DNA evidence, so forth. We negotiated carefully, worked it.

Unfortunately, the past administration failed to fund some of the key programs created by this important law. And it was a consistent struggle. We had the law. We didn't have the funding of programs, including the Kirk Bloodsworth Post Conviction DNA Testing Grant Program, capital representation, capital prosecution improvement grants, Debbie Smith DNA Backlog Grant Program, and other activities.

Will you work with me and with the committee to fully fund these vital programs and also to reauthorize the Justice for All Act?

Attorney General HOLDER. Yes, Senator. I am looking around here, trying to find my—I have got a great answer to that question. I just can't put my hands on it. But, yes, we will work with you to ensure that that act is funded in an appropriate way.

The concerns that are addressed by the act are concerns that this administration shares. And so, we look forward to working with you in that regard.

Senator LEAHY. And I would note that we had people across the political spectrum who came together and worked on that. Many of the Senators in both parties were, like yourself, former prosecutors. I guess you are now the prosecutor for the country, but you understand what I am saying.

And I think, as every prosecutor knows, two things you don't want to happen. One, you don't want a guilty person to go free, but you also want to make sure when you are prosecuting somebody that you have got the right person. Because if you don't, aside from the miscarriage of justice, the person who committed the crime is still out free, and we are not as safe as we think we are.

Now last week, the 9th Circuit Court of Appeals reversed the decision to dismiss the case *Mohamed v. Jeppesen* on State secrets grounds. You know that one. The plaintiffs are suing a flight company for allegedly helping the CIA transport them overseas, where they were tortured.

The case had been dismissed at the pleading stage. The Government used State secrets, and so the trial court just cut it off at that point. And the appeals court said that you dismiss the case at the

pleading stage, it would effectively cordon off all secret Government actions from judicial scrutiny, immunizing the CIA and its partners from the demands and limits of the law.

I agree with the court. I have introduced the State Secrets Act, along with others. We have been asking for weeks for the Justice Department's position with respect to this bill. We haven't gotten an answer. So I will ask you. Do you support the State Secrets Protection Act?

STATE SECRETS DOCTRINE

Attorney General HOLDER. Well, I think our administration shares your concern about the use of that doctrine. In fact, I have asked that a review be conducted of all the cases in which the State secrets doctrine has been invoked. We have about 20 cases or so where it has been used. The report is just about complete. It is my hope to share that report, make it publicly available.

What I have asked the people in the Justice Department to do is look at all of these cases and see if we appropriately are using the State secrets doctrine in each of those cases. Is there a way in which we can use it in those cases where we think it is appropriate in a more surgical way so that we don't have to perhaps dismiss the whole case? And so, that review is just about done, and I would be prepared to share that information.

With regard to the piece of legislation that you have indicated, I want to look at that in light of the report that I get from the task force that we created and see if there are ways in which we can work together to deal with the issue that we do share that concern that you have.

Senator LEAHY. Attorney General, we have, you and I have talked a lot about the Department of Justice, and I don't begin to understand all of the issues that come on your desk. But this is an important one, and I would like, as soon as the review is done, as soon as it can be shared, I would appreciate not only that, but then a position of the department on the piece of legislation.

Brought up today in committee, we put it over. I did that knowing I was going to be talking to you today and knowing that your review is underway, and it may take a while.

We are not having a markup next Thursday, as we normally do. I will be in Vermont, where I will watch my closest friend get an honorary degree from my alma mater. We will celebrate our 47th wedding anniversary this year, and if I want to make sure we celebrate, I will be there at the graduation.

My last question, if I might, Madam Chair? In light of what I consider shocking opinions by Jay Bybee and Steven Bradbury and others nominated by President Bush to run the Office of Legal Counsel, these opinions secretly authorized interrogation techniques. I am looking down the list here that included shackling naked people to the ceiling to keep them awake, sleep deprivation of up to 11 days at a time, forcing them into a small box for up to 18 hours at a time, waterboarding, and so on.

I know you are looking at OLC. And for those who may be watching and don't understand, OLC opinions become basically de facto rules of law within the administration. Right now, you don't have

a head of OLC. How critical is it for the Senate to confirm Dawn Johnsen as the Assistant Attorney General in charge of OLC?

CONFIRMATION OF DAWN JOHNSEN

Attorney General HOLDER. That is probably my top priority now, Senator. OLC is, as you said, an integral part of our effort to protect the American people. There is a lot of national security work that OLC does. OLC handles a lot of other matters for the department.

They are among the best and brightest in the Justice Department. And although we have very capable people who are there and a very capable acting person who is leading OLC, there is a certain solidity and continuity that you don't have unless you have a permanent person there.

And so, I would hope that we could have Dawn Johnsen, who is an extremely qualified lawyer, who will be a great head of OLC, confirmed as soon as possible.

Senator LEAHY. Thank you very much.

I hope so, too. We passed her out of committee. She is on the floor. I saw that the senior-most Republican in the Senate, Senator Lugar, said he will vote for her, and I just wish we would go forward because the OLC is so extremely important. It is like the Department of Justice's court, and I would like that to go forward.

So, Madam Chair, thank you. I will submit my other questions for the record.

Senator MIKULSKI. Thank you very much, Senator Leahy. And I note when you talked about your best friend getting an honorary degree, I gather it is your beloved wife, Marcelle? Is that correct?

Senator LEAHY. It is. It is, indeed. And so, I will take off.

Senator MIKULSKI. Well, Senator, with all due respect, she shouldn't only get an honorary degree, but if we were talking about saints and sinners before, you know what category she is in.

Senator LEAHY. It will be her, not me.

Senator MIKULSKI. Well, congratulations to her.

Senator LEAHY. Thank you. And I will tell Marcelle you said that.

Senator MIKULSKI. Mr. Attorney General, that concludes our questions. If there are no further questions this morning, Senators may submit additional questions for the subcommittee's official record. We are going to request the Department of Justice response within 30 days.

I would also like to add thank you for your testimony today, and I would also like to add we are lucky to have you.

Attorney General HOLDER. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. I think President Obama has made an excellent choice in selecting you. You come with such an incredible breadth of experience from working at the NAACP through prosecutor days, judges, Justice Department.

But you are also at the point in this career you could be in private practice, in control of your own time. You have three wonderful children and a wife who is a physician and quite distinguished in her own right. The fact that you are willing to take on a very

onerous responsibility of international as well as domestic responsibilities is heartening.

I am already hearing about all these wonderful young people who want to come to work at Justice Department, and they don't call it the Justice Department. They say "at Justice." They want to "work at justice," and they want to work at the Department of Justice to achieve it. And I think your own reputation is also already attracting people who want to come, whether they are the lawyers or the backup people or those that are going to run the prevention and intervention programs.

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

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

VIOLENT CRIME/SUPPORT OF LOCAL LAW ENFORCEMENT

Question. A major focus of both the Judiciary Committee and the Appropriations Committee so far this year has been ensuring that the Federal Government provides the assistance to State and local law enforcement that is so important to restoring our economy and keeping our communities safe.

With the massive economic crisis facing us, we see conditions of unemployment and hopelessness which can lead to increases in crime. States, cities, and towns face budget shortfalls and decreases in tax revenues and were at risk having to abandon innovative crime prevention strategies and to drastically reduce police forces.

We have taken major steps toward returning to this successful approach. We included nearly \$4 billion for State and local law enforcement in the economic recovery and investment package enacted earlier this year. That package included funding of vital programs like Byrne grants, rural drug enforcement assistance, and the Community Oriented Policing (COPS) program, as well as funding for critical crime victims programs. The Judiciary Committee will be holding a hearing next week to look at how this funding has been used to support local law enforcement efforts in communities across the country.

Answer. The administration is committed to fully funding the COPS program as an effective tool to combat crime and help address police brutality and accountability issues in local communities. The research available regarding COPS funding clearly validates the program as a crime fighting strategy. In its final report on the effectiveness of COPS Office grants, the Government Accountability Office (GAO) found that COPS funding resulted in significant increases in the number of sworn officers and produced significant declines in the rates of total index crimes, violent crimes and property crimes. Specifically, the declines in crimes attributable to COPS expenditures accounted for 10 percent of the total drop in crime from 1993 to 1998 and approximately 5 percent from 1993 to 2000. Further, for every dollar in COPS hiring grant expenditures per capita there was a reduction of almost 30 index crimes per 100,000 persons.

In a 2007 policy brief from the Brookings Institution, Yale University economist John Donohue and Georgetown University economist Jens Ludwig state that the COPS program contributed to the drop in crime during the 1990s and is one of the most cost-effective options for fighting crime. They estimate that each \$1.4 billion invested in the COPS program is likely to generate a benefit to society from \$6 billion to \$12 billion.

Equally important is the demand we saw for this year's COPS Hiring Recovery Program (CHRP). During the application period, COPS fielded more than 17,000 calls from agencies detailing failing local economies and rising crime rates. For the \$1 billion in funding provided by ARRA to help create or save approximately 5,500 law enforcement positions throughout the country, the COPS Office received requests from more than 7,200 State, local and tribal law enforcement agencies asking for more than \$8.3 billion for nearly 40,000 officers.

The administration and the Department of Justice strongly support providing resources for crime prevention. The Department's Office of Justice Programs (OJP) plays a leading role in exploring new crime prevention strategies, evaluating their effectiveness, developing best practices for crime prevention, and helping State, local, and tribal governments implement innovative, effective crime prevention initiatives. Many of OJP's largest and best-known programs, such as the Edward

Byrne Memorial Justice Assistance Grants, Byrne Competitive Grants, Juvenile Accountability Block Grants, Juvenile Justice Part B Formula Grants, Missing and Exploited Children's program and Title V Community Prevention Grants programs, support prevention programs. In fact, OJP's fiscal year 2010 President's Budget request includes approximately \$1 billion to support crime prevention programs. This includes substantial increases for the Residential Substance Abuse Treatment and Second Chance Act/Prisoner Reentry programs as well as two new prevention-oriented programs, the Problem-Solving Courts and Community-Based Violence Prevention Initiatives. Community-Based Violence Prevention Initiatives, adapted from the best violence reduction research in the public health field over the last several decades, collaborates with community-based organizations and focuses on street-level outreach, conflict mediation, and changing community norms to reduce violence, particularly shootings. The Problem-Solving Courts Initiative builds on the success of OJP's existing Drug Courts and Mentally Ill Offender Act/Mental Health Courts initiative by provide grants, training, and technical assistance to help State, local, and tribal grantees develop and implement problem-solving court strategies.

