S. HRG. 106–1049

REPORT OF THE COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

FEBRUARY 3, 2000

Serial No. J–106–63

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

72–524 DTP WASHINGTON : 2001

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: (202) 512–1800 Fax: (202) 512–2250
Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON THE JUDICIARY

ORRIN G. HATCH, Utah, *Chairman*

STROM THURMOND, South Carolina
CHARLES E. GRASSLEY, Iowa
ARLEN SPECTER, Pennsylvania
JON KYL, Arizona
MIKE DEWINE, Ohio
JOHN ASHCROFT, Missouri
SPENCER ABRAHAM, Michigan
JEFF SESSIONS, Alabama
BOB SMITH, New Hampshire

PATRICK J. LEAHY, Vermont
EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, JR., Delaware
HERBERT KOHL, Wisconsin
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin
ROBERT G. TORRICELLI, New Jersey
CHARLES E. SCHUMER, New York

MANUS COONEY, *Chief Counsel and Staff Director*
BRUCE A. COHEN, *Minority Chief Counsel*

SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT

STROM THURMOND, South Carolina, *Chairman*

MIKE DEWINE, Ohio
JOHN ASHCROFT, Missouri
SPENCER ABRAHAM, Michigan
JEFF SESSIONS, Alabama

CHARLES E. SCHUMER, New York
JOSEPH R. BIDEN, JR., Delaware
ROBERT G. TORRICELLI, New Jersey
PATRICK J. LEAHY, Vermont

GARRY MALPHRUS, *Chief Counsel*
GLEN SHOR, *Legislative Assistant*

CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

	Page
Thurmond, Hon. Strom, U.S. Senator from the State of South Carolina	1
Schumer, Hon. Charles E., U.S. Senator from the State of New York	3
Sessions, Hon. Jeff, U.S. Senator form the State of Alabama	5

CHRONOLOGICAL LIST OF WITNESSES

Panel consisting of Hon. William H. Webster, Former Director, Federal Bureau of Investigation, and Chairman, Commission on the Advancement of Federal Law Enforcement; Donald C. Dahlin, Professor, Department of Political Science, University of South Dakota, and Member, Commission on the Advancement of Federal Law Enforcement; Robert M. Stewart, Chief, State Law Enforcement Division, State of South Carolina, and Member, Commission of the Advancement of Federal Law Enforcement; Gilbert G. Gallegos, National President, Fraternal Order of Police, and Member, Commission on the Advancement of Federal Law Enforcement; and Robert E. Sanders, Former Assistant Director of Criminal Investigations, Bureau of Alcohol, Tobacco and Firearms, and Member, Commission on the Advancement of Federal Law Enforcement	7

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Dahlin, Donald C.:	
Prepared Statement	10
Gallegos, Gilbert G.:	
Prepared Statement	15
Sanders, Robert E.:	
Prepared Statement	16
Stewart, Robert M.:	
Prepared Statement	12
Webster, William H.:	
Prepared Statement	7

APPENDIX

QUESTIONS AND ANSWERS

Responses of the Commission to Questions from Senator Leahy	39

ADDITIONAL SUBMISSIONS FOR THE RECORD

Hatch, Hon. Orrin, U.S. Senator from the State of Utah, prepared statement	35
Leahy, Hon. Patrick J., U.S. Senator from the State of Vermont, prepared statement	35
Commission on the Advancement of Federal Law Enforcement, article	49
President's Council on Integrity and Efficiency, letter and attachments	62

REPORT OF THE COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

THURSDAY, FEBRUARY 3, 2000

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL JUSTICE OVERSIGHT,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Strom Thurmond (chairman of the subcommittee) presiding.

Also present: Senators Sessions and Schumer.

OPENING STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. The subcommittee will come to order.

I am pleased to hold this hearing today regarding the report of the Commission for the Advancement of Federal Law Enforcement.

The Commission was created as part of the Antiterrorism and Effective Death Penalty Act to take a hard look at Federal law enforcement and see how it could be improved at the dawn of the new century. The Commission was given a broad mandate to review all aspects of law enforcement, from interagency duplication and coordination to the threat of terrorism.

Generally, the Congress reacts to crime on an ad hoc basis, responding to the crisis of the moment. We created this Commission to stand back and take a broad perspective and a comprehensive examination.

We appointed a fine, respected group of Commissioners to undertake this daunting task. Some have experience in Federal law enforcement agencies, including the FBI and ATF. Others have experience fighting crime on the State and local level.

Their hard work for the past 2 years has resulted in a 220-page report entitled "Law Enforcement in a New Century and a Changing World." We are here today to discuss their findings and recommendations. Some are bold and thought-provoking, while others are just common sense. The Congress and the Administration should carefully examine these recommendations.

The Report challenges Federal law enforcement to better prepare for the increasing threat of terrorism and computer-related crime. At the same time, we must make certain that all financial and white collar crime is a top priority for the New Century. After all, money is the motive for most crime. We must make certain that

any effort to increase the Attorney General's authority does not reduce the importance of other law enforcement missions.

Also, the Report found that Federal law enforcement differs considerably in its recruitment, training, and even policies. Further, some of the more far-reaching suggestions, such as merging the DEA and ATF enforcement into the FBI, have been made before, and concerns were raised at that time. I have some personal reservations about this approach, but will certainly keep an open mind.

The Report also has reached some encouraging results, including that Federal officers are dedicated professionals and that the American public is not fundamentally distrustful of law enforcement.

I have always believed that the American people have the right to expect that the Federal Government's resources are used in the most efficient way possible in fighting crime. We should make every effort to limit duplication and turf battles, and promote open lines of communication and a cooperative spirit. Moreover, we should also expect Federal law enforcement to cooperate with State and local law enforcement. There is more than enough crime to go around.

At the same time, we must recognize that we expect more from Federal law enforcement than ever before. Its size, jurisdiction, and responsibilities continue to grow. Some growth is justified, such as the expanded role of the FBI to fight counterterrorism. Some is less justified, such as the federalization of many, many crimes. Indeed, when we have reviewed Federal prosecutions in this Administration under various criminal laws, we have seen that many of these Federal crimes are simply not prosecuted on the Federal level.

I appreciate the Commissioners taking the time to be with us today to discuss their report and I look forward to their testimony.

Our first witness today is the Honorable William H. Webster, the Chairman of the Commission. Judge Webster served as U.S. Attorney in the Eastern District of Missouri before becoming a Federal judge for the Eastern District of Missouri and the U.S. Court of Appeals for the Eighth Circuit. Judge Webster resigned from the bench to become Director of the Federal Bureau of Investigation, and later became Director of the Central Intelligence Agency. Judge Webster received a bachelor's degree from Amherst College and a juris doctor degree from Washington University Law School. In 1991, he was awarded the Presidential Medal of Freedom.

Our second witness is Robert M. Stewart, Chief of the South Carolina Law Enforcement Division. He started his law enforcement career at age 17 as a cadet with the Cheraw Police Department. He joined SLED in 1975, was promoted to Deputy Director in 1987, and became Chief of SLED in 1988. Chief Stewart has a bachelor's degree and a master's degree in public administration from the University of South Carolina and is a graduate of the FBI National Academy. We are especially pleased to have him with us. His lovely wife, Nicoletta, is in the audience and we welcome her.

Our third witness is Professor Donald C. Dahlin, Vice President for Academic Affairs at the University of South Dakota. Professor Dahlin received his bachelor's degree from Carroll College, in Wisconsin, and his Ph.D. from Claremont Graduate School in Cali-

fornia. He has written extensively on criminal justice and police science.

Our fourth witness is Gilbert Gallegos, National President of the Fraternal Order of Police, which is the largest law enforcement labor organization in the United States. Mr. Gallegos has a degree in criminology from the University of Albuquerque and is a graduate of the FBI National Academy. Prior to becoming FOP National President, he served for 25 years in the Albuquerque Police Department, retiring with the rank of Deputy Chief of Police.

Our final witness is Robert E. Sanders, an attorney and retired agent with the Bureau of Alcohol, Tobacco and Firearms. While with the ATF, Mr. Sanders served as Special Agent in Charge of Chicago Regional Investigations and as Assistant Director for Criminal Investigations. Mr. Sanders is a graduate of the University of Miami and holds a juris doctor from the Northern Illinois School of Law.

I ask that the witnesses please limit your opening statements to no more than 5 minutes, and we will start with Judge Webster and proceed down the line.

I will now turn to our ranking member, Senator Schumer, for his opening remarks.

STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman, and I very much appreciate your leadership on this committee and your holding this important hearing. I also want to thank the Commission for its hard work and its report, and thank you, Commissioners, for being here today to help let us know of your work.

I have had an opportunity to quickly read through the report, and I also saw some coverage of the report in the newspapers. Some of the recommendations, for example, to combine ATF with DEA and have both report to DOJ, are not necessarily new. Some are very new, and all deserve careful consideration, coming from such careful study and such a distinguished group.

