



Office of the Attorney General
Washington, D.C. 20530

February 1, 2013

The Honorable Barbara A. Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, D.C. 20515

Dear Madam Chairwoman:

Thank you for your letter dated January 18, 2013, requesting information about the impact of sequestration on the Department of Justice's ("the Department" or DOJ) operations and employees. As you know, the Administration continues to work with Congress on a balanced deficit reduction plan so that the untenable impacts of across-the-board cuts to our vital programs can be avoided.

A March 1, 2013, sequestration would cut over \$1.6 billion from the Department's current funding level, which would have severe consequences for the administration of justice and serious consequences for our communities across the nation. Combined with the impact sequestration would have on the federal judiciary and the other federal, state and local agencies that are part of the criminal justice system, the reductions to DOJ would delay or deny access to justice for millions of Americans.

As I explain below, sequestration would not be merely a series of abstract cuts to a faceless federal bureaucracy; these would be cuts that impact not just DOJ employees, they would impact our citizens, and our safety, in every city and town in the country.

During the past year, the Department has carefully considered a variety of options to prioritize available resources to minimize the impact sequestration would have on our ability to prevent terrorism, fight violent crime, prosecute financial fraud, protect our most vulnerable citizens, and carry out the entirety of our critical mission. I have directed DOJ officials, when planning for a sequester, to mitigate the effects of sequestration on federal workers as much as possible, given that our employees are our most important asset in achieving our mission. Unfortunately, the Department cannot achieve the cuts required by sequestration without furloughing staff this fiscal year.

We need to issue furlough notices to employees at least 30 days, or in some cases 60 days, before implementing furloughs. We may need to issue some furlough notices in the coming weeks. Since every DOJ component has a different funding profile, the number of furlough days per employee would vary considerably across the Department. Staff-intensive accounts would generally suffer higher furloughs than components with available balances from funds appropriated in prior years or more flexibility in non-personnel budgets. Important law enforcement and litigation programs supported by contract staff would also be disrupted as the Department is forced to curtail contracts to reach sequestration reduction targets, recognizing that some contracts cannot be modified without significant contractual penalties that would cost more than the potential savings.

Due to the cuts required by sequestration, the Department estimates that it would lose the equivalent of more than 1,000 federal agents to combat violent crime, pursue financial crimes, help secure the Southwest Border, and ensure national security, as well as 1,300 correctional officers to maintain the safe and secure confinement of inmates in federal prisons. This would also result in the delay of activating prisons nearing completion, exacerbating the overcrowding of federal prison space. The negative impact on prosecutions and civil cases will be severe, as outlined below. Most importantly, while some of the effects would be felt in Washington, DC, the impact would be most severe at the local level as our field investigative offices, prosecutors, the U.S. Marshals, and the federal courts work to implement these spending reductions in coordination with each other.

The following information illustrates the impact sequestration would have on select DOJ components:

- **Federal Bureau of Investigation (FBI).** The sequestration would cut over \$550 million from the FBI's current budget. To absorb this reduction, the FBI is faced with furloughing all personnel, including agents and intelligence analysts, for up to 14 days, as well as implementing a hiring freeze. This would have the equivalent effect of cutting approximately 2,285 onboard employees, including 775 Special Agents. Sequestration will also require the FBI to eliminate and/or reduce joint task forces and partnerships with other federal, State, and local law enforcement, materially reducing FBI's investigative capacity to address mortgage fraud, cybercrime, human trafficking, terrorism, financial fraud, organized crime, to name just a few of its critical mission areas. The reductions would be the equivalent of shutting down three of the FBI's largest Field Offices – Chicago, Miami, and Baltimore.
- **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).** Sequestration would cut nearly \$60 million from ATF and impact its law enforcement operations and industry oversight capabilities. This would significantly increase risks to public safety and ATF's ability to respond to emerging violent crime threats, in particular, those posed by gun violence. ATF would be forced to reduce criminal investigations, firearms and explosives industry inspections, firearms and explosive applications and permits processing, and firearms tracing. These reductions make no sense considering our

emphasis on fighting gun violence, and they would thwart the President's plan (and the Nation's call) to protect our children and our communities from gun violence.

- **Federal Bureau of Prisons (BOP).** The sequestration would cut \$338 million from BOP's current budget. BOP would face a furlough of nearly 36,700 onboard staff for an average of 12 days, plus curtailment of future hiring, if sequestration occurs. This equates to about a 5 percent reduction in onboard staff levels and would endanger the safety of staff and over 218,000 inmates. As a consequence, BOP would need to implement full or partial lockdowns and significantly reduce inmate reentry and training programs. This would leave inmates idle, increasing the likelihood of inmate misconduct, violence, and other risks to correctional workers and inmates. Further, limiting or eliminating inmate programs such as drug treatment and vocational education would, in fact, lead to higher costs to taxpayers and communities in the long run as the lack of such inmate re-entry training makes it less likely that released inmates will be successful at reintegration into society upon their release.

Further, BOP would slow the ongoing activations of new prisons that have completed construction during the last few years (FCI Berlin, NH, and FCI Aliceville, AL). BOP would not begin the FY 2013 planned activations of FCI Hazelton, WV, or USP Yazoo City, MS. BOP would still incur costs to secure and maintain these prisons, along with the prison in Thomson, IL. These five prisons represent over 8,100 beds that BOP would not be able to utilize fully at a time when our prisons are filled over rated capacity. In addition, the communities surrounding the prisons would not benefit from the significant economic activity that a prison engenders. We estimate that sequestration will mean over 3,800 fewer jobs related to the prison activations that would be foregone (including an estimated 1,500 private sector jobs).