Question. At a Judiciary Committee hearing in January, police chiefs and policy experts testified that an infusion of Federal money for State and local law enforcement would quickly create jobs, bring money into the economy, and make neighborhoods safe for the businesses and homeowners essential to local economies. Do you agree that Federal support for State and local law enforcement is integral to our economic recovery?

Answer. When President Obama signed the American Recovery and Reinvestment Act (ARRA), I stated that this funding is vital to keeping our communities strong and that as local law enforcement professionals struggle with the current economic crisis, we can't afford to decrease our commitment to fighting crime and keeping our communities safe. The local law enforcement grants awarded under ARRA will help ensure States and localities can make the concerted efforts necessary to protect our most vulnerable communities and populations.

When the administration began discussions about how best to revive the lagging economy, creating jobs was the number one priority and the COPS program, according to former Associate Attorney General John Schmidt who testified at that January hearing, "has obvious value in terms of economic stimulus." The funding awarded under CHRP will go directly to State, local and tribal law enforcement and will both stimulate our economy by creating jobs and keeping our citizens safe.

The American Recovery and Reinvestment Act of 2009 provides more than \$4 billion in assistance for State and local law enforcement in addition to the \$2.9 billion in funding provided for State and local law enforcement in the Appropriations Act of 2009. The fiscal year 2010 President's budget proposal, if enacted as submitted, would provide an additional \$2.6 billion for State and local law enforcement assistance. As part of the fiscal year 2010 budget, the administration is proposing a substantial increase for the Second Chance Act program, which will combat criminal recidivism among offenders released from the Nation's prisons and jails.

INTELLECTUAL PROPERTY ENFORCEMENT

Question. Last Congress, I introduced the Enforcement of Intellectual Property Rights Act, which became law in October. The law authorized more resources for the Computer Crime and Intellectual Property Section and for State and local law enforcement grants. Intellectual property rights promote innovation and creativity, long recognized as major drivers of the United States economy. Protecting intellectual property, in my view, is therefore both a law enforcement objective and an important component of our economy recovery efforts. How would the Department use the resources authorized by Congress last year to improve its effort in combating criminal intellectual property theft?

Answer. The Department is committed to fulfilling the goals of the Prioritizing Resources and Organization for Intellectual Property ("PRO IP") Act of 2008 to strengthen Federal intellectual property enforcement efforts and improve coordination among Federal agencies in meeting our intellectual property protection challenges. The PRO IP Act contains a number of important tools to strengthen the ability of the Federal Government, State and local law enforcement, and intellectual property owners to protect intellectual property. The Department appreciates Congress' decision thus far to fund Section 402(a) of the PRO IP Act authorizing additional FBI Special Agents dedicated to investigating intellectual property offenses. As appropriated, the FBI will be able to deploy 31 such Special Agents around the country. Specifically, the FBI has allocated 26 agents to support many of the Computer Hacking and Intellectual Property Units nationwide as well as assign 3 agents and two supervisors, who will be housed at the IPR Coordination Center, to support

the Computer Crime and Intellectual Property Section (CCIPS) in order to administer a nationwide IP program.

The PRO IP Act, Section 403, also authorizes, but Congress has not yet appropriated, \$10 million for the FBI and \$10 million to the Department for the Criminal Division, respectively, to hire and train law enforcement officers to investigate and assist in the prosecution of IP crime and to procure forensic resources. If the Department received this funding, it would increase the number of Criminal Division attorneys dedicated to IP prosecutions. Specifically, in order to meet the increased demands posed by the PRO IP Act, the Department would increase the number of CCIPS attorneys who are devoted solely to intellectual property enforcement.

FUNDING FOR CLOSURE OF GUANTANAMO BAY

Question. President Obama ordered the closure of the detention facility at Guantanamo Bay and created task forces to determine how best to do so and to move forward with effective national security policies. In order to put this shameful chapter behind us and do the hard work of reinstating our legal process, it will take resources. My understanding is that part of the money requested will go toward the task forces which are responsible for coming up with these solutions. Recognizing that you do not yet have all the final answers on how to solve the difficult problem you were left with by the last administration, can you tell us why you believe that \$30 million sum is necessary?

Answer. On January 22, President Obama issued three executive orders and a presidential memorandum that gave significant responsibility to the department. These orders require immediate interagency action on several fronts: a comprehensive review and determination of the appropriate disposition with regard to each detainee currently held at Guantanamo Bay; the development of policies regarding the detention of individuals apprehended in connection with armed conflicts and terrorist activities; and, an evaluation of interrogation and transfer practices.

With regard to the Guantanamo Review Task Force, that Task Force is making individualized determinations on the detainees in order to facilitate the closure of Guantanamo per the President's Executive Order by January of 2010. The other two task forces are required to produce reports containing their recommendations in July 2009. There are now more than 80 attorneys, including several dozen detailed to Washington from our field offices, who are involved in this effort. We have also detailed paralegals with classified clearances that are involved in the effort.

The Department requested \$30 million in the 2009 war supplemental for the task forces. These task forces are tasked with work that has extraordinary consequences for the country, and we took significant steps to stand up structures utilizing dozens of attorneys and subject matter experts from around the country in order to facilitate their work. Much of this work cannot be done in an ordinary work environment. To give you a sense of the effort involved, we have:

- Established the Task Force reviewing and making disposition determinations regarding the detainees at Guantanamo at an offsite facility that enables the task force members to work at the Top Secret/SCI level; they are reviewing tens of thousands of pages of classified documents. Our costs for this effort cover the agents, analysts and attorneys to perform those legal reviews.
- This work must be done in a classified, secure environment, using secure networks, classified-capable computers, scanning devices, phones, and copiers. We had to ensure we had secure electronic document handling capabilities. We are carrying the costs for this secure office space, for the Top Secret/SCI clearances required for our detailees, and for outfitting these Task Forces with the secure equipment required for their work.
- Finally, we have entered into Automated Litigation Support arrangements to facilitate the massive document review effort, and also to ensure that the records of this effort are maintained properly and securely.

The costs for classified reviews of this magnitude are tangible. We greatly appreciate the support the Committee can give the Department in this extraordinary effort.

NEW FOIA GUIDELINES AND RESOURCES

Question. During my 30-plus years in the Senate, I have always believed that the Freedom of Information Act (FOIA) is a critical mechanism to ensure that our tradition of open government is preserved for future generations. I was pleased that, as one of his first official acts, President Obama issued a directive to strengthen FOIA and that you recently issued new FOIA guidelines that restore the presumption of openness for government information. I commend these important steps to restore confidence in our government and I believe that they will help reverse the troubling

trend of excessive government secrecy that we witnessed during the last administration. Does the Department have sufficient resources, staffing and funding to fully implement your new FOIA guidelines?

Answer. Yes, we believe that the Department has sufficient resources to fully implement my new FOIA guidelines. The Office of Information Policy operates on a fully reimbursable basis to promote effective FOIA operations across the Executive Branch. We will of course monitor this situation and work with the Congress if we conclude that existing resources are insufficient.

Question. If not, what can Congress do to help ensure that the laudable goals of the President's FOIA directive and your new FOIA guidelines become a reality?

Answer. As stated in the previous response, we believe the Department has sufficient resources to implement our new FOIA Guidelines at the present time.

PATRIOT ACT REAUTHORIZATION UNANSWERED LETTER ASKING FOR PROPOSALS

Question. Key parts of the Patriot Act allowing the government to undertake certain intelligence gathering and surveillance activities are set to "sunset" this year. The Judiciary Committee is currently reviewing whether and how to extend these authorities so that we can ensure that the intelligence community has the tools it need to keep the Nation safe without unduly infringing on the personal freedoms of Americans. I wrote to you 2 months ago asking you to provide the Department's legislative proposals for extending or modifying these Patriot Act authorities by March 31. I still await an answer to that letter. As you know, legislation on these matters requires careful attention and sufficient time for consideration without the undue pressure provided by pending deadlines. When can we expect the Department's proposals for reauthorization of the Patriot Act?

Answer. We have received your letter and are working with the administration with the administration to get our views transmitted as quickly as possible.

OFFICE OF LEGAL COUNSEL—OPR REPORT AND JOHNSEN NOMINATION

Question. There has been a lot of speculation and even reporting about the long awaited Office of Professional Responsibility (OPR) report on the legal advice provided by Office of Legal Counsel attorneys who drafted the controversial memos giving legal cover for the brutal treatment of detainees. I fear there is significant misunderstanding of the jurisdiction of OPR and the scope of that report. Can you clarify what issue the OPR report is considering and whether it had access to on the record interviews with former Vice President Cheney and his staff and others in the White House or whether OPR's reach was limited in any way from a complete and comprehensive investigation?

Answer. OPR is conducting an investigation into whether legal advice in several Office of Legal Counsel (OLC) memoranda regarding enhanced interrogation techniques was consistent with the standards of professional conduct that apply to Department of Justice attorneys. We cannot comment further on this pending investigation.

QUESTION SUBMITTED BY SENATOR FRANK R. LAUTENBERG

COPS FUNDING

Question. Due to actions of past administrations, the New Jersey cities of Camden and Newark have been banned from receiving Federal funds for the COPS program to hire additional police officers from the Economic Recovery Act. Will you commit to working with me, New Jersey's State Attorney General and the City of Newark to develop a plan to address the concerns of the Department of Justice, while allowing the cities of Camden and Newark to access COPS funding to hire additional police officers under the Economic Recovery Act?