I would like to just make a few points about this report and its recommendations. First, over the past 7 years the murder rate in America is down, the burglary rate is down, the auto theft rate is down, the number of rapes are down, the number of violent assaults are down, gun crime is down, and the juvenile crime rate is down. And, may I add, the rates are not just down; they are thankfully precipitously down. Crime has plummeted in every region of the country; it has plummeted in every State in the country, and crime is down in every large city in the country.

So my first point is that these crime trends do not indicate a need, in my judgment, for major restructuring of law enforcement. I am not saying that we should rest on our laurels or that there is no room for improvement, but I do believe that the plummeting crime rate indicates that structurally law enforcement is doing quite well.

My second point is about the ATF. I think the ATF is the most maligned Federal law enforcement operation in the country. They are in the cross-hairs of the NRA and in the cross-hairs of some of the most extreme people in America. If you want to point a fin-

ger about why we are not able to reduce gun violence further, I would not point the finger at the ATF. I would point to some of the rules that this Congress and ones before it put in that tie the hands of the ATF; for instance, the law that we wrote that made it nearly impossible for the ATF to crack down on illegal gun-runners or on illicit federally-licensed gun dealers. And we make it even extremely difficult to trace a gun once it is recovered in a crime. Those aren't the rules of the ATF. Those are rules that were passed in this or previous Congresses.

Example: the ATF is allowed only one unannounced visit to a federally-licensed firearms dealer each year. So conducting a sting operation on a gun dealer whom we may believe is violating the law and intentionally supplying guns to criminals is out of the question. Can you imagine if we did the same with other law enforcement agencies, that the FBI or a local police department could only do one unauthorized visit to a potential crime site a year? We would be scratching our heads in amazement, and yet the law says that about the ATF and FFL's.

How about this: the penalty for illegally selling guns on the black market is mild in comparison to selling drugs, so law enforcement has little incentive to go after gun-runners. Because the penalty is so mild, they are back doing it again.

And because of the McClure-Volkmer Act of 1986, gun traces rely on technology that was literally developed in the 19th century, namely telephone and paper records. That is why half of the gun trace attempts come up empty, can't use computers. Can you imagine another portion of America or law enforcement saying you can't use—we would put in a law saying you can't use computers? Yet, we do it here. The number of ATF agents has basically remained static since 1980. So even if our laws were more reasonable, the number of field agents to keep an eye on 104,000 licensed gun dealers alone is insufficient.

So in the place, I guess, where I am reserving most of my fire, I think the restructuring of ATF is a little bit misplaced, at least as long as these laws are on the books. And I would say once again, Mr. Chairman, that we could make even a bigger dent in gun crime if we simply allowed the ATF to conduct stings, allocate more field agents, and make gun-running a more serious crime with stiffer penalties. I don't see how anyone could oppose this.

And I am not talking about licensing or closing the gun show loophole or banning Internet gun sales. These are measures that I support, but these are for the political debate in the Congress. I am sure there will be quite a bit of disagreement on some of those measures. I am talking about measures that give law enforcement a reasonable chance at stopping illegal gun trafficking in a way that would have no impact on anyone who by law has the right to own or buy a gun.

Finally, I want to commend the Commission for its strong focus on the problem of cyber terrorism and cyber crime. Cyberspace really is a new frontier of criminal activity and therefore of fighting crime. Unfortunately, I am starting to sense some legislative stasis on this issue in Congress. We are talking a lot about the program and studying its magnitude and potential repercussions, but for the moment at least we are not doing what we should do legislatively.

There are things we can do. For one thing, our criminal procedure laws are not well adapted to deal with computer crime. We can tweak those laws to facilitate the apprehension and prosecution of computer terrorists. I think such legislation would clearly be bipartisan and I hope it is something we can get done this year.

Once again, Mr. Chairman, I want to thank you for your leadership and for having this hearing. I thank the commissioners for their hard work and for being here for the report. I will be submitting my questions to the panel so they can answer later in writing.

Thank you, Mr. Chairman.

Senator THURMOND. Thank you, Senator Schumer.

The able Senator from Alabama, Senator Sessions, do you have an opening statement?

STATEMENT OF HON. JEFF SESSIONS, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Well, thank you, Mr. Chairman. I was a little behind the curve on this report and I saw that there is mention or thought of merging the BATF and the FBI. And I remember when I was U.S. attorney and I thought it might be a good idea to merge the DEA and the ATF, and I wrote then Associate Attorney General Rudy Giuliani and suggested that.

I was later talking with somebody in the Department of Justice and he said, you can't do that, that will never work. I said why? He said because it is DOJ, Department of Justice, and Treasury, two different Cabinet agencies; you will never merge them. He said you can't even merge DEA and FBI.

Well, I don't know if that is true or not, but that is the mentality of this town that we don't take agencies from one Cabinet department to another. And it does suggest to me that maybe we can overcome that. Maybe there is a time for us to consider improving the efficiencies in law enforcement.

In Mobile, AL, Mr. Chairman, there is an ATF office, there is an FBI office, there is a DEA office, a U.S. Customs office, an Immigration office, and a Border Patrol office. All of them have the same copy machines, supervisors, bureaucrats, and different paperwork reporting systems that one won't merge with the other.

So to say that we can't make some progress in improving the productivity of Federal law enforcement, I think, is an error. We need to be careful about it. A lot of people think our freedoms are better protected with a bunch of inefficient agencies rather than one big good one, but I am not inclined to believe that we can't improve that.

With regard to the ATF, Mr. Chairman—and I'm sorry Senator Schumer has left—I really believe there has been a big-time change in policy. A lot of that policy is unhealthy, a belief that somehow if you target legitimate gun dealers that that is somehow going to stop crime. We had hearings in this very committee not long ago regarding Project Exile in Richmond, which is very similar to the project that I ran as a Federal prosecutor in Mobile, AL, for several years, in which you target criminals who are using guns.

Under the tough Federal guidelines, they are sentenced under the Speedy Trial Act, as Judge Webster knows, within 70 days. If they are already out on bail on another crime, they are denied bail

and tried promptly within 70 days, and they have mandatory sentences, if they are caught, and removed from the community. And Richmond found that they had a 40-percent reduction in the murder rate in the city by implementing that policy.

What has happened with ATF is that they are going off chasing these mythical big gun dealers that are putting all the guns out on the streets. And we all know, I think, in law enforcement they come from any number of sources that get on the streets. There is not one mythical supply of guns. And they said, we are not working those little cases. Attorney General Reno said we want to work the big gun cases.

Well, Richmond proved that if you prosecute those criminals who are using guns steadfastly and the word is out on the street, violence goes down. And there are people not alive today who have been murdered because this administration has refused to prosecute the laws that this Congress has given them. And I have raised it with them each of the 3 years I have been here. I have raised this very issue.

We have charts showing a 40-percent decline in prosecution of gun cases since the Clinton administration took office, and it is dramatic and it has cost lives in America, while we define somebody who cares about ending violence by whether or not they want to pass some more laws on innocent, law-abiding citizens who believe they have a second amendment right to bear arms. I believe they do, too.

So I think there is some room to question the policy that ATF is using, and some real basis to question the policy of the Department of Justice. Properly carried out, with the resources they have, I believe we could do much more right this minute in fighting gun violence. And I spent 15 years as a Federal prosecutor. I prosecuted personally probably 100 gun cases, and so I think I have some experience in what we are talking about.

Mr. Chairman, thank you for your leadership. Thank you for your leadership in developing the Federal Criminal Code that we have today, which is, in my opinion, probably superior to any State criminal code that is in existence. And you were the leader in making that happen and I am glad that you are having this hearing.

Senator THURMOND. Thank you very much.

Now, before calling on Judge Webster, I just want to compliment him for the various positions in which he has served, and served so efficiently and capably and dedicatedly. We appreciate you. Now, we will hear from you.

PANEL CONSISTING OF HON. WILLIAM H. WEBSTER, FORMER DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, AND CHAIRMAN, COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT; DONALD C. DAHLIN, PROFESSOR, DEPARTMENT OF POLITICAL SCIENCE, UNIVERSITY OF SOUTH DAKOTA, AND MEMBER, COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT; ROBERT M. STEWART, CHIEF, STATE LAW ENFORCEMENT DIVISION, STATE OF SOUTH CAROLINA, AND MEMBER, COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT; GILBERT G. GALLEGOS, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE, AND MEMBER, COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT; AND ROBERT E. SANDERS, FORMER ASSISTANT DIRECTOR OF CRIMINAL INVESTIGATIONS, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, AND MEMBER, COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

STATEMENT OF WILLIAM H. WEBSTER

Mr. WEBSTER. Thank you very much, Mr. Chairman, not only for those remarks, but for the privilege of being here with the other members of the Commission to report to you and to entertain your questions on any aspect of the report.