I am acutely concerned about staff and inmate safety should cuts of the sequestration's magnitude hit BOP. To be blunt, sequestration means less money, not fewer inmates. We would still have the same number of inmates – over 218,000 – after sequestration as before. This kind of dangerous situation is exactly why sequestration needs to be avoided and sensible, balanced deficit reductions achieved. While I plan to take every available step within my authority to aid BOP should sequestration happen, these steps cannot mitigate the severity of every cut faced by BOP.

- **U.S. Marshals Service (USMS).** The sequestration would cut nearly \$60 million from the USMS' current budget. USMS is facing the need to furlough its 5,100 employees for up to 13 days (two days per pay period between April 1 and September 30) and implement a hiring freeze. This would result in a reduced capacity to apprehend violent fugitives, investigate sex offenders, protect witnesses and the judiciary, and ensure safe and humane care and transportation of prisoners. Fewer deputy marshals partnered with state and local officers could increase violent crime, gang activity, and the number of violent fugitives. Because deputy marshals cannot forego tasks such as transporting prisoners and guarding cell blocks, the sequestration will reduce the USMS staff assigned

to seek and capture fugitives, such as the Florida sex offender found in Texas on January 22, 2013 (<http://www.usmarshals.gov/news/chron/2013/012313a.htm>).

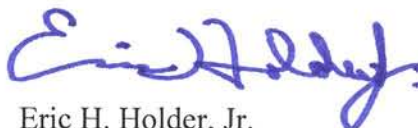
- **U.S. Attorneys (USA).** The sequestration would cut nearly \$100 million from the USA's current budget. Using data on average number of cases handled per attorney in FY 2012, the USAs would handle 2,600 fewer cases in FY 2013 than in FY 2012 – comprised of an estimated 1,600 fewer civil cases and 1,000 fewer criminal cases. Fewer affirmative civil cases and criminal cases will affect our ability to ensure that justice is served: criminals that should be held accountable for their actions will not be held accountable, and violators of our civil laws may go unpunished. In addition, fewer cases will have a significant impact on funds owed to the government. In FY 2012, the efforts of DOJ personnel resulted in total collections of nearly \$14 billion in civil and criminal fines, restitution and other debt. Staffing reductions, which would result in fewer prosecutions, could drastically reduce the USA community's ability to collect billions of dollars owed to the government.
- **Civil Division.** The sequestration would cut over \$14 million from the Civil Division's current budget and result in potential furloughs of up to 7 days of every Division employee. Under sequestration, the Division would be forced to move substantial resources from affirmative to defensive matters to meet court-mandated filings in these cases. Reallocating resources may avoid sanctions or default judgments, but protection of the public fisc would be compromised, and the resulting drop in revenue to the Treasury will exacerbate existing government budget shortfalls. In addition, many civil investigations and prosecutions focus on stopping the sale and use of ineffective medical products or devices. The Civil Division's litigation work protects Americans in every community, whether by ensuring the safety of our food and pharmaceutical products or protecting millions of homeowners from predatory lending practices. The Civil Division also investigates and prosecutes health care providers that defraud the Medicare and Medicaid programs by providing medically unreasonable and unnecessary services that hurt our nation's most vulnerable citizens, and this critical work will be adversely impacted by sequestration.
- **Executive Office for Immigration Review (EOIR).** The sequestration would cut over \$15 million from EOIR's current budget. EOIR would be forced to cease all hiring of key critical positions for EOIR's immigration courts, including Immigration Judges, likely increasing pending caseloads to well over 350,000 (an increase of 6 percent over September 2012 levels). EOIR would also be forced to reduce contracts for critical services, such as interpreters, legal support, and information technology. Sequestration would require the rescheduling of immigration cases for aliens who are not in detention even further into the future (into 2017). It would also result in delays for aliens in immigration detention and individuals seeking asylum protection.

To limit the negative effects of the sequester for some of our components in the short term, the Department plans to leverage its limited reprogramming authority to transfer resources

between activities within an account, as well as transfer authority to move funding from one appropriation to another. More discretionary and flexible programs, such as grants, will likely be required to “donate” via transfer authority to components facing serious life safety or security issues, such as BOP, which faces a shortfall of more than \$200 million even after furloughs of headquarters and regional staff, reductions in non-personnel spending, and the use of available balances from funds appropriated in prior years. The actions to ameliorate the deleterious effects of sequestration in some parts of the Department will have negative consequences on the other “donating” elements of the Department.

Sequestration will not be, as sometimes portrayed, a series of harmless and overdue “cuts in Washington.” Our 115,000 employees work across the nation, in every state, in large cities and small towns alike. Every community will feel the reduction of our law enforcement presence due to sequestration; every community will feel the reduction to its local economy as our furloughed staffs and families are forced to reduce spending that supports local businesses. Sequestration will have profound impacts on our entire system of justice, our employees on a professional and personal level, and on the American people we serve. I urge Congress to work with the Administration to pass a balanced reduction plan so that the negative impacts of sequestration will be avoided.

Sincerely,

A handwritten signature in blue ink, reading "Eric H. Holder, Jr.", written in a cursive style.

Eric H. Holder, Jr.
Attorney General