Answer. The Department of Justice is committed to helping local law enforcement during these difficult economic times; however, we must also remain committed to ensuring that taxpayer dollars are spent wisely and that all instances of waste, fraud or abuse are dealt with appropriately. The Department of Justice Office of Inspector General (OIG) found that Camden and Newark violated the grant terms and conditions associated with their COPS grants. Both cities chose not to repay the amount of the violations, but rather opted to accept the 3-year bar from receiving COPS funds.

The American Recovery and Reinvestment Act (ARRA) of 2009 appropriated \$1 billion for the COPS Hiring Recovery Program (CHRP) to create or save law enforcement positions across the country. The COPS Office received over 7,200 applications from law enforcement agencies across the country under CHRP, with requests total-

ing more than \$8.3 billion. COPS grants are carefully monitored and there are serious consequences from misuse. This is particularly important regarding ARRA funds.

To remedy violations with past grants, both the City of Camden and the City of Newark have been barred from receiving COPS funding until 2010. Both agencies have been in frequent contact with the COPS Office to discuss the options available, including repayment of funds with a combined total of over \$1.2 million, but both declined to choose repayment as a remedy and opted instead for a 3-year bar.

Camden will complete its 3-year bar period on May 30, 2010, and Newark will complete its 3-year bar period on December 6, 2010. The Department looks forward to working with both cities at that time to identify funding opportunities that will be available in the COPS Office future year budgets.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

EXPLOSIVES TRAFFICKING IN MEXICO

Question. The Associated Press reported in April that Mexico has seized more than 2,702 grenades since the start of President Felipe Calderon's term in December 2006, compared to 59 during the first 2 years of the previous administration. There has been much focus of your Department on the trafficking of firearms to Mexico and tracing the origins of firearms recovered at crime scenes, but we have heard little in regard to the serious threat from explosives trafficking. It is only a matter of time before these cartels use these devices on our side of the border. Does DOJ have adequate resources in Mexico to assist the military and law enforcement in identifying recovered explosives?

Answer. The United States Bomb Data Center (USBDC) currently fulfills explosive trace requests in the United States. The USBDC does not currently trace all explosives recovered or seized in Mexico. However, Mexican officials have recognized the value in tracing recovered explosives and have expressed interest in establishing formal protocols for tracing all explosives recovered or seized in Mexico.

The USBDC currently has two employees that focus on explosives traces. The USBDC conducts about 140 traces a year, each of which takes about 3 weeks to complete, due to the extensive research required. An increase in trace demand from Mexico would likely slow down the trace processing timeline. Additionally, there is currently only one ATF special agent with advanced explosives training located in Mexico. At some point, additional resources in Mexico may be required.

Question. Does DOJ have adequate resources at the U.S. Bomb Data Center to trace the enormous increase in grenades recovered in Mexico and analyze the data from these traces?

Answer. Coordination Group for the Control and Arms, Ammunition and Explosives traffic for Mexico's law enforcement intelligence community, (CENAPI GC-Armas), recently reported that Mexico has recovered or seized 3,161 hand grenades since President Calderon took office in December 2006. The 940 grenades have also been turned in, over the same period through the Mexican military's "Change of Arms" program. The program is similar to gun buy-back programs in the United States.

Currently, there are 16 FTEs assigned to the U.S. Bomb Data Center (USBDC), and 2 FTEs are assigned to perform the explosives traces. The Department anticipates that our law enforcement partners in Mexico will continue to recover grenades at the same rate as they have experienced in the last 2 years. Accordingly, the USBDC would need to accommodate an increase of approximately 1,600 grenade traces each year. Even if Mexico submitted requests to trace 10 percent of the aforementioned recoveries/seizures, the workload would more than double at the USBDC, significantly affecting the turnaround time for all traces—domestic and foreign.

Question. Can you provide this committee with statistics on the recovery of grenades in the United States for the same time period for comparison purposes?

Answer. According to the information reported to the U.S. Bomb Data Center (USBDC) by Federal, State and local agencies contributing to the Bomb Arson Tracking System (BATS), there have been 148 hand grenades seized or recovered in the United States since December 1, 2006. Although the Department encourages the reporting of all explosives incidents to the USBDC by Federal, State and local law enforcement agencies, there is no mandate that requires such reporting. Consequently, the Department can not verify that all incidents are reported.

Question. Does DOJ have adequate resources for the investigation of the explosives related incidents involving these criminal organizations along the Southwest Border?

Answer. ATF currently has a limited number of certified explosives specialists (CESs) assigned to Southwest Border States. Although ATF does solely support Southwest Border explosives investigations, the CESs in this region are their field divisions' primary resources for all explosives investigations. From the regulatory aspect, ATF's Industry Operations Investigators (IOIs) are required to perform explosives applications inspections and to inspect every explosives licensee/permittee at least once every 3 years in order to comply with the Safe Explosives Act. ATF currently has approximately 632 IOIs in the field, and their workload includes the performance of application and/or compliance inspections for approximately 107,000 Federal firearms licensees and 13,000 Federal explosives licensees.

Question. Does DOJ have adequate resources for the follow-up investigation of explosives traces conducted by the Bomb Data Center?

Answer. The President's budget request for fiscal year 2010 includes 35 additional ATF agents, stationed along the Southwest Border. These agents will be able to assist in follow-up investigations of explosives traces conducted by the Bomb Data Center. It is possible that additional investigative resources may be required to follow up on explosives traces.

EXPLOSIVES/GRENADE TRACING RESOURCES IN MEXICO

Question. On October 11, 2008, the United States Consulate in Monterrey, Nuevo Leon, Mexico was attacked with assailants using small arms fire and a fragmentation grenade. On January 6, 2009, a television station located in the same Mexican city was attacked by individuals who fired shots at the building and threw a hand grenade over the perimeter wall. In light of these attacks and the increase in grenade recoveries, I would presume the Mexican government is requesting U.S. assistance in explosives related training. What efforts have you taken to provide explosives training to Mexican military and law enforcement authorities?

Answer. Following grenade attacks in Mexico, Mexico's intelligence agency, the Center for Research and National Security (CISEN), was tasked by President Calderon to develop a cadre of agents that are familiar with explosives and explosives investigations. In November 2008 the Department provided explosives identification training in Tucson, Arizona to 15 CISEN agents.

CISEN and other Mexican law-enforcement and security agencies have asked for additional training, particularly in the area of post-blast investigation. While the Department has not provided additional training since November 2008, it is ready to continue working with the Department of State to identify training opportunities for Mexican law enforcement personnel.

Question. Can you provide this committee with planned training activities for next fiscal year and where these activities will take place?

Answer. The majority of explosives related training is provided to Federal, State, and local agencies. The Department plans to deliver a wide variety of explosives training courses in fiscal year 2010. No specific programs for Mexico have been planned yet, but the Department will work with the Department of State to identify any opportunities for such programs. Should such programs be initiated, training could be provided at either the National Center for Explosives Training and Research at Huntsville, Alabama, or elsewhere in the United States or Mexico.

Question. Is this training sufficient to meet the demand from the Mexican government?

Answer. The Department of Justice is working with the State Department to identify training opportunities and programs for Mexican law enforcement.

ATF CANINE TRAINING

Question. How many DOJ certified explosives detection canines are there currently in Mexico? Has the Mexican government requested additional explosives detection canines from DOJ?

Answer. There are currently 9 DOJ certified explosives detection canines in Mexico. The Mexican government, through the office of the ATF Assistant Country Attaché, has requested that a total of 80 explosives detection canines be trained and in place by fiscal year 2013.

Question. What is the current capacity at the DOJ canine training facility to train United States and foreign explosives detection canines?

Answer. The capacity at the ATF National Canine Training and Operations Center (NCTOC) allows for the training of approximately 48 new explosives detection canines each year.

Question. Is this capacity adequate to meet the demand for canines? If not, can you provide the committee with the amount of resources and space needed to address any backlog of canine training?

Answer. The demand for DOJ-certified canines is extensive and as a result, DOJ is experiencing backlogs at the ATF National Canine Training and Operations Center. The current backlog for explosives detection canines is 1–2 years and the wait for accelerant detection canines exceeds 2 years. In addition to training new canines, ATF also provides recertification and advanced training in support of approximately 3,000 explosives and accelerant detection canine teams currently in service with law enforcement agencies in the United States.

SUPPLEMENTAL FUNDING—GUANTANAMO BAY

Question. The 2009 supplemental funding request includes \$30 million for the Justice Department to review the status detainees still held at Guantanamo to determine if they need to be tried or released. How will the Department spend this \$30 million?

Answer. On January 22, President Obama issued three executive orders and a presidential memorandum that gave significant responsibility to the department. These orders require immediate interagency action on several fronts: a comprehensive review and determination of the appropriate disposition with regard to each detainee currently held at Guantanamo Bay; the development of policies regarding the detention of individuals apprehended in connection with armed conflicts and terrorist activities; and, an evaluation of interrogation and transfer practices.

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- Established the Task Force reviewing and making disposition determinations regarding the detainees at Guantanamo at an offsite facility that enables the task force members to work at the Top Secret/SCI level; they are reviewing tens of thousands of pages of classified documents. Our costs for this effort cover the agents, analysts and attorneys to perform those legal reviews.
- This work must be done in a classified, secure environment, using secure networks, classified-capable computers, scanning devices, phones, and copiers. We had to ensure we had secure electronic document handling capabilities. We are carrying the costs for this secure office space, for the Top Secret/SCI clearances required for our detailees, and for outfitting these Task Forces with the secure equipment required for their work.
- Finally, we have entered into Automated Litigation Support arrangements to facilitate the massive document review effort, and also to ensure that the records of this effort are maintained properly and securely.

The costs for classified reviews of this magnitude are tangible. We greatly appreciate the support the Committee can give the Department in this extraordinary effort.

Question. Could this be just the beginning of what some estimate to be a \$1 billion cost to the Department?