I have a brief oral statement to make, and I will not be able, nor do I think you would want me to cover all of the points in this extensive report. But with your permission, I would like to enter the full report in the record. With your permission, I would enter the full report in the record so that I can address my remarks to some key points. Is that acceptable?

Senator THURMOND. Yes.

[The report referred to is retained in committee files.]

Mr. WEBSTER. Mr. Chairman, you have introduced the other distinguished members of the panel. I would just like to say at the beginning what an extraordinary privilege and pleasure it has been for me to work with them. They bring a wide range of law enforcement experience to bear on these problems, and we ended up with a report with more unanimity and consensus than most of the things that I have been privileged to work on in the past. They are here to answer your questions, as well.

We are reporting on our work under Section 806 of the Antiterrorism and Effective Death Penalty Act of 1996. It has been a 2-year project. A good many things have happened particularly in the terrorism arena that I could talk about, but will not in the interest of time. They are all reflected in the report.

Just over the Christmas holidays and the New Year, we saw a number of incidents that would give the American people substantial concern. And, of course, their concern was heightened by the fear of what might happen under the Y2K situation, not only the unintended consequences of not being prepared for Y2K, which we were, thank goodness, but also the possibility of intended consequences by terrorists and others hiding behind the general concern about Y2K. And we were able to get by that successfully, as I believe we will get by most of the events in the future.

But they are out there. The risks and probabilities of our experiencing terrorist events of major proportions continue to grow. We know, of course, all of those high-visibility situations. Some we have dealt with with extreme success, others not so successful. But I think the one in Oklahoma is probably the best example I can think of, of firm, effective, prompt law enforcement and law enforcement cooperation which resulted in the apprehension of those responsible and their ultimate conviction.

We have made a number of suggestions. You gave us a very broad mandate, some 10 specific areas in which to study. And we, as I said, worked hard for 2 years trying to come up with our views, answers to questions, and suggestions for the Congress and the executive branch on how to look at the future and deal with it, at the same time maintaining, as the chairman pointed out, our capabilities in law enforcement to deal with the problems of white collar crime and other problems that are not new to this century but may find new methods of expression, such as cyber crime, for example, and intrusions into electronic computers, money transfers, and so forth.

We have made some suggestions that Members here today have made reference to, particularly the suggestions for ATF and DEA being incorporated as law enforcement functions in the FBI, and regulatory functions being retained in their respective departments.

I would like to say to the Members that these suggestions have indeed been made before, but I think there is an increased urgency that they be considered in the light of how the existing Federal law enforcement framework is going to cope with the vastly increased problems of global crime, terrorism, cyber terrorism, and cyber warfare. It calls for a look at the structure of our system and to see what kinds of logical improvements could be made.

It is not an effort to aggrandize one agency over another, but to bring their respective talents together so that there would be less redundancy, less overlap, less confusion, and more effective results. These we commend to your consideration for whatever action you might take on these and other recommendations that we have made with respect to structure.

We have also been concerned, of course, about the new kinds of crime, and we discuss those in the report. And we go on record as expressing our concern about federalism of crime, federalizing of crime. We understand that when Congress sees something that is wrong in the country and wants to do something about it, particularly with respect to criminalization, declaring that certain acts are criminal, they haven't many opportunities or alternatives except to make something a Federal crime.

In many cases, we believe that State and local law enforcement is far better equipped, and that too much federalization dilutes rather than increases the effectiveness of Federal law enforcement. We talk about that more extensively in this report. Those are the key issues. Now, if I could just work backwards as quickly as I can to some of those, let me summarize our findings. We find they are troubling, but the recommendations, we think, are positive.

We find that global crime, cyber crime, and terrorism are becoming serious threats. We have serious concerns about the readiness

of the Federal Government to protect Americans and the national security unless steps are taken promptly.

Much of the current structure of Federal law enforcement is based on problems of the past, not crime challenges of the future. We had a period of Prohibition, we had an agency, we still have an agency to deal with Prohibition. That is not necessarily the best way to approach the problem.

Third, coordination of and cooperation among Federal, State and local law enforcement agencies are not all that we wish they could be or believe that they can be. As we point out in our report, Mr. Chairman, we conclude that Federal law enforcement agencies are among the finest in the world, and that most Americans share that view. We do point out the vulnerabilities of our system which grew like topsy in no particular order and has today a system of authorities and overlapping responsibilities that make us more vulnerable at a time when we have other serious crises that occur.

I experienced that when I reviewed the actions of the various authorities during the riots in Los Angeles. I have seen that in a number of other cases where the public has not been satisfied with Federal performance, and it usually has something to do with overlapping and competitive efforts.

So what do we recommend? We recommend that based on these conclusions, you consider a five-part action agenda which we submit. We believe that it is important for Congress and the President to, one—and I am giving you five now—one, make it clear that the Attorney General has broad coordinating authority for Federal law enforcement and minimizing overlap and duplication.

The President and Congress should improve the administration of Federal law enforcement and its effectiveness by making that clear. There is and has been for 30 years on the books an executive order at the time of President Johnson giving the Attorney General that authority. Subsequently, Congress limited the authority of the Attorney General and others to restructure without its approval, and there were good reasons for that.

Now, our conclusion here is that the groundwork has been laid. We would like to have the Congress and executive branch implement the executive order that has been ignored for most of 30 years, make the Attorney General, like the Director of Central Intelligence, the director of central law enforcement so that the Attorney General can make sure that these problems of coordination and redundancy are effectively dealt with.

Second, provide the intelligence and information needed to combat terrorism. The law enforcement and intelligence communities need to review their procedures and policies to ensure that the President, the Congress, and the National Security Council have adequate resources to coordinate activities and to pursue the information that Federal and State law enforcement agencies vitally need to combat the threat of terrorism both here and abroad.

This is the third one: make global crime a national law enforcement priority. The President and Congress should expand the attack on global crime, on narcotics trafficking and cyber crime with new determination and energy.

Fourth, reverse the trend toward federalization. Congress and the President should support a new federalization prevention act to

minimize Federal intrusion into State and local enforcement and reverse the recent trend toward federalizing crime. I have just discussed the reasons for that and its impact upon Federal crime as the number of laws on the books goes from a dozen or so at the time our country was founded to several thousand now, for which a relatively small, disorganized Federal law enforcement system is required to deal.

And, finally, the fifth point: Focus on professionalism, integrity, and accountability. We believe that there are vast differences in professionalism and accountability especially among the Federal agencies, different standards for such things as use of deadly force, for example. There ought to be one Federal standard for the use of deadly force. And so we recommend that the President and Congress should require that Federal law enforcement agencies establish new standards for professionalism, integrity, and public accountability that are standard across the board.

Mr. Chairman, the Nation critically requires a Federal law enforcement establishment that is ready to meet the crime problems of the future as well as those that are well underway today. Our Commission soon goes out of business. As individuals, we stand ready to help the Congress in any way that we can. We are prepared to testify at hearings and assist others in appropriate ways.

It is an honor to appear before you this afternoon, and I am sure that my other colleagues may have additional comments to make and we will respond individually or collectively to your questions as they come.

Thank you.

Senator THURMOND. Judge, thank you very much for your fine suggestions.

I think we might as well start and go down the line. Professor Dahlin.

STATEMENT OF DONALD C. DAHLIN

Mr. DAHLIN. Thank you, Mr. Chairman. I am very honored to have had the opportunity to serve on this Commission, and honored to have the opportunity to testify today before this subcommittee.

When our Commission came together a little over 2 years ago now, I must say that I had some question in my mind as to whether or not we as commissioners would agree on anything, given the diversity of the appointing authorities and given, as well, the diversity of our experience. Thus, I think it is worth highlighting the fact that, in the end, we ended up agreeing on everything.

And I think that that unanimity is the result, first of all, of the excellent work of our Chair, Judge Webster, of the fact that my fellow commissioners have been as hard a working group as I have ever been associated with. But also I think it is the product of taking seriously the charges that you gave us, particularly trying to focus on what are going to be the law enforcement challenges in the 21st century.

And as Judge Webster has indicated, we see—I don't think there is any great surprise in this view—that internationalization, globalization, cyber crime, cyber terrorism, terrorism in general, are going to loom much larger in the Federal law enforcement

scheme than they have in the past. And I think it is that vision every bit as much as our analysis of how Federal law enforcement has operated that has driven our conclusions and our recommendations.

Thus, when we recommend trying to make some changes in the organizational structure of Federal law enforcement, that is being done, I think, not so much because it is a criticism of the existing performance of Federal law enforcement agencies, but rather it is the product of seeing that Federal law enforcement will face new coordination challenges in the future.

In the past, it has been difficult enough to coordinate with other Federal law enforcement agencies and State and local law enforcement agencies. Now, in the future, there will be the need to coordinate more with the Department of Defense, the Department of State, with foreign nations, with the intelligence community. These will be enormous challenges for Federal law enforcement, and I think it will be very difficult for Federal law enforcement to meet those challenges given its current organizational structure. So that is, in part, I think, at least for me, why those recommendations are so important.