Answer. Beyond the fiscal year 2009 supplemental request, the Department has included \$60 million in the 2010 budget for matters relating to Guantanamo detainees, including:

- Secure detention housing, including hardening facilities during trial (USMS and BOP costs) and U.S. Marshals Service security command posts;
- Secure air transport, specialized local transportation provided by USMS, armored vehicles with secure communications equipment, hardened cell blocks and sally ports, and overall hardening of our courthouses;
- Communication costs;
- Linguists to communicate/facilitate instructions during trial;
- Electronic surveillance equipment (USMS protective intelligence installs counter-surveillance devices to protect the Federal judiciary);
- Litigation costs (U.S. Attorneys, NSD, and CRM); and
- Other costs such as specialized training and fees and expenses of witnesses who testify.

Question. Can you give us some indication about the amount of taxpayer funds estimated to be needed to transport, imprison and prosecute these detainees over the next 5 years?

Answer. Currently our planning estimates of costs do not extend beyond the first year. The \$60 million first-year estimate we have developed assumes that some trial or pre-trial preparations and custody will be in process. The estimate includes: secure detention housing, secure detainee transportation, court security, communication costs, litigation costs, and other expenses.

Question. Will you reimburse the State and local governments for their increased law enforcement costs related to the movement, incarceration and prosecution of these terrorists?

Answer. Currently our planning estimates of costs do not assume reimbursements for State and local governments.

Question. Will the administration send up another supplemental in the near future to cover these costs to the Department?

Answer. As stated previously, our current cost estimates of \$30 million for fiscal year 2009 and \$60 million for fiscal year 2010 represent our best estimate at this time of the total costs for these task forces. We do not plan to seek additional supplemental funds for these reviews.

DOJ LEGAL AUTHORITY

Question. General Holder, my colleague from Alabama, Senator Sessions, wrote to you over a month ago asking whether the Federal Government has the current legal authority to admit into the United States any prisoner held at the military detention facility at Guantanamo Bay who participated in terrorist related activities or training. Does the Government have the authority to admit these terrorists into the United States? When can we expect a written answer to my colleague's letter?

Answer. On June 16, 2009 we responded to the letters from Senator Sessions. However, as I testified before the subcommittee with regard to the release decisions we will make, we will look at these cases on an individualized basis and make determinations as to where they can appropriately be placed within the spirit and letter of the law.

INFLUENZA

Question. Currently the Department has thousands of agents working in Mexico and along the southern border. Given the recent widespread outbreak of H1N1 influenza can you tell us specifically what the Department has done to ensure the safety and health of its agents?

Answer. The health and safety of the Department's employees is of utmost importance to me. DOJ has been monitoring the spread of H1N1 since the start of the outbreak and has undertaken outreach to ensure that employees are aware of symptoms of H1N1, preventative measures to guard against infection, and HR flexibilities, such as teleworking and alternative work schedules. Following are some of the actions taken by DOJ law enforcement entities to ensure the safety of their employees.

- The FBI purchased protective equipment, including surgical masks, hand sanitizer solutions, and workspace disinfectant for wide availability, including for those employees on the southern border, and obtained N95 respirators for select employees whose duties are most likely to bring them into close contact with members of the public suffering from upper respiratory infections.
- The USMS Prisoner Operations Division issued guidance to advise personnel to be vigilant in detecting symptoms in prisoners in USMS custody.
- ATF issued a broadcast to employees that provided a link to Pandemic Flu Awareness training.
- In conjunction with DHS, the Department issued a "dual seal" document that provides instruction to law enforcement and security personnel on how to prepare for and handle those they encounter who exhibit H1N1 flu symptoms.

EXPIRING PROVISIONS OF THE ADAM WALSH ACT

Question. There are a number of Adam Walsh provisions expiring in fiscal year 2009. Has the Department contemplated a legislative plan regarding the expiring provisions of the Adam Walsh Act?

Answer. The Adam Walsh Act is a significant and landmark piece of legislation. We believe any expiring provisions which serve to protect the public welfare and the safety of children should be extended. The Department is currently reviewing the provisions of the Adam Walsh Child Protection and Safety Act (the Adam Walsh

Act) that are set to expire in fiscal year 2009, and looks forward to working with Congress to discuss these expiring provisions.

There are two “Authorization of Appropriations” provisions of the Sex Offender Registration and Notification Act (SORNA) (Title I of the Adam Walsh Act) with terms from 2007 to 2009. Section 126(d) of SORNA (42 U.S.C. §16926(d)) authorizes “such sums as may be necessary” to the Sex Offender Management Assistance program authorized by section 126(a) of SORNA (42 U.S.C. §16926(a)). Section 142(b) of SORNA provides for “such sums as may be necessary” to utilize Federal law enforcement resources to assist local jurisdictions in locating and apprehending sex offenders who violate their registration requirements. No other portion of SORNA is “expiring” in fiscal year 2009.

On May 26, 2009, pursuant to his statutory authority under 42 U.S.C. 16924(b) to grant “two one-year extensions of the deadline,” the Attorney General extended the deadline for these expiring provisions to July 27, 2010. States now have until that date to come into compliance with the requirements of SORNA.

Question. Does the Department support reauthorization of these provisions designed to protect children from pedophiles and sexual predators?

Answer. The Department is committed to protecting the Nation’s children from pedophiles and sexual predators, and fully supports the programs outlined in the Adam Walsh Child Protection and Safety Act. We look forward to working with Congress to discuss reauthorization of expiring provisions in the Act.

Question. What changes if any will DOJ propose?

Answer. The Department of Justice is reviewing the Adam Walsh Act and looks forward to working with Congress to determine any changes that need to be made.

Question. Does the Department support the requirement that sexual predators must register with local authorities?

Answer. The Department of Justice believes that requiring registration with local authorities will aid law enforcement in ensuring compliance with both State and Federal laws. Since the launch of the Dru National Sex Offender Public Website in 2005, millions of parents, employers, and other concerned residents have utilized the Website as a safety resource, identifying location information on sex offenders residing, working, and going to school not only in their own neighborhoods but in other nearby States and communities as well.

NIBIN—BALLISTICS

Question. Are there any official MOU’s or policies in place requiring the use of NIBIN by DHS law enforcement? If not, why not? If so, please provide a copy for the record.

Answer. An MOU does not currently exist between the Department of Justice and Homeland Security requiring the use of NIBIN by DHS law enforcement. We are looking at how to best facilitate DHS’ use of NIBIN, including outlining a process for entering information into NIBIN.

Question. What is the extent of DHS’s coordination with ATF’s Project Gunrunner?

Answer. Project Gunrunner is an anti-firearms trafficking operation to stem the flow of illegal firearms purchased in the United States into Mexico. As Project Gunrunner is focused on the border, ATF coordinates extensively with DHS’s Custom and Border Protection and Immigration and Customs Enforcement.

Question. What specific initiatives does DOJ have in place to ensure that all firearms seized by Customs and Border Protection and Immigration and Customs Enforcement are being processed thru the ATF’s NIBIN and the ballistics databases?

Answer. The Department is looking at how best to facilitate DHS’s use of NIBIN, including outlining a process for entering information into NIBIN.

Question. How are the data from etrace and NIBIN being integrated and mapped along with other relevant crime data from the border?

Answer. The El Paso Intelligence Center (EPIC), which is an intelligence sharing organization focusing on the Southwest Border, houses employees from 22 Federal, State, and local agencies, including ATF. By participating in EPIC, ATF is able to integrate the data available from NIBIN with other crime data from the border. In addition, ATF’s Violent Crime and Analysis Branch analyzes data derived from traces to develop a comprehensive enforcement strategy by mapping the trace data to specific geographic areas. This information is used to form an integrated intelligence-driven policing strategy.

Question. Are all guns seized by the Mexican authorities being processed by the ATF?

Answer. The Department is only aware of the weapons that the Mexican authorities have submitted to ATF for tracing and processing. The Department has no way

to ascertain whether the weapons sent to ATF encompass the entire universe of weapons seized by Mexican authorities. Mexican authorities possess the Integrated Ballistic Imaging System (IBIS) technology allowing them to process firearms in their possession. ATF recently received \$3.2 million to update its IBIS equipment to allow ATF's technology to interact with Mexico's ballistics equipment.

BORDER CZAR

Question. The administration recently announced the creation of a Border Czar. What is the Border Czar role and what actual assets will they control?

Answer. I believe that the new "border czar," Alan Bersin, will help bring a more comprehensive view of border security to the government. Alan brings years of vital experience working with local, State and international partners to help meet the challenges we face at our borders. As a former U.S. Attorney, Alan knows the Department of Justice and the entire justice system. I understand that his responsibilities at the Department of Homeland Security (DHS) will include improving relationships with the DHS's partners in the international community, as well as those at the State and local level including elected officials, law enforcement, community organizations and religious leaders. The DHS will determine the specifics of this position, including the actual assets (if any) that the Border Czar will control.

Question. Can they direct any DOJ resources?

Answer. Secretary Napolitano and I are both personally committed to a strong partnership between the Departments of Justice and Homeland Security. We understand that need for close collaboration and seamless cooperation between our Departments. While our specific strategic and operational protocols with the Border Czar have not been finalized, we don't expect new Border Czar to direct the allocation of DOJ resources.

Question. Do you have to coordinate with the Czar on investigations or allocating DOJ resources on or near the border?

Answer. As discussed above, Secretary Napolitano and I are both personally committed to a strong partnership between the Departments of Justice and Homeland Security. We understand that need for close collaboration and seamless cooperation between our Departments. Our respective departments routinely work together effectively in areas of joint concern, but given the importance of cooperation and coordination between our departments, there is always room for improvement. To that end, one of my first actions after becoming Attorney General was to meet with Secretary Napolitano and discuss how we might improve cooperation and coordination between our departments, and together we have established a high-level working group of agency senior staff to address these issues. Moreover, we continue to meet regularly to confer on operational and budget issues, as does our senior staff. We are confident that we can work together to further improve coordination between our departments.

In point of fact, DOJ and DHS law enforcement agencies have worked successfully together for decades on investigations and prosecutions involving drug trafficking, money laundering, firearms trafficking, and border violence issues. ICE's predecessor U.S. Customs (formerly in the Treasury Department) and the U.S. Coast Guard (formerly in the Department of Transportation) have both been members of the Organized Crime Drug Enforcement Task Forces (OCDETF) since OCDETF's inception in 1982, along with the Treasury Department's IRS-Criminal Investigations Division, and DOJ's DEA, FBI, ATF, USMS, and prosecutors in the 94 U.S. Attorney's Offices and Criminal Division.

Every day agents in these OCDETF task forces across the country and along the Southwest Border continue to work together to disrupt and dismantle the most significant drug trafficking and money laundering cartels that operate along the Southwest Border and elsewhere. In fact, ICE participates in approximately 44 percent of all currently active OCDETF cases. CE and USCG are particularly valuable members of OCDETF Co-located Strike Forces, including the Panama Express Strike Force, which have so far interdicted more than 850 tons of cocaine in the maritime transit zones between the sources in Colombia, the transporters in Mexico, and the end users in the United States. DOJ will continue to emphasize planning, coordination, and this type of multi-agency approach to ensure the most effective working relationships that will minimize jurisdictional conflicts.

Question. Does the Border Czar have any operational control of any law enforcement function?

Answer. The Deputy Attorney General directs the overall Departmental strategy against the Mexican cartels. In addition, the Assistant Attorney General for the Criminal Division will be coordinating extensively with Alan Bersin in his role as

DHS Assistant Secretary for International Affairs and Special Representative for Border Affairs.

GAO STUDY

Question. Why is ICE not participating nor contributing to these multi-agency efforts?

Answer. DOJ and DHS law enforcement agencies have worked successfully together for decades on investigations and prosecutions involving drug trafficking, money laundering, firearms trafficking, and border violence issues. ICE's predecessor U.S. Customs (formerly in the Treasury Department) and the U.S. Coast Guard (formerly in the Department of Transportation) have both been members of the Organized Crime Drug Enforcement Task Forces (OCDETF) since OCDETF's inception in 1982, along with the Treasury Department's IRS-Criminal Investigations Division, and DOJ's DEA, FBI, ATF, USMS, and prosecutors in the 94 U.S. Attorney's Offices and Criminal Division.

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Question. Are there any other agencies that refuse to participate?

Answer. The Department is not aware of other agencies refusing to participate.

Question. What is the impact on drug investigations as a result of ICE refusing to participate with the rest of the interagency community?

Answer. Secretary Napolitano and I are both personally committed to a strong partnership between the Departments of Justice and Homeland Security. We understand that need for close collaboration and seamless cooperation between our Departments. Our respective departments routinely work together effectively in areas of joint concern, but given the importance of cooperation and coordination between our departments, there is always room for improvement. To that end, one of my first actions after becoming Attorney General was to meet with Secretary Napolitano and discuss how we might improve cooperation and coordination between our departments, and together we have established a high-level working group of agency senior staff to address these issues. On June 18, 2009, DEA and ICE signed a new Memorandum of Understanding (MOU) that updates the previous MOU from 1994. As part of the recently signed agreement, ICE agrees to fully participate at OFC and SOD, both in terms of staffing and information sharing, and to provide seizure data to EPIC, which will greatly enhance the sharing of intelligence with the rest of interagency community.

SECOND CHANCE ACT

Question. General Holder the Second Chance Act provides job training for convicted felons. Can you tell us how much is in your request for assisting felons rehabilitating them and assisting them in finding employment?

Answer. For fiscal year 2010, the administration is requesting \$13.8 million for the Bureau of Prisons (BOP) to implement a comprehensive reentry strategy called the Inmate Skills Development (ISD) initiative that has been developed on a competency-based model that measures success by skill acquisition. The process includes an assessment of an inmate's strengths and skill deficits upon admission, the development of an individualized plan to address skill deficits, and the monitoring of skill enhancements throughout incarceration. This framework is predicated on beginning the preparation of an inmate's release to the community when he or she first comes into the BOP and on a consistent basis throughout their incarceration, as well as developing partnerships and resources to assist in a successful transition to the community.

Of the \$100 million requested for the Office of Justice Programs (OJP), much of the funding will go directly to grant funds for States, localities and tribes, and each of these entities will submit applications for funding that will address a variety of reentry related initiatives. These initiatives may focus on substance abuse treatment, mental health treatment, cognitive skill development and motivational inter-

viewing, as well as housing or employment. There are many components of successful and evidenced based reentry efforts, and thus we assume the majority of applicants will put forth applications that comprise one or more components to improve an offender's life, one that leads to positive behavior and contributions to the community in which the offender resides. We also plan to use a portion of the funds for research to improve the knowledge base of effective reentry strategies.

Question. Given that the Department is working to ensure that this program is a success how many of the felons who in the process of being rehabilitated will be working at the Department?

Answer. Funding and implementation of offender reentry programs that reduce recidivism and enhance public safety is an important priority for the Department of Justice. The Office of Justice Programs plans to coordinate extensively with the Department of Labor's Employment and Training Administration and other agencies in administering the programs authorized by the Second Chance Act including developing a program that will allow for the hiring of offenders who are involved in rehabilitative efforts in some of our community based programs.

Question. If the Department has no initiative could you report back to the committee in 30 days on a suggested pilot program we could set up at DOJ headquarters?

Answer. Certainly, the Department can follow-up with the Committee regarding the development of such a program.

INTELLECTUAL PROPERTY

Question. Provide an update on the execution of this funding and outline what efforts the Department intends to take in the future to ensure that intellectual property crimes are vigorously investigated and prosecuted?

Answer. The Department takes intellectual property crimes very seriously and I am grateful for the resources provided in the fiscal year 2009 Appropriation for 46 positions (31 Special Agents and 15 Professional Staff) to support the FBI's investigations of Intellectual Property crimes. Of these positions, five Special Agents will be assigned to the Intellectual Property Rights Unit, within the Cyber Criminal Section at the FBI Headquarters. The remaining 26 Special Agents will work in coordination with the Department of Justice Computer Hacking and Intellectual Property Units in the following FBI Field Offices: Los Angeles, San Francisco, San Diego, Washington, DC, Seattle, San Antonio, Pittsburgh, Philadelphia, New York, Newark, Miami, Memphis, Kansas City, Detroit, Denver, Dallas, Chicago, Boston, Baltimore, and Atlanta. I will continue to work with the administration and Congress on resource requirements to address this issue.

SECOND CHANCE DUPLICATION

Question. The Office of Justice Programs (OJP) currently administers more than 82 grant programs. The sponsors of the Second Chance act did a poor job of examining the existing programs at OJP, and opted for more bureaucracy and a press release. Instead of utilizing existing Byrne Grants, R-SAT, re-entry and other programs at OJP, a new battery of programs was created. It seems as though a new grant program is created every day. What is the Department doing to examine the duplication of existing programs?

Answer. The Department is aware that some programs can be duplicative of past or existing reentry initiatives; however, the Department, through the Office of Justice Programs (OJP), makes every effort to avoid duplicative efforts by developing solicitations and other funding opportunities, where permissible within the legislation, that stress creation and implementation of new, innovative, and evidenced based initiatives that have not been initiated through previous funding opportunities.

Question. What is the Department doing to find out what does and doesn't work?

Answer. It is critical that the Department support new and innovative approaches to addressing crime that are supported by evidence-based practices. At OJP we are following through on this commitment by working to re-establish the connection between research and practice, and giving the field the latest information about what works in the field of criminal and juvenile justice. This effort is one of our top priorities, and is helping to restore the integrity of science at the Department of Justice.

We also believe research should be integrated into, not separate from, our programmatic activities. OJP has started a series of internal working groups to figure out how we can share information with the field about evidence-based approaches to fighting crime. In many cases, the knowledge is already out there in the field and it is our job to facilitate the horizontal transfer of that information and advance programs and practices that are supported by evidence of effectiveness. Through these

working groups, we are coming up with a strategy for strengthening the evidence-based nature of our programs and working to build a more solid research foundation for the work that we do.

In addition, meetings and monitoring visits are held with the grantees to ensure that they are providing effective and efficient programs through the various funding opportunities. OJP has emphasized that the Bureau of Justice Assistance and the National Institute of Justice (NIJ) collaborate on the evaluation of new programs and initiatives. There is also an emphasis on creating meaningful and productive performance measures for recipients of funding.

DEA TITLE 21 AUTHORITY

Question. What is your position on ICE receiving independent Title 21 authority to investigate drug crimes, as opposed to the current practice of ICE relying on cross-designation by DEA?

Answer. On June 18, 2009, DEA and ICE signed a new Memorandum of Understanding (MOU) that updates the previous MOU from 1994. The new MOU continues the use of cross-designation of ICE agents, but removes any cap imposed upon the number of ICE agents that can receive cross-designation. Both Secretary Napolitano and I agree that this MOU is the most efficient and effective means to coordinate and deconflict drug enforcement investigations.

Question. Would independent Title 21 authority for ICE cause any problems?

Answer. Under the newly signed MOU, ICE will not require independent authority to conduct Title 21 drug investigations because ICE agents will be cross-designated with Title 21 authority, with no limitation on the number of ICE agents that may be cross-designated.

Question. General Holder, will the new leadership for both ICE and DEA be able to resolve this or will it require a legislative fix?

Answer. The recently signed MOU is the most efficient and effective way to address cross-designation concerns and to promote additional coordination. Because the issues between DEA and ICE have been resolved with this MOU, no legislative fix is required.

Question. If the administration's new leadership can fix this what is your plan?

Answer. I believe that with the signing of the MOU between ICE and DEA that any such issues related to cross-designation and coordination are resolved.

Question. If ICE wants Title 21 to work narcotic cases why has ICE refused to participate at the OCDETF Fusion Center and EPIC? Why don't they play a larger role at SOD?

Answer. Under the recently signed MOU between DEA and ICE, ICE commits to full participation, information sharing, and staffing at the OCDETF Fusion Center and SOD, and will provide seizure data to EPIC.

Question. What intelligence do the two agencies share and how?

Answer. DEA participates in a number of task forces and special initiatives with DHS agencies, including ICE, such as OCDETF, HIDTA, the CBP/DEA Ports Project, Border Enforcement Security Task Forces, and the Tunnel Task Force. These initiatives increase the flow of information between participating agencies regarding violent criminal organizations and gangs operating on both sides of the border.