I would also hope, and I am sure this will be the case, that beyond focusing on the recommendations with respect to ATF and DEA that the committee members and Congress Members and the executive branch will focus as well on the other recommendations, as Judge Webster has indicated, our recommendations with respect to the Attorney General. We also make a recommendation about creating a permanent interagency group to help the Attorney General do a better job of coordinating Federal law enforcement. And I think almost no matter what happens, I would hope that recommendation would get implemented.

We also make a recommendation that suggests looking in an even more fundamental manner at reorganization than simply taking the ATF and DEA to look at the possibility of creating five law enforcement agencies, in effect, in these major functional areas. And we did not have the time to develop a specific proposal in that area, but as we talked about the subject and the needs of Federal law enforcement, we certainly came to the conclusion that this was an issue worthy of further examination. We hope that your committee and other Members of Congress will look at that, as will members of the executive branch.

I think our recommendations about federalism in large part also track this major view of the needs of Federal law enforcement. If we continue to spread Federal law enforcement efforts in fighting important crimes, but crimes that are essential State and local in nature, we make it again far less likely that Federal law enforcement will have the time and the resources that we think are going to be needed to fight the new types of crime in this new century.

And, lastly, in the area of professionalism and integrity and accountability, again it seems to me those tie in with this basic view as well that given all that is going to need to be done, the important work that Federal law enforcement has before it, it becomes all the more important that we ensure that the officers have the training they need, the policies are clear, and that they are accountable for the work that they do.

So we hope that, again, even as some of the more controversial issues get focused on that those other issues will not—you will not lose sight of them because I think that they are also extremely important, and I trust somewhat less controversial.

In conclusion, Mr. Chairman, I would simply note that I would hope that all of us, as we continue to move toward the objective that I think we all share of helping to ensure the finest Federal law enforcement effort that we can, that we will focus our efforts by looking at the issues that are going to be before Federal law enforcement in this century and not fight the battles of yesterday's wars and yesterday's problems.

Thank you, Mr. Chairman.

Senator THURMOND. South Carolina is proud of the good work that Chief Stewart is doing.

Chief Stewart.

STATEMENT OF ROBERT M. STEWART

Mr. STEWART. Thank you, Senator. We are surely facing challenging times in the United States, and much change has affected law enforcement over recent years. Federal, State and local law enforcement surely play an important role in our society, and without professional, competent, coordinated law enforcement at all levels, this country would probably not even exist. But we must look to the future.

I am speaking to you from front-line experience as Chief of the State Law Enforcement Division, SLED, which you created as governor in 1947 yourself. And prior to that, I served 7 years in the U.S. attorney's office with SLED coordinating State-Federal investigations. We deal with the Federal agencies everyday, and they are very good agencies and we make a lot of progress working together. However, we can do better.

I have concerns with the duplication of effort and mission of some of the Federal agencies. If you look to our military, our military is coordinated and defends our Nation from foreign enemies and basically has five branches. However, the Federal agencies in this day and time need better coordination and resources to adequately address the problems of the future.

I would say that there is a growing threat to our country; there has always been from foreign governments. There is an increasing growing threat to our Nation from transnational criminal organizations and terrorists and cyber crime, and Federal law enforcement is the only one that can deal with these problems. Therefore, it is going to be more and more important in the future that they are adequately organized and have the resources to handle that.

Specifically, in the area of drugs, there are many times when the FBI and the DEA are working on very similar cases, have similar jurisdiction. There is much overlapping there. The extreme would be is we have SLED agents working with most all the Federal agencies. We even had a drug deal one time. We had undercover agents working with two Federal agencies, and it turned out one was in a reverse role and the other was not. And we had people on both sides of it and the Federal agencies did not know what was taking place. Fortunately, since we had State agencies on both

sides, before there was a tragedy it was averted because we recognized what was going on there.

In the area of bombs and guns, between the FBI and the ATF—and we work closely with both agencies; they are both fine organizations. But recently during the church fires, especially in the South, we were very active in those cases and solved some 70 percent of them in our State, which is like 5 or 6 times the national average. But it is certainly difficult to have to deal with two Federal agencies working on the same case. One is looking at the civil rights aspect, another is looking at the bombing, explosives aspect, and there is no need for there to be that type of coordination problem.

And you hear all the arguments about how this won't work and that won't work. And we haven't recommended a lot of restructuring. We have recommended some that we think would greatly help the situation. But, you know, on a much smaller level, in South Carolina in 1994 this same thing was undertaken and several agencies were merged into SLED. And we were told you can't do this and you can't do that; you can't take an alcohol commission agent and make them a SLED agent. It just won't work. There are classification problems, there are qualification problems.

Well, we did it, and over 2 years the ones that couldn't make it had to either sink or swim and it worked out. And now when a sheriff or chief of police needs criminal investigative assistance from the State of South Carolina, whether it is from DNA in the laboratory, to a gambling operation, to whatever, they call one place and they only have to deal with one agency and it makes it a lot simpler.

We are not recommending that on the Federal level, a national police force. But in the area of the two suggestions we have made, we do think it would be a much more productive way to do business. Some of the ways things happen now are just no way to run a railroad, and we think that it breeds disorganization and a competition for limited resources that could best be used if there was one focused effort in that regard.

Also, street crime assistance is very important and very helpful, but I would also say we have got to be sure that the Federal assets aren't stretched so thinly that they can't adequately address the true national problems that we have mentioned here today and that will become more and more problems in the future.

In the area of accreditation, there are two accreditations available in law enforcement today. The one for laboratories is by the American Society of Crime Laboratory Directors, or ASCLD, and the other is from the Commission for Accreditation of Law Enforcement Agencies, CALEA.

Now, a number of the Federal agencies are now beginning to come about and be involved in the laboratory accreditation. The FBI lab in the last year or so has become ASCLD-accredited. I think the DEA lab is already accredited. That is just an absolute must in this day and time to assure the public and the people that the labs are being run correctly and the proper safety procedures are built in there.

About half of the crime labs in the Nation are accredited, and surely all the Federal crime labs should be accredited. There has

been some reluctance on Federal agencies' part to get involved in accreditation. They think it doesn't apply to them, and I think that is a misconception.

As far as agency-wide accreditation, that was begun by a Federal grant from a congressional program. Jim Cotter, with the FBI, was the first director of that commission, and it does a whole lot to standardize policy and procedure and see to it that agencies live up to the mandate they have and are run properly. It also fosters better relationships with local and State law enforcement, and I think it is something that really the Federal agencies ought to look at.

I am happy to say that now the U.S. Marshals Service, with Ms. Reno's blessings, have applied for CALEA national accreditation. And your own U.S. Capitol Police here have applied for national accreditation as well, and I would hope that all Federal agencies would be involved in that program.

Finally, I am concerned with the lack of resources and some of the administrative controls over some of your smaller Federal law enforcement agencies. We mentioned like there are five military branches, basically. Well, we found over 140 Federal law enforcement agencies, which is somewhat mind-boggling.

But, for example, you have several law enforcement agencies—not several, a number, that are housed in agencies that have nothing to do with law enforcement. For instance, you have the Park Police. I think they are in the Department of the Interior. Well, when we took testimony, the Park Police was like 20-percent understaffed. Can you imagine that? They don't have the equipment and the resources they need.

I mean, you have some crisis at one of these monuments here in Washington, DC, and the Park Police are 20-percent understaffed. I hope we don't have to have a crisis for some of the issues in our report to be addressed, but surely it needs to be looked at. And there are many times when it takes a crisis for something to happen, and we surely hope that everyone will look at this report and give it some serious thought.

The agencies involved, even the ones we are talking about restructuring, are fine agencies and we have confidence in them. I work with them everyday, but there are better ways to do business and we are going to have to do business in a better way in this century to keep this country the way that it needs to be.

If I have one fear about this whole program that we have put 2 years of our lives into, it would be that nothing comes of it and then there is some big crisis 3 or 4 or 5 years from now and we pull this copy down off the shelf of this report and dust it off and start looking at it. I hope everybody will really look at it. This is important to the security of the United States and of all of our people.

I want to thank you, Senator Thurmond, for allowing me to be a part of this program, and hope to work with you in the future in improving law enforcement.

Senator THURMOND. Thank you very much.

Mr. Gallegos.

STATEMENT OF GILBERT G. GALLEGOS

Mr. GALLEGOS. Thank you, Mr. Chairman, and I want to echo the sentiments of my other commissioners and my colleagues on this very important study of Federal law enforcement.

Congress really gave us a challenge through the 10 provisions in the Act on how to come up with ideas that would make Federal law enforcement a little bit more responsive not only to the American people, but also to other law enforcement agencies, especially the State and local.

I guess the challenge is really what do you expect of Federal law enforcement. If we expect to do the same things, or expect them to do the same things that they have done for the last 50 years, then you can do like the Chief says and put this report up on the shelf and put it away and 50 years later open it up again.