The information sharing and de-confliction processes and protocols established in the El Paso Intelligence Center (EPIC), the OCDETF Fusion Center (OFC), and the Special Operations Division (SOD) have proven to be effective systems for multi-agency law enforcement intelligence sharing. With the recently signed MOU between DEA and ICE, ICE agrees to fully participate at OFC and SOD, both in terms of staffing and information sharing, and to provide seizure data to EPIC, which will greatly enhance the sharing of intelligence between DEA and ICE.

Question. What is DEA's plan to resolve the issue?

Answer. ICE commits to full participation, information sharing, and staffing at OFC and SOD and to provide seizure data to EPIC in the recently signed MOU.

LAW ENFORCEMENT WIRELESS COMMUNICATIONS

Question. President Obama recently announced his administration's comprehensive response to increased violence against Mexico fight against the drug cartels. How effective are the tactical radio communications between DOJ agents and other Federal agents such as Customs and Border Patrol along the Southwest border and do you need assistance from this subcommittee to fund tactical communications?

Answer. The Department appreciates the support the Congress has shown the program in fiscal year 2009, and is pleased to share our plans for replacing and modernizing our aging radio systems, correcting security deficiencies, and address-

ing mandated technical standards that directly support agents along the border. DOJ's tactical radio systems should be updated where appropriate with systems which are more modern, more reliable and more secure. DOJ is working with other Federal law enforcement components to increase the effectiveness of tactical communications.

Due to budgetary constraints, the typical "technical refresh" investments necessary to maintain the reliable and secure operations of our radio systems have been postponed and/or delayed for 10–12 years. We have reached a point where certain aspects of our wireless systems are no longer supported by the original equipment vendors. Our largest user—the Drug Enforcement Administration—must often go to extraordinary lengths (Internet/eBay, cannibalization of older units, unreliable third party suppliers, etc.) to source replacement parts.

Question. If this is a priority for DOJ why was LEWC not included in a 2009 supplement?

Answer. We are working with the administration to develop funding strategies for the IWN program. The President's 2010 budget request would increase project funding to \$205 million. These funding levels drastically increase our ability to invest in new wireless technology, reducing the costs for maintaining our legacy systems.

Question. Follow up: The President's supplemental does not contain any funding for tactical communications for Federal law enforcement agents being deployed to the Southwest Border. If we are able to add funds to ensure that DOJ agents have secure digital communications along the SWB how quickly can DOJ respond to provide enhanced operational ability and security?

Answer. The Department is prepared to immediately invest any additional funding to upgrade/modernize our radio systems serving the Southwest border. Such investments would have an immediate and significant impact in addressing the operational failures and security problems we currently face in the Southwest. Upgrade investments would be made in three major areas requiring attention:

- Acquire and distribute new, modern radios (i.e., radio "handsets" used by individuals and mobile radio systems typically installed in vehicles) for our law enforcement personnel along the Southwest border. This investment would immediately address many of the reliability and security problems our users currently encounter and we would expect to realize operational benefits within approximately 90 days of investment.
- Begin to upgrade the system infrastructure that supports our tactical radios. This infrastructure includes telecommunications components, computers and servers, antenna towers, and related hardware. It will take approximately 9 months to acquire, install, test, and transition the major components of this investment. Improvements in overall system performance and coverage would be realized immediately upon infrastructure upgrade.
- Begin to develop and implement interoperability capabilities with other Federal radio systems, including CBP. Such investments would allow our users to more easily communicate with other Federal law enforcement personnel. We believe that interoperable capabilities can be significantly improved within approximately 9 months of investment.

Question. Will the \$350,000,000 provided to DOD for counternarcotics activities be available for DOJ to use to help upgrade its law enforcement wireless communications infrastructure along the Southwest border?

Answer. The Law Enforcement Wireless Communications (LEWC) Program has no insight to the \$350 million being provided to DOD for counternarcotics activities, so we are not familiar with how that money will be used. We assume this money will be obligated in a manner consistent with the scope and mission originally used by DOD to justify the funding—and to our knowledge DOJ's IWN radio system was not included in that justification. No discussions have been held by the LEWC program and DOD regarding the use of this funding.

Question. With regard to your fiscal year 2010 request, it is my understanding that DOJ requested 300 million for LEWC in 2010 and it has been recommended that they receive 205 million.

Answer. With the Committee's support of the IWN program in fiscal year 2009, the Department received a total of \$185 million, which is \$110 million above the fiscal year 2008 enacted level. The fiscal year 2010 request is \$205 million, a \$20 million increase above fiscal year 2009 that, if enacted, will allow for further IWN deployment.

Question. What is the plan, the schedule for completing this project?

Answer. Our current implementation schedule is to design and develop the IWN system over a 6 year period utilizing a series of overlapping implementation phases. The planned 6-year upgrade and replacement of legacy communications systems will include regional design and deployment of modernized tactical communications sys-

tems and services focusing on urban centers. The timeframe for completion is dependent on the availability of funding.

Question. Are their plans for a 2010 supplement request to help accelerate this program?

Answer. At this time there are no plans to request supplemental funds for this program in fiscal year 2010.

FBI—CRIMINAL INVESTIGATIVE ABILITIES

Question. Are you concerned over the apparent deterioration of the FBI's criminal investigative capabilities?

Answer. The FBI has allocated its resources to ensure priorities are addressed in all its programs, including the criminal programs. We have established policies regarding resource allocation, we monitor resource use within each program to ensure that the most serious crime problems are addressed, and we ensure valid reasons exist for the diversion of resources from lower priority programs to higher priorities.

Since the FBI reprioritized its mission following the terrorist attacks of 2001, some of the FBI's criminal program resources were redirected to combat the terrorism-related threats endangering our Nation. To alleviate any corresponding strain on other law enforcement agencies, the FBI has strengthened its focus and commitment to task force operations, which act as force multipliers. For example, the FBI operated approximately 50 Safe Streets Gang Task Forces before 9/11/01 and is currently directing approximately 150 gang task forces across the country, consisting of approximately 650 FBI Special Agents and over 1,000 task force officers from other agencies. The FBI pays the overtime, vehicle, travel, and equipment related expenses for the assigned State and local agents. These task force operations maximize efficiency by promoting intimate collaboration and detailed information sharing between agencies.

Question. Is this an area where we need to invest more agents and analysts?

Answer. The fiscal year 2010 Departmental budget request to Congress includes a \$62.6 million increase and a total of 379 positions (including 54 agents and 165 attorneys) to aggressively pursue mortgage fraud, corporate fraud, and other economic crimes. Included in this total are 143 positions (50 Agents) and \$25.5 million for the FBI to combat the dramatic increase in mortgage fraud. These resources would enhance the FBI's field investigative capability, provide Forensic Accountants to aid in increasingly complex financial investigations and preparation of evidence for prosecution, and increase the number of Mortgage Fraud Task Forces.

FBI FORENSICS

Question. Mr. Attorney General, the National Academy of Science recently issued a draft report of its findings concerning forensic science—a report prepared at the request of Congress. Does the Department agree with the findings and recommendations of the report?

Answer. The Department agrees with many of the recommendations of the National Academy of Science and fully supports initiatives to maximize: the quality and rigor of forensic analyses; the education and training of forensic practitioners; rigorous quality assurance programs to ensure the results and interpretations of forensic analyses, and the conclusions drawn from them, are accurate and within acceptable scientific boundaries; and the proper interpretation and use of forensic analysis results in criminal proceedings.

The Department also agrees that additional research is needed to enhance the existing body of knowledge in the forensic sciences and to improve efficiency and effectiveness in forensic science laboratories through the development of new technologies and tools. For example, we agree that more research is needed in the areas of human observer bias and other sources of human error to minimize the possibility that these errors will affect forensic analysis, the interpretation of forensic results, and the accuracy and quality of courtroom testimony. Specifically, the Department supports: standardizing terminology across the forensic science community (Recommendation 2); more research on the accuracy, reliability, and validity of the forensic sciences (Recommendation 3); more research on human observer bias and sources of human error in the forensic sciences (Recommendation 5); the development of standards, practices, and protocols for use in forensic sciences (Recommendation 6); lab accreditation and practitioner certification (Recommendation 7); stronger quality assurance and control procedures (Recommendation 8); the establishment of a code of conduct, including ethical principles (Recommendation 9); higher education in the forensic sciences (Recommendation 10); the improvement of the medico legal death investigation system (Recommendation 11); Automated Fin-

gerprint Identification System interoperability (Recommendation 12); and the use of forensic science to aid homeland security (Recommendation 13).

The Department believes two of the recommendations need further study: the creation of a National Institute of Forensic Science to oversee the nation's entire forensic science community and the removal of all forensic science labs from the administrative control of law enforcement agencies or prosecutors' offices.

Question. Based on the report, are there areas where you could suggest that the Committee could start to invest funding to address some of the problems identified?

Answer. The Department believes in efforts to further forensic science research and validation efforts and to foster optimal quality assurance practices in all forensic science agencies. Thus, future investments in NAS recommendations 1 through 13 would be a step in the right direction to address some of the issues identified in the study.

Question. Do you agree with the recommendation that forensic laboratories should be independent of police or law enforcement agencies?

Answer. Although the Department supports the location of forensic science practitioners in laboratory settings managed and overseen by scientific personnel, we do not support the removal of public laboratories from the administrative control of law enforcement agencies.

PEER TO PEER CHILD PORNOGRAPHY GROUPS

Question. Attorney General Holder: The internet and innovations in digital technology have in many ways made life easier and made the world a smaller place. Much like any legitimate tool or technology, the criminal element always finds a way to exploit these innovations with their own criminal needs.

Currently on the internet music, books, thoughts and ideas are shared through "peer to peer" networks. These networks allow a computer user to connect with thousands or hundreds of thousands of other computers around the world and share the contents of their collections which are maintained on their own computer hard drives. Like a person in Virginia could share his thoughts or ideas on a particular subject freely with a person in New Mexico. These networks are open and for anyone to participate.