But if we really expect Federal law enforcement to have all the tools that they need—and they are all fine, fine agencies, from ATF to FBI to the Capitol Police to the Government Printing Police to the Park Police. They are all fine agencies, but quite frankly what we found in our review of these agencies is they don't have the resources. When the Capitol Police can't talk over the radio with the Park Police, when the Park Police can't talk over the radio with the park rangers and they are all in the same area, it is shocking.

And like the Chief said, if there is a tragic event, as happened here in the U.S. Capitol, and the agencies can't even communicate, how do we expect them to do their job? And I think we found that time and time again, and I think it is unfortunate that we ran out of time, to be honest with you. We had 2 years and the time was not there to look at the smaller agencies, those agencies that are out there day in and day out that are totally unprotected, that don't have the resources.

We had testimony of some small agencies like in Interior and others where they don't even have a budget that is appropriated by Congress. They are just lumped in together with everybody else, and maybe they are fortunate to be able to draw some money down. That is why we spoke about that in our report. Especially in the equipment area, as the Chief said, the Park Police are 20-percent understaffed.

But we find that in a lot of the smaller agencies where they don't have the resources, not only the tools, the technology, but they don't have the people resources to be able to do the job. So I think that this report has to be taken in the context that we can do more, and we can do more if we coordinate our efforts a little bit better.

Another area that I would like to address is the area of terrorism and the counter-drug initiatives around the country by Federal officers and by State and local. We had testimony that there seemed to be a disconnect in the area of dealing with criminal intelligence where one agency doesn't coordinate their intelligence efforts with the other agency. They all may be working drugs or they all may be working one case, but using the tools, the technology that we have today, we should be able to do a better job with that.

But we should also be able to do a job in delivering that information to the State and local agencies across this country who really have the bulk of the responsibility for enforcement of the laws of this country. In the criminal intelligence field, again, it makes it

difficult, and we had testimony about the fact that State and locals don't seem to be able to glean the same intelligence information as Federal agencies.

In the area of terrorism, we have the same situation. You ask yourself who is the first public safety officer that responds to a terrorism act, and every one that we have had in this country, every major one that I know of, it is either a State or local police officer or it is a firefighter or an ambulance driver or search and rescue or something.

Yet, we have been unable to give them the tools and the information from the Federal level to the State and local level so that they can be able to better respond to the terrorist acts that really hurt all of us. So I think it is important that we really come up with some ideas, and we are proposing in this report how to do a better job with that.

In the area of public accountability, we did a national survey, and the results are in the report, of really what the feelings of the American public were about Federal officers and the job that they were doing. For the most part, the American people support the Federal officers just like they support the State and locals, and we were gratified to hear that. But there are some areas of concern, and one of them was in accountability and how a citizen of this country could challenge an issue or take a complaint to Federal agencies. There was almost a disconnect there. They didn't feel that they knew how to do that.

The Attorney General and her staff, as previous Attorneys General, have been going around the country saying how State and local agencies have got to be more accountable through the complaint process on State and local officers. Well, we in this report issued the same challenge to Federal officers. If the Department of Justice can insist that State and locals be more responsive, we feel that Federal officers should also be responsive.

But in regard to the complaint process and investigation of officers when there are complaints, legitimate or illegitimate, we also have to keep in mind that Federal officers also have the rights of everybody else and that they have due process rights, which we feel is proper and should continue or should be made clear that Federal officers should be treated fairly at all times and be given all the due courtesies that we would give to anybody else.

So what we thought in this report is we wanted to issue a report that was thought-provoking, that would challenge and would make the issues known the way we see them. And as Senator Sessions said, there are a lot of "can'ts" out there. If there is a will to make Federal law enforcement better, I think that this report is a start to make it a little bit better for an already fine group of Federal officers across this country.

Thank you, Mr. Chairman.

Senator THURMOND. Thank you, Mr. Gallegos.

Mr. Sanders.

STATEMENT OF ROBERT E. SANDERS

Mr. SANDERS. Thank you, Mr. Chairman, for the opportunity to appear today before this subcommittee.

Congress, in addition to giving us challenges, gave us the rare opportunity to be totally objective. We had the ability to focus on the area of inquiry and to find what is, and we did that, and then to make recommendations on what should be, without regard for what might be popular, what could be politically correct, what might be the term of the day, the short-term fix.

We looked at jurisdictions, we looked at missions, and we looked at the policies of the major law enforcement agencies. We looked at the interrelationships with other Federal agencies and the relationships with State and local police departments. We tried to iron out what jurisdictions would be essential and which would be nonessential to face the challenges of the 21st century.

In BATF, we found a small agency with disparate missions which are competing for dominance. One part of ATF is responsible for the administration of the taxes, for collecting taxes and regulating the alcohol, beer, wine, and tobacco industries. The other part of ATF and the part that we focused on is the responsibility to enforce the Nation's firearms and explosives laws. I had the honor and privilege to be the chief of ATF's law enforcement component during my career in Federal law enforcement, and some of my experiences are reflected in the report.

Looking at the structure of ATF, the first issue is will the responsibility for tax collection and regulation of industries producing luxury items play any role in law enforcement in the 21st century. The answer is a resounding no. It did in the 1920's and the 1930's when we had Prohibition and we had a Federal crime to manufacture or transport or possess distilled spirits, and even beer.

In the 1940's and 1950's, we had a lesser problem which was largely regionalized in the southeast region with non-tax-paid distilled spirits, moonshine whisky in the southeastern part of the country, which was having a corrosive effect on State and local governments and law enforcement in general. But these were wars that were fought in the century past and which are over. Our mandate was to make recommendations to prepare for the battles which will be coming up in the 21st century.

The second issue with ATF is do the competing missions within the same agency have an adverse effect on law enforcement, and the answer is yes. The Commission analyzed the study underlying ATF's creation as a bureau, as a separate bureau, where it was taken from IRS and made a separate bureau in 1972. We looked at major studies of firearms law enforcement and its effectiveness, including congressional hearings in 1986 on the Firearm Owners Protection Act. These were major studies.

The consistent finding in all those studies was that the collection of taxes and the regulation of the industries are incompatible with the basic mission of firearms and explosives enforcement, and these duties should be transferred to the IRS, where they originally were, or somewhere else in Treasury. Vice President Al Gore performed a similar study, Reinventing Government, and came to the same conclusions. So the recommendations of the Commission merely buttress the findings of earlier studies, and we come back to the question of can we do something that hasn't been done before.

A few words about the agency cultures, the cultures in one agency between the two forces, regulation and enforcement. It is axio-

matic that criminals and crime cannot be regulated; they are not susceptible to regulation. Only the law-abiding will comply with the law and all the regulations that we care to write.

This is a Nation that was founded on the principle of the rule of law. The law enforcement philosophy is simply that the cause of crime is the criminal, and the arrest and incarceration of criminals will, one, deter and, two, prevent crime. And the deterrence and prevention of crime is what it is all about, a better quality of life for the American people. There is one tiny speck of society, the criminal element, which must be the focus of all the efforts of the agency.

On the other hand, the guiding philosophy of the regulator is that violent criminals can be restricted in their access to firearms by limiting the accessibility of firearms to the public. Within ATF, the competing philosophies, it is never all or nothing; it is somewhere in the middle, and it is time that we meet at the level of the criminal and focus all the attention on the criminal.

One anecdotal incident before I leave. During my career in Federal law enforcement, there was another agency in Treasury that, as Senator Schumer said, was much maligned, and that was the Federal Bureau of Narcotics. Over a long period of time, the Federal Bureau of Narcotics became the Bureau of Narcotics and Dangerous Drugs, in some obscure department that I don't even remember, and ultimately came to the Department of Justice.

And there can be no question about the effect of being in the Department of Justice and associated with the FBI has had on DEA, as we know it today. The ability to investigate complex investigations, the management changes that were effected, cannot be disputed. We don't hear any calls for the DEA to be transferred back to Treasury.

That concludes my remarks and I will be happy to answer any questions.

Senator THURMOND. I have some questions here and I will proceed with those now.

Do any of you have any further suggestions?

[No response.]

Senator THURMOND. Judge Webster, there was considerable debate when the Commission was created about whether it would conduct investigations of specific Federal cases. However, it appears that you decided against this approach and the Commission appears to view Federal law enforcement in a positive light. Is this correct?

Mr. WEBSTER. That is correct, Mr. Chairman.

Senator THURMOND. Judge Webster, most agree that there must be some separation of law enforcement authority to serve as a check and balance on power and ensure that the Federal Government does not develop one national police force. Would combining ATF and DEA into the FBI bring America too close to a national police force?

Mr. WEBSTER. Mr. Chairman, the answer is no, and if I may give my reasons, every member of this Commission unanimously endorsed that particular recommendation. Every member of this Commission is emphatically opposed to a national police force.

There are some 11,000 special agents in the FBI. That is approximately one-third the size of the police force of New York City, and they must operate around the globe. If there were to be an amalgamation of the resources and the talent in ATF and DEA, that would only represent an additional 4,000-plus from DEA and some 1,800 from ATF. It would not materially increase the FBI to the extent that anyone could arguably say that that group, with, say, 17,000 or 18,000 people in it, with some 85,000 Federal law enforcement officers, now became a national police force.

Furthermore, I think the history, the training, and the close association with the Department of Justice, with direct reporting to the Attorney General, over the years has made those in the FBI extremely conscious of their responsibilities under the rule of law. I cannot imagine that strengthening law enforcement in this area by putting these three fine organizations together would threaten a Federal police force or would damage our concept of what the rule requires of those in Federal office.

Now, that is a suggestion that we have made. It has been made before. We felt obliged because of our unanimous agreement to give it to this committee and to the Congress as our considered opinion. I can recall 20 years ago when Attorney General William French Smith came into office and determined to bring the FBI into drugs. Those in the FBI had been thinking about it a long time, and I was there as Director. We were unanimously of the view that drugs had gotten too threatening, we had seen too much of it in organized crime, and that we had a role to play. We wanted to play it.

The thought at that time, and the order of the Attorney General was to have the DEA report through the Director of the FBI to the Attorney General, thus bringing us that much closer. I was not in favor 20 years ago of a merger of the two organizations. I believed that it made sense in the longer term, but I believed that culturally, structurally, it was premature to do that. And it was my view, let's make them more alike, get them a chance to work together—this was the FBI's first foray into official drug enforcement—and let's see if over time they won't reach a point where they could come together successfully.

We moved the DEA into Quantico so that it could receive the same kind of training that the FBI special agents did. We took a series of steps to improve the level of coordination and cooperation. But coordination is a reed that law enforcement has to lean on, and sometimes it becomes a lean reed.

I was down at Quantico not long ago when one of the special agents who was very helpful to me retired and I had a chance to talk to some of the drug enforcement agents down there as well. A great deal has happened in 20 years, and as we confront the challenges of the future, particularly with the international aspects of narcotics and global terrorism and narcoterrorism, it seems to me that those organizations could work together better in the same house, utilizing the same laboratories, utilizing the same indices and all the other combined skills that would make them more productive.

I can't give you the level of experience I have with DEA when I talk about ATF, but I can say when I was a U.S. attorney in 1960, I had tremendous admiration for the men and women in the

Bureau of Narcotics who were struggling against enormous odds with very few resources, many of them in life-threatening situations. I can't tell you how many agents I saw walking around with bullet wounds and bandages, and when they were finally merged into—some of the process that took them from Treasury on into the Department, good things happened.

Now, with ATF, there is, to me, a curious situation here. Agents are asked to, on the one hand, deal with problems of alcohol, on another problems of guns, and on another problems of tobacco. There are criminal laws that need to be enforced. I am not sure why that particular mix makes sense in a world in which structure is going to become increasingly important. It does make sense, it seems to me, to leave those regulatory functions where they are, in Treasury for ATF, and in the Department of Justice for DEA, and put those law enforcement capabilities with the FBI and the DEA.

Mr. Chairman, I realize I have given you too long an answer, but I wanted you to get a sense of why we think not only does it make sense, but that we are ready to approach this now. We have extraordinarily talented people. Structurally, today, it does not make sense to us. We think that a consolidation can be and should be seriously approached.

Senator THURMOND. Judge Webster, your report calls for a greater focus on narcotics trafficking, which is the primary mission of the DEA. However, the report also calls for the DEA to be made a division of the FBI. Would making the DEA part of the FBI, which has a wide variety of missions, give the impression that the Government is putting less emphasis on the war on drugs?

Mr. WEBSTER. I certainly hope not, Mr. Chairman. I can't imagine that a structure that brought the FBI and the DEA together would be anything less than one in which the narcotics efforts would be one of the major divisions of the FBI, with its chief reporting directly to the Director of the FBI and able to bring to bear resources that are not ordinarily available to DEA without considerable effort and coordination. So I would think they would be very much in the picture. The fact that the FBI was totally committed to that exercise because it had the full responsibility, with DEA, I think would only argue for a stronger perception of the anti-drug effort in this country.

Senator THURMOND. The next question is for you and Chief Stewart. The report notes overlaps between the FBI and DEA regarding drug cases, and recommends that DEA become part of the FBI. However, wouldn't it be more efficient to take the drug mission of the FBI and the accompanying resources and transfer that mission to the DEA?

Mr. STEWART. Well, clearly it would eliminate the duplication of effort problem if you were to do that. However, I don't know that the same amount of resources would be devoted to the drug problem as would be if the two agencies were together. You have different components of agencies; for instance, something as minor as polygraphs, intelligence-gathering, support units for major operations, major raids, all of this type thing.

If someone were to suggest, for example, that an agency such as SLED on a State level were to take its narcotics unit and turn it

into another separate State agency, I think we would be laughed out of the State. Or if a major city police department was going to take its narcotics unit and turn it into a whole separate agency in the city, I think it might not make any sense to do it on that level. I don't know why it makes any sense to do it on a Federal level.

I think, if anything, there would be more resources available. With the FBI's involvement in tracking organized crime and transnational drug organizations, there would surely be a duplication of effort there. Now, to take drugs totally away from the FBI would eliminate that, but I think you would have a better focus and a more total concept of drug enforcement to have it within one shot.

Mr. WEBSTER. Mr. Chairman, I agree with everything that Chief Stewart has said, so I won't try to repeat it. I would simply again refer to the fact for the Chair that perhaps an even more important recommendation, a broader recommendation on structure is to make the Attorney General responsible for law enforcement in this country.

I believe that the Attorney General's relationship to the FBI over the years puts it in a better position to receive these resources rather than to begin to break up their own resources otherwise directed to different kinds of organized crime and different kinds of terrorism simply to preserve the identity of an agency that could be very much alive and well inside the FBI.

Senator THURMOND. Mr. Sanders, concerns have been raised in recent years about the decline in gun prosecutions and in gun case referrals to the Department of Justice from ATF. Do you believe that putting ATF enforcement into the FBI would make it more likely that gun prosecutions will increase?

Mr. SANDERS. The statistics that I have read in public documents, Mr. Chairman, indicate that the production has greatly decreased, the number of prosecutions of firearms cases. I think the first stage is to separate the regulatory part of ATF from the enforcement side so that there is a clear law enforcement mission and it is not eroded by the regulatory impact.

Following that, you would have a stand-alone agency within Treasury which would be responsible for only the enforcement of the firearms and explosives laws. There is no regulation which goes with the firearms and explosives laws. There is a small licensing component, but no regulation, no fines, no suspension. It is all pure law enforcement. So I think that wherever that organization is, whether it remain in Treasury or be removed to the FBI, would be a concentrated law enforcement agency which would increase production.

Senator THURMOND. Senator Sessions, take charge. I will be back in just a minute.

Senator SESSIONS. Thank you, Senator Thurmond.

Well, I think that was not a bad question, Mr. Sanders, and the question is if we merge ATF into the FBI, routine run-of-the-mill, bread-and-butter gun cases that, in my view, actually reduce violent crime—are they going to go up or down?

Mr. SANDERS. The essence of the statute, Senator Sessions, is the simple one-gun cases against bad people. That is how the statute should be enforced.

Senator SESSIONS. That is what the thing was all about.

Mr. SANDERS. Yes, sir.

Senator SESSIONS. And it works, in my view.

Mr. SANDERS. It does work.

Senator SESSIONS. Some of my best friends are ATF agents. I don't go fishing unless I go with an ATF agent.

They have great relations with local law enforcement as a rule, don't they, Mr. Gallegos?

Mr. GALLEGOS. That is correct, sir.

Senator SESSIONS. Judge Webster, you have seen this system from a couple of different angles, and first let me tell you how much I appreciate your once again taking a lead in law enforcement. You have on several occasions stepped up to the plate at critical times in this country's history and provided leadership and integrity and guidance that has been very valuable.

As I look over your recommendations, I can't dismiss any of those recommendations. I think they are worthwhile, and any of us who care about making this system better needs to be dealing with those very issues. And I am sort of playing around right now, asking a few questions about it.

Mr. WEBSTER. Thank you, sir.

Senator SESSIONS. But I think you have really clarified our thinking and got us focused on some things that are long overdue in being done. It strikes me that we do have too many agencies and there is too much competition among those agencies. Did you have occasion to look at the two gun-tracing programs that the FBI and the ATF both developed simultaneously and, in your opinion, is that an example of unwise competition and wasting of taxpayers' money?

Mr. WEBSTER. Well, it is potentially exactly that kind of example. I don't pretend expertise on it, but anytime two organizations are going after the same result, you have a number of questions on how transferable, how usable will it be in other agencies, or is it just designed to fit the machinery inside one agency.