The vile and disgusting culture involved in the production and distribution of child pornography also take advantage of this technology. In these "peer to peer" groups Child pornographers are free to post, share and download horrible images of child rape and exploitation. These "peer to peer" networks are relatively easy to infiltrate by law enforcement and standard Investigative procedures allow for the subpoenaing and identification of the origin and person(s) involved in distributing the child pornography.

The internet crimes against children, ICAC, task forces along with other State and local law enforcement agencies are charged with investigating these offenses. However, because often the person sharing the despicable child pornography is located outside the state of the original investigation great cost, time and effort are needed to have an Investigator travel to a foreign jurisdiction to provide evidence and testimony to obtain a conviction.

These "peer to peer" groups are relatively easy to investigate and these cases are ripe for picking.

Answer. The Department of Justice is deeply committed to the fight against child exploitation, including the production and trade of child pornography. Today's technology knows no borders, so it is the rule, rather than the exception, for an investigation to uncover targets in numerous States and countries. In response to this reality, as part of Project Safe Childhood, the Department's Child Exploitation and Obscenity Section (CEOS) works with law enforcement partners, including the Federal Bureau of Investigation (FBI), Immigration and Customs Enforcement (ICE), and the Postal Inspection Service, to develop national and international operations which generate hundreds or even thousands of leads which are then disseminated to law enforcement agencies and United States Attorney's Offices in the appropriate geographic areas. CEOS also assists in the prosecution of offenders identified through these operations. These large-scale national and transnational operations leverage limited enforcement resources to identify high-value targets and large numbers of offenders.

While peer-to-peer technology certainly can be used for nefarious purposes, it is only one of several methods of trading child pornography on a mass scale over the Internet. Our experience shows that these opportunistic offenders do not limit themselves to any particular technology, so our law enforcement response must be equally broad. For example, a Philadelphia man who had two prior convictions for molesting children was recently convicted in the Eastern District of Pennsylvania of adver-

tising child pornography through an online bulletin board that he created and administered. As another example, fourteen individual defendants were recently convicted in the Northern District of Florida, seven through plea agreements and seven at trial, of engaging in a child exploitation enterprise. The members of the international illegal organization used Internet newsgroups to traffic in illegal images and videos depicting prepubescent children, including toddlers, engaged in various sexual and sadistic acts. The group, which included convicted sex offenders, traded over 400,000 images of children being sexually abused. While we are constantly trying to adapt to technological changes as they come—and they come quickly—we also note that these offenders often use traditional methods of trading these illegal images, such as the mail. For example, an Arizona man who had been identified through an undercover operation recently pled guilty to receiving child pornography he had ordered through the mail.

To be sure, peer-to-peer networks offer a fertile environment for law enforcement action—and the Department for years has successfully targeted offenders using that technological platform. For its part, the FBI developed its first peer-to-peer operation in 2003, and later developed the eP2P tool in response to the use of these networks by child exploiters. FBI and ICE both continue to run operations to dismantle peer-to-peer networks, along with the work done by the Internet Crimes Against Children taskforces (ICACs), which have become very proficient in investigating these types of cases. Federal investigators and State and Local law enforcement agencies who participate on ICAC Task Forces use tools such as eP2P and Operation Fairplay to address peer-to-peer file sharing. In 2008, ICACs investigated almost 13,000 child pornography distribution cases and almost 10,000 child pornography possession complaints. Many of these cases stemmed from peer to peer investigations or from Cyber tips reported to the National Center for Missing and Exploited Children. Federal prosecutions of all child pornography offenders has increased in each of the last 10 years, including over 2,200 indictments filed in fiscal year 2008.

Rather than emphasizing the investigation of one technology over another, the Department of Justice instead employs a comprehensive approach that includes an effort to identify peer-to-peer users, but it is not focused exclusively on it. In responding to the scourge of child exploitation, our goal through the enforcement of Federal laws is not to replicate the efforts of our State and local partners, but to complement it. This involves the identification of new technologies used by offenders, finding solutions to technical hurdles, and otherwise ensuring that we are pursuing the high-value targets wherever they are operating. On the last point, this often means targeting organized international and national networks of offenders.

Operation Joint Hammer, announced by the Department in December of 2008, is one such example. In that case, European law enforcement notified the United States of commercial website run by an Italian that was selling subscriptions to its members that allowed them to access “fresh” images of child pornography. The U.S. received hundreds of leads of persons in the United States who had paid subscriptions to that site. The many leads were divided among the FBI, Postal Inspection Service and ICE, and all three Federal agencies worked in close association with the Department’s Child Exploitation and Obscenity Section to investigate the leads and prosecute the offenders. By the end of 2008, the Operation had resulted in over 60 arrests in the United States. The investigation continues.

COMPUTER DIGITAL FORENSICS

Question. Not since the advent of finger print evidence and later DNA evidence has a field of forensic sciences been so impactful in the area of criminal investigation as that of computer digital forensics.

Every criminal case potentially has digital evidence within it. Drug deals are set up via text messaging. Murder conspirators communicate by way of email messages. Cell phone tracking assists in the location of missing or abducted persons. Massive white collar fraud cases are cracked due to in house email between defendants.

State and local law enforcement around this country are not financially equipped nor trained effectively to investigate and prosecute these cases.

Federal law enforcement agencies.

The United States is in desperate need of training the many areas of cybercrime for State and local law enforcement agents, prosecutors and trial judges who handle over 90 percent of these cases.

Attorney General Holder, in Alabama we have taken a major step forward in this area.

Answer. More and more crimes today involve the use of digital devices, including terrorism, murder, child exploitation, identity theft, and fraud. State and local law

enforcement agencies and courts find themselves challenged to deal with the resulting volume of digital evidence.

The Department's Office of Justice Programs (OJP) is aggressively responding to this challenge, both with regard to providing training and resources and in the development of new and improved digital investigative and forensic tools. OJP's response is being undertaken in partnership with State and local practitioners.

The Bureau of Justice Assistance's (BJA's) Electronic and Cyber Crime Training and Technical Assistance Program is designed to improve the capacity of local criminal justice systems and provide national support for training and technical assistance projects that strategically address electronic and cyber crime needs.

The National Institute of Justice's (NIJ's) Electronic Crime Program is designed to improve the capability of State and local criminal justice agencies to acquire and process digital evidence effectively and efficiently. NIJ's investments in the area of Electronic Crime are advised by a State and local practitioner-based Technology Working Group to ensure it addresses the most pressing needs of the community. Activities sponsored under this program include:

- Development of improved means to conduct digital forensic examinations of mobile devices such as cell phones as well as other digital devices
- Provision of resources to speed the process and efficiency of digital forensic examinations such as National Software Reference Library (NSRL) and the Computer Tool Forensic Testing Program (CFTT)
- Publication of guides such as: "Digital Evidence in the Courtroom: A guide for Law Enforcement and Prosecutors" and "Forensic Examination of Digital Evidence: A guide for Law Enforcement"

OJP remains committed to this effort. In fact, since 2006, BJA and NIJ have provided over \$2 million in grant funding to support the Alabama District Attorney's Association's (ADAA's) efforts to meet the challenge of dealing with digital forensic evidence including the Alabama Computer Forensic Program, which, in partnership with the Department of Homeland Security, United States Secret Service, created NCFI. The support the ADAA provides Alabama criminal justice agencies in this regard goes well beyond training, to include investigative support, prosecutorial support, and computer forensic analysis support. Although their efforts are focused on the needs of the State of Alabama, their model could well inform similar efforts by other States, or compacts among States.

METHAMPHETAMINE

Question. In recent years many States enacted legislation that curtailed the access to ephedrine which is a key or vital component in the manufacture of crystal methamphetamine. This legislation caused a marked decrease in the number of meth lab seizures around the country. An unintended consequence of this legislation led to an increase in the amount of crystal methamphetamine being manufactured and imported from Mexico. These super labs and drug cartels have been responsible for much of the gang and drug violence perpetrated on our border and around our country. However, due to recent changes in the manufacturing process of meth, the amount of domestic laboratory discoveries is sky rocketing. This new method of cooking methamphetamine is commonly referred to as a "one pot" cook or a "shake and bake" cook. Early manufacturing methods required several stages in the manufacturing process. These stages might involve ingredients such as ephedrine, anhydrous ammonia, lithium from lithium batteries, camp fuel, ether, salts, drain cleaner, and other dangerous ingredients or processes. With this new method of a "one pot" cook there are no separate stages in the cooking process. All of the dangerous, volatile ingredients are combined into one container. These containers are like sticks of dynamite, and, once the cook has been completed, the containers are discarded as trash. Recently in my State of Alabama a young child unsuspectingly picked up a soft drink bottle and attempted to consume what she thought was a soft drink. It was in fact ether, acid and the remnants of a "one pot" meth cook. She received life threatening injuries due to this encounter.

State and local law enforcement around the country are seeing greater levels of meth lab seizures than they were prior to the ephedrine legislation that sought to reduce the number of meth labs. In one jurisdiction within my State of Alabama, a local drug unit seized nearly 50 "one pot" meth labs in a single residence. Attorney General Holder, my question to you is: What are you and the Department of Justice doing to assist and train State and local law enforcement and prosecutors to deal with not only the influx of imported meth and its associated violence, but also the dramatic increase in the amount of local methamphetamine manufacturing, distribution and meth lab seizures?

Answer. Drug and lab seizure data has historically suggested that roughly 80 percent of the methamphetamine used in the United States comes from larger labs operated by Mexican organizations that are on both sides of the border, with the remaining 20 percent coming from domestically operated Small Toxic Labs. The Department is working with other Federal, State, and local law enforcement counterparts to address both sources. More specific examples of the work undertaken by DEA and COPS in this area are highlighted below.