There are arguments that we used to make in the intelligence world about competitive analysis, but it is a different thing when you are trying to produce something that will serve all of law enforcement and you have two people going off in potentially different ways and different approaches. And the rest of law enforcement, State and local, have to wait and guess which one they can properly plug into.

Senator SESSIONS. Mr. Sanders, would you comment on that?

Mr. SANDERS. Yes, Senator. Both systems were well-intentioned and their purpose was to assist State and local law enforcement. We heard testimony from the labs, from the State and local labs that not only was it not providing the assistance, but they were forced to duplicate their efforts and service both systems because they didn't know which system would end up on top.

Senator SESSIONS. And the FBI and DEA were both——

Mr. SANDERS. FBI and ATF.

Senator SESSIONS [continuing]. ATF—were like salesmen trying to sell their systems, arguing why theirs was better than the other?

Mr. SANDERS. If you were to describe it, you would just say it can't happen here; that can't happen.

Mr. WEBSTER. I would put in another plug for enhancing the authority of the Attorney General. The Attorney General could step in in a situation like that.

Senator SESSIONS. Well, Judge Webster, now you raised a question. How long is the tenure of the FBI Director now?

Mr. WEBSTER. Not more than 10 years.

Senator SESSIONS. Not more than 10 years. They are senatorially confirmed, and for a lot of reasons people want—and you served in that office—an independent FBI Director. The Attorney General basically serves at the pleasure of the President, and the FBI is jealous of their prerogatives.

How could we move to giving the Attorney General more coordinative power, realistically? How can we make that a reality? I think that ought to be done.

Mr. WEBSTER. Well, it is a combination of an executive order supplemented by congressional concurrence, as I understand the current law that restricts any restructuring and requires congressional concurrence. The lead could come either from the Congress or from the executive branch if they were sympathetic to the recommendations.

I was looking for the list of recommendations that we made with respect to the Attorney General. Here it is; I have it on pages 108–109. The answer to your question is just what I think I said, although not as artfully: Strengthen Executive Order 11396 which is already on the books, updating it through presidential or congressional action, if necessary, to reflect new global and national realities, and reissue it to ensure the Attorney General becomes the focal point of the Federal Government.

Senator SESSIONS. So let me interrupt you now. Here, we have gone through a process, and I was troubled by it and not too certain we did the right thing. We have eliminated the independent counsel.

Mr. WEBSTER. Yes.

Senator SESSIONS. So that leaves all Federal law enforcement under the control of the Attorney General. Would you agree? Well, no.

Mr. WEBSTER. No. That is the problem.

Senator SESSIONS. I guess you have got Secret Service and ATF and other departments.

Mr. WEBSTER. That is right, different departments.

Senator SESSIONS. But the prosecutorial authority is under the Attorney General, the ultimate prosecutorial authority.

Mr. WEBSTER. Yes, that is right.

Senator SESSIONS. I am troubled by the fact that the Attorney General is the personal appointee of the President, serves at the pleasure of the President, and may be called upon to investigate matters that would be embarrassing to, or even criminally implicate the President or high executive officials.

We have no independent counsel now, and so would you agree that we need not, at least under those circumstances, undermine the independence of the FBI? That at least is one agency with some additional independence in this process.

Mr. WEBSTER. I certainly agree with you, Senator. I don't believe that our suggestion was intended, nor do any of the 15-or-so spe-

cific recommendations that are contained on page 109 of the report lead us in that direction. The FBI has often been criticized for not acting responsive enough. In point of fact, the FBI reports through the Attorney General and not otherwise, and it has jealously guarded its independence from the White House in terms of taking specific tasking on criminal cases, or not taking specific tasking.

It does have to pass muster with the Department of Justice and the Attorney General. I don't know of any alternative to that, but the role that is defined here is not dissimilar from that of the Director of the Central Intelligence as to all of the other intelligence agencies in the community. It is more than a den chief role, but it does not destroy their independence. It talks about things as developing and implementing objectives and guidance for law enforcement, and formulating and implementing policies and procedures regarding law enforcement.

It does not anywhere in here suggest that she should arbitrarily decide to foreclose an investigation that is otherwise authorized under existing guidelines of the Attorney General himself or herself. I am reminded of a previous Attorney General some years back who was greatly loved and independent to the extent that he said, the President is entitled to my best opinion; the President can fire me, but he may not change my opinion. And I think that people felt that that is the way it would be.

We had a different Attorney General who resigned on matters of principle. And as long as we have principled Attorneys General who are reminded either by Senators or others of that responsibility, I don't fear for the Republic. I fear for the Republic if our Federal law enforcement system goes off in all directions and no one, including the Attorney General, has the authority to pull it together and make it go and work in harness.

Senator SESSIONS. Well, you have an opportunity to fix responsibility with somebody, and it is a rather bizarre circumstance we have today. And I listed a lot of agencies, big agencies; one is the U.S. Marshals Service. That is a growing agency and, in my view, has less to do than it did 10 years ago in some ways and is probably bigger and higher-paid.

The taxpayers are entitled to the finest production that we can get for them. There is no doubt in my mind that as years go by, certain agents become more productive and certain agents become less productive. We need to figure a way to get more resources to those who produce and a way to get rid of some of those who don't produce. I have seen that as just blatantly clear.

The idea that if you took the law enforcement from ATF—I won't go into that proposal. Let me ask you this. I have thought there is sort of a harmonious cultural relationship between the Secret Service and the FBI. They were trying to give the Secret Service more financial responsibility, more money laundering responsibility. The Secret Service protective duties could easily be a special responsibility of agents within the FBI, and all agents could be available to assist on big days when something special is happening.

Have you given any thought to a consolidation of the Secret Service?

Mr. WEBSTER. We did give thought to it, and within the time frame that we had we couldn't debate out all the issues. But there was really no support from within the Commission for consolidating those. They have mostly separate functions and they have worked well together in the past. In the white collar crime area, particularly bank-related crimes, the Secret Service has the expertise and has performed well, and that keeps them busy when the protective issues are not on the front burner. So there is a kind of good working back and forth in those two skill areas. That has never really been a problem between the two agencies, but where you do have, as you do with DEA and FBI, concurrent, not staggered but concurrent responsibility, it is ripe for unnecessary trouble.

Senator SESSIONS. Is there any concurrent Secret Service and FBI jurisdiction over financial matters?

Mr. SANDERS. There is some, Senator, but they don't seem to be running into each other and conflicting.

Senator SESSIONS. Well, they don't, but they are doing basically the same thing. They are working with banks and credit card companies and people who are defrauding all over the country and things like that. I am not sure that they really wouldn't perform better as one unit.

Mr. Gallegos.

Mr. GALLEGOS. Mr. Chairman, Senator Sessions, one of the areas that we did discuss, and Chief Stewart alluded to it, was in the laboratories. What we found was a tremendous amount of duplication of effort, or capabilities, I would say—not effort, but capabilities within the labs. The Secret Service has a document lab, the Immigration people have a lab, the FBI has a lab. They are all fine labs, but they all do document work.

Senator SESSIONS. We always wanted the Postal fingerprint guy, though.

Mr. GALLEGOS. And the Postal people. Everybody has a lab, and that could be an area where there could be more joint effort there rather than having a lot of separate bureaucracies and separate efforts by the various agencies.

Senator SESSIONS. That is a good suggestion.

Mr. GALLEGOS. But in regard to either joining or duplication of effort, we did talk about those specific issues.

Senator SESSIONS. I would just ask you one thing. Do you believe that backups over work in labs on drugs and other laboratory matters in State and local police departments are adversely affecting law enforcement? That could be an appropriate role for the Federal Government to help support State and local laboratories.

Mr. GALLEGOS. Mr. Chairman, Senator Sessions, I think there could be more effort—and I am not saying that they don't; the DEA has a lab and the FBI has a lab.

Senator SESSIONS. I am talking about like your State drug cases. In Alabama, I see a report that our laboratories' drug analysis is backed way up, therefore delaying the commencement of drug prosecutions. If the Federal Government wanted to help State and local law enforcement, based on your experience, would that be a way to help them?

Mr. GALLEGOS. I think it would be an excellent way to help. The other thing, though, when we heard testimony from the State labs was really the evolving capabilities and expertise in the State labs. In some respects, the States don't need the Federal agencies anymore. In other respects, they do.

Senator SESSIONS. I understand that.

Mr. GALLEGOS. So I think there has to be kind of a tradeoff of effort and coordination of effort.

Mr. STEWART. I think you are familiar with the National Forensic Act that a number of State directors have come to you and Senator Thurmond, as well, about and is now under consideration here. I can tell you there is not a greater service that the Congress could provide to State and local law enforcement than to help our forensic science laboratories. We are desperate for help.

Senator SESSIONS. Now, that is a big statement you just made, and my instinct tells me the very same thing. When you have to wait 90 days before you can commence a cocaine case because the State lab is so overworked they can't get the report back, then that has really fouled up your legal system. Sometimes, it is a lot longer than 90 days.