- DEA's Mobile Enforcement Teams (METs) prioritize deployments focusing on methamphetamine trafficking, which is often conducted by violent Mexican cartels and gangs. In fiscal year 2009, DEA has 14 METs.
- DEA continues to collaborate with its Mexican counterparts as well as Customs and Border Protection. Projects such as the Long Beach Ports Project, which target suspicious containerized cargo, Operation All Inclusive, and Operation Ice Block, are all designed to stem the flow of precursor chemicals from reaching clandestine methamphetamine laboratories.
- DEA assists State and local law enforcement by providing hazardous waste contractor cleanup services and other assistance funded by the Community Oriented Policing Services (COPS) program. In fiscal year 2008, DEA administered 3,750 State and local clandestine laboratory cleanups. Based on current data, DEA expects to administer 5,600 State and local clandestine laboratory cleanups in fiscal year 2009, a 49 percent increase from the previous fiscal year.
- DEA is working to expand the Hazardous Waste Container Program, which reduces overall cleanup costs. The Container Program allows law enforcement officers to transport properly packaged hazardous waste from clandestine laboratory sites to secure containers until a DEA contractor picks it up within seven days. At the end of fiscal year 2008, Kentucky, Alabama, Indiana, Illinois, Nebraska, and Oklahoma were participating in the program. DEA Clan Lab Coordinators are also working with Mississippi, Tennessee, Ohio, and Michigan on the feasibility of these States joining the program. During fiscal year 2008, the container programs have resulted in cost savings of approximately \$4 million.
- DEA trains Federal, State, local and tribal law enforcement professionals on clandestine lab enforcement operations, including basic certification, officer safety and tactical training. Between fiscal year 2001 and fiscal year 2008, DEA provided clandestine lab training to nearly 9,000 State and local law enforcement officers and plans to train 950 each year in fiscal year 2009 and fiscal year 2010. Funding for these activities is provided by COPS.
- In addition to its support for DEA activities, COPS funding also supports enforcement, training, and prevention nationwide, concentrating in areas having the greatest need for assistance in combating methamphetamine production, distribution, and use. COPS encourages agencies to focus on community policing approaches to methamphetamine reduction, and also works directly with State, local and tribal law enforcement agencies to craft innovative strategies, track and evaluate their implementation, and disseminate results to other jurisdictions confronting similar challenges.

AGENT CERTIFICATIONS

Question. Because of Federal EPA regulations a meth lab cannot be legally seized or disposed of unless the law enforcement agent conducting the seizure has DEA Federal certifications. The waiting list to obtain these certifications and the costs associated are an impediment to many local law enforcement agencies being able to effectively investigate, seize and prosecute these cases. How will you and the Department of Justice see that the training and certification of these State and local law enforcement officers is expedited and made cost effective?

Answer. DEA trains Federal, State, local, and tribal law enforcement professionals on clandestine lab enforcement operations, including basic certification, officer safety, and tactical training. Between fiscal year 2001 and fiscal year 2008, DEA provided clandestine lab training to nearly 9,000 State and local law enforcement officers and plans to train 950 each year in fiscal year 2009 and fiscal year 2010. In December 2008, DEA opened a new clandestine lab training facility at the DEA Academy in Quantico, VA. DEA will use this state-of-the-art facility to train Federal, State, local, and foreign law enforcement officers in meth lab techniques and how to safely enter and dismantle them. DEA's State and local clandestine lab training programs are currently funded with COPS funding provided to DEA for assistance to State and local law enforcement.

TRAINING OF PROSECUTORS

Question. Mr. Attorney General, 95 percent of all criminal cases and 98 percent of all violent crime are prosecuted by our Nation's State and local prosecutors. However, when funding is set aside by the department to train prosecutors, State and local prosecutors often get the short end of the stick. Currently, The Hollings National Advocacy Center in Columbia, South Carolina is a prime example of the disparity between Federal and State and local prosecutors. The Federal training at the NAC has been well funded since its inception, however, the State and local program, conducted in partnership with the National District Attorneys Association, has struggled to provide its much needed programs to the Nation's 39,000 State and local prosecutors due to lack of funding. If we are asking State and local prosecutors to carry the vast majority of the burden of criminal prosecutions, what will the Justice Department do to ensure the guilty are brought to justice and the innocent protected by well-trained prosecutors?

Answer. We value the National District Attorneys Association (NDAA) as a strong partner and have collaborated with NDAA on a number of issues including violent crime, crimes against children, capital litigation improvement, and motor vehicle theft. Beginning in fiscal year 2010, the National District Attorneys Association may apply, and compete, for discretionary grant funding to fund expansion of the current curriculum at the National Advocacy Center to provide more training for State and local prosecutors.

STUDENT LOAN REPAYMENT PROGRAM

Question. State and local prosecutors and public defenders offices struggle with budgets as much, if not more as any governmental agency, these tight budgets make it difficult to compete against private law firms when recruiting and attempting to retain attorneys. Today, over 80 percent of law school graduates enter the workforce with student loans that on average exceed \$50,000. While many young people would truly like to serve their community, the sheer economics of a tremendous level of debt often eliminates that as an option. The Nation has an obligation to ensure the criminal justice system operates at the highest level possible. This is increasingly difficult with understaffed and overworked prosecutors and public defenders offices, which are constantly losing staff to the private sector. In part to address the wage disparity between the public and private sector, Congress passed and the President signed the John R. Justice Prosecutors and Defenders Incentive Act of 2008 in August. The Act authorizes the Justice Department to develop a student loan repayment program that mirrors a program already in place at the department for U.S. Attorney's Offices. What progress has the Department made in putting this program in place?

Answer. The Department understands and appreciates the essential work performed by State and local prosecutors and public defenders in handling the large volume of cases in State court systems in this country. In recognition of that, through the Office of Justice Programs, the Department administers a number of targeted efforts to support the work of these attorneys in areas ranging from gun crime to drug cases, child abuse and neglect, and DNA evidence. In light of many competing priorities, however, the Department did not seek appropriations for student loan repayment under the John R. Justice Prosecutors and Defenders Incentive Act in the fiscal year 2010 budget. Department of Justice leadership met recently, however, with the Executive Director and the President of the National District Attorneys Association and discussed the Act and the needs that led to its passage. With recognition of the important work of State and local prosecutors and public defenders, the Department will continue to consider this matter.

NAS STUDY

Question. The recent NAS study on Forensic Sciences raises a number of concerns for this subcommittee. Probably most importantly is that the NAS failed to follow the legislative language requesting the study. That being said the study is not without value and there are some recommendations in the study that are worth consideration and have the broad support of stakeholders. However, there are two proposals I find particularly troubling: the establishment of an independent forensics agency and the removal of all forensics labs from within law enforcement agencies. These proposals, to me, seem extremely expensive, ill advised, and frankly unworkable. Have you or your staff considered the implications of this recommendation and which agency in your department would be cut to cover the costs?

Answer. The Department welcomes the report of the National Research Council entitled, Strengthening Forensic Science in the United States: A Path Forward. The

report is a helpful addition to the public discourse on the state of the forensic science community, and it recommends many useful steps to strengthen the community and enable it to continue to contribute to an effective criminal justice system. In fact, many of these steps are familiar to those in the forensic science community, including DOJ, and have been discussed among practitioners for some time. In large part, it builds on previous reviews conducted under DOJ's auspices in 1999 and 2004 that similarly identified numerous areas for improvement.

DOJ supports most of the recommendations. Many of them are directed toward state and local forensic entities, which is to be expected as around 98 percent of forensic science is performed outside the Federal Government. However, the Federal Government has a crucial leadership role to play in support of our criminal justice stakeholders and constituents. The Federal Government is already engaged in activities along the lines of many of the recommendations, but the Department recognizes that a significant new effort is required to appropriately address the issues raised by the community and in the report.

There are two recommendations that need further study: the creation of a National Institute of Forensic Sciences (NIFS) "support and oversee the forensic science disciplines" nationwide and the removal of all forensic science labs from administrative control of law enforcement agencies or prosecutors' offices. The report is correct in observing that, currently, the Nation's forensic science community is somewhat fragmented given the sheer number of independent law enforcement agencies, prosecutorial units, and crime laboratories. However, there is important work in progress to unify the community from within, as national organizations such as the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) and the Scientific Working Groups (SWGs) are working to standardize quality control and implement uniform standards. It is not clear that a new organization is necessary to achieve implementation of most of the report's recommendations. In fact, it could detract from this effort by refocusing energies and resources toward bureaucracy-building rather than substantive improvement in the field. A decision to establish a NIFS must be made carefully, and only after a thorough assessment of the strengths and weaknesses of both the concept and its proposed implementation.

Along those lines, DOJ also questions whether full independence of laboratories from law enforcement is advisable or feasible. The report cites an inherent potential for conflict of interest in the operational function of the majority of forensic service providers as they currently exist. The concept of "independence" that the report raises is not new to the law enforcement or forensic science community. In fact, States such as Arizona and Virginia have moved in this direction. However, it should not be surmised that this model can or should be adopted Nation-wide because there is inherent value to a collaborative process among forensic practitioners and law enforcement in determining the best course of action as it relates to the analysis of forensic evidence. To be separated completely from interaction with investigative partners might well cause missteps in decision-making that could result in either loss and/or destruction of evidence, or important analyses left undone. Instead, we agree with language in the report stating that autonomy within law enforcement entities should be the goal. In fact, accredited laboratories have management requirements to ensure independence of their scientific work.

The publication of *Strengthening Forensic Science in the United States: A Path Forward* provides a renewed opportunity for the forensic science community, the Executive Branch, Congress, and the public to focus on ways to improve the use of forensic science. While we have no plans to eliminate any DOJ agency as a result of the recommendations made in the NAS report, we look forward to working with Congress to develop and refine a comprehensive approach to address the serious issues raised by the report.

SUBCOMMITTEE RECESS

Senator MIKULSKI. So we have got a lot to do together, and we want to work with you to recapitalize and rebuild the Department of Justice so we can render justice in our country and have our national honor restored abroad. So we are looking forward to working with you and your very able staff.

This subcommittee stands in recess until Thursday, May 21 at 10 a.m., when we will take testimony from the Acting Administrator from NASA.

The subcommittee is in recess.

[Whereupon, at 11:38 a.m., Thursday, May 7, the subcommittee was recessed, to reconvene at 10 a.m. Thursday, May 21.]