Is that what we are referring to?

Mr. STEWART. Absolutely, and not only drugs, but in other areas as well. Drugs is one of the primary problems we have right now, drugs, toxicology, and some other areas. It is really a serious problem, and I don't think there is a greater thing that Congress could do.

You have got to understand 95 percent of all the forensic science work done in this country is done in a State or local crime lab. It is not done in a Federal lab. They are putting 100,000 new police officers on the streets of the United States. The evidence they seize that goes to a laboratory is going to State and local laboratories. So the Federal Government is putting all these new officers on the street, but the State labs are not getting the assistance that we need to keep up with that new volume, or the old volume as far as that goes.

Mr. DAHLIN. I wanted to return to your earlier question on the Secret Service. We did have a proposal by one of the people who testified saying we ought to create a Cabinet-level department of law enforcement, bring it all together. And we rejected that because we have a concern that the Members have that we do not want a national police force.

But I would invite your attention and members of the committee and others to the recommendation that is on pages 110 and 111, where we are suggesting that in the longer term it may make sense to create a unit that would be responsible principally for financial and regulatory enforcement that would bring together folks from the Secret Service and the Customs Service and IRS enforcement to really concentrate our efforts in that area. And so in not recommending bringing the Secret Service into the FBI, we are not suggesting that we are perfect in that area. We would like to offer this other option for your consideration as well.

Senator SESSIONS. Mr. Chairman, thank you.

Senator THURMOND. Chief Stewart, the report recommends that Federal agencies be required to regularly undergo accreditation by

outside agencies. Based on your experience with accreditation on the State level, do you think accreditation is important for Federal law enforcement?

Mr. STEWART. Yes, sir, I do, and you are talking about a number of issues here. You are talking about the integrity of law enforcement, you are talking about professionalism, you are talking about standardization and uniform policies and procedures that every law enforcement agency, no matter whether it is Federal, State or local—no matter what the level, they should live up to these standards.

There is a lot of time and effort that has been expended to come up with these standards. As I said, it was created by a Federal grant from Congress. A lot of time and effort has been put into creating this. There is a commission that is made up of law enforcement officials and academics from different levels that meets and comes up with these standards. And then an inspection team comes out and inspects the organization to see to it that all these standards are met.

I can't think of anything the Federal agencies could do to encourage public confidence and relationships with State and local law enforcement, improve those relationships, than the national accreditation program. As I have said, a number of Federal agencies are now in the lab accreditation program with ASCLD, and the Marshals Service and the U.S. Capitol Police are now involved in aspiring to obtain this accreditation from CALEA. I don't see a downside.

Some Federal agencies say, well, it doesn't apply to us. Well, SLED is a criminal investigative agency with a criminal justice information center, computerized, and a forensic science laboratory which is accredited. But we don't do street patrol or many normal police functions. Yet, we are nationally accredited. We have the two accreditations that are possible for us to attain. So it can apply to criminal investigative agencies, and does.

Most of the Southeast State criminal investigative agencies—Florida, South Carolina, Georgia, North Carolina, Tennessee—are all nationally accredited, the State criminal investigative agencies. It is one thing, if nothing else, that the Southeast is clearly a leader in and we are proud of that and hope that the Federal agencies will become more involved.

Senator THURMOND. Judge Webster, one of your conclusions is that the Attorney General should have broad authority to coordinate law enforcement matters. If the Attorney General's role becomes greater, are you concerned that non-DOJ agencies might be at a disadvantage in terms of resource allocations and jurisdictional conflicts?

Mr. WEBSTER. I am not concerned, Mr. Chairman, but I can't say that there isn't some possibility of that. However, the kinds of authorities that we outline on page 108 and 109, and indeed part of 110 of our report are not the kinds of things that are designed to make the other agencies less important or less effective. Quite the reverse.

My experience as Director of Central Intelligence, under which I had some of these kinds of authorities to deal with the other members of the intelligence community, such as DIA, NSA, INR at the

State Department, the military intelligence services and others, made it more likely that the community as a whole would be aware of and supportive of the role of these other agencies. They were not subsumed at all, and it would be my hope and expectation that that would be the same result with these recommendations.

Senator THURMOND. Judge Webster, in the report's discussion regarding law enforcement priorities for the new century, you note terrorism and narcotics trafficking. Do you think that white collar crime, such as money laundering, is an increasing problem that deserves top attention in the new century?

Mr. WEBSTER. I absolutely do. Some of those problems, as we see them, for the future involve the globalization of crime, most of which involves, as I think the chairman pointed out earlier, money. Crime is always about money, except for a few crimes of passion that we are not involved in jurisdictionally.

As Russian mafia groups form alliances with American La Cosa Nostra and Sicilian mafia and other places around the world, as we have already seen, we have enormous schemes, high-stake financial things, all in the rubric of white collar crime. Some of it moves into the terrorism field by definition, but most of it has to do with stealing, and increasingly stealing by means of electronics, the computer, and so forth. So I don't think white collar crime is going to go away. It is very much a part of the 21st century and needs to be addressed with some of the suggestions we have made here.

Senator THURMOND. Chief Stewart, your report has many meaningful findings. For example, it explains that practically every Federal agency of any size has its own separate police force. There appears to be no good reason for 150-or-so separate police forces. How do you believe they could be consolidated?

Mr. STEWART. Unfortunately, we didn't have the time to go into a study of that in great detail other than to identify the problem. We do note, though, that there are several law enforcement agencies in small areas even right here on Capitol Hill maybe even employed by Congress that could possibly be somewhat easily merged, and at this point may not even be able to talk to each other on the radio, we are told.

However, we were hoping that the board that we suggest be put together from amongst the law enforcement agencies in the Federal Government working with the Attorney General would put great study into that. I know within the Department of the Interior and the Department of Agriculture there are a number of small agencies that at least within their own agencies could be combined.

But one of the biggest things that Gil Gallegos spoke to earlier is attention is not given to these law enforcement agencies. They don't have the manpower, they don't have the equipment to do the jobs that they are expected to do. Here again, it is something I think national accreditation might play a large role in. If the agencies were submitted to the process of national accreditation, you could find out where the shortcomings were and see what actions could be taken. But, clearly, the law enforcement agencies within a Cabinet agency, the uniformed ones, could be better coordinated and possibly some mergers in there where it is appropriate, and we would hope that that would be done.

Senator THURMOND. Judge Webster, one of the report's creative recommendations regards the federalization of crime as a serious problem. Your report suggests that a law enforcement impact statement be written to accompany legislation that would create new Federal crimes, similar to budget impact statements. Please explain how a law enforcement impact statement might discourage the Congress from creating new Federal crimes.

Mr. WEBSTER. I would be happy to try. This suggestion in one form or another has been made in successive years by such people as the late Chief Justice Warren Burger, who was concerned that every time Congress, in its desire to be helpful to meet a problem, passed a law making particular conduct a Federal crime even though it was already a crime in all of the States of the Union. It added to the burden of the whole justice system. It requires more investigators, it requires more prosecutors, it makes a larger caseload for the trial courts and the courts of appeals.

The hope, just as it was with the environmental impact statement, was that when someone came forward with the idea—I am being facetious now—that anyone who uses a handgun with his left hand has somehow committed a Federal crime using any kind of pretext to invoke Federal jurisdiction, they may be creating a series of problems for the justice system.

Accordingly, the advocates of that type of legislation really ought to be required to take a look at what that is going to cost in human available personnel, cost in judicial resources, prosecutorial resources, and then let the Congress, with that information, make a judgment whether it is worth the candle to pass duplicate legislation of what is already on the books at the State and local level.

Senator THURMOND. Judge Webster, regarding the federalization of crime, you also recommend that new Federal crimes have a 5-year sunset provision. Please explain why you think this is important.

Mr. WEBSTER. It is part of our view that measures have to be taken to curtail the expansion of the Federal arm into the criminal justice system, and that things go on the books and they stay there forever. There were about 12, I am told, maybe less, on the books when our Constitution was adopted. There are over 3,000 laws that criminalize conduct under Federal jurisdiction today.

So if a new one is proposed, we think it would be healthy to have a sunset provision so that the Congress would have to take another look. Maybe we have the wrong number of years, but we suggested 5 so that the Congress, in order to save that legislation down the road, would have to decide it was a good thing. Otherwise, it would automatically expire if Congress didn't think enough of it to renew it.

Senator THURMOND. Senator Sessions.

Senator SESSIONS. When I was U.S. attorney, I wanted a U.S. attorney's impact statement. I think we even passed a resolution of the U.S. attorneys that that be done.

With regard to the firearms, the real impact of Federal firearms prosecutions is on the prison system, and it does not, in my view, require large amounts of increases in prosecutors or ATF agents. If I ran both those agencies, you could have a 50-percent increase

in prosecutions without any increase in personnel within 6 months. It is just a question of where you set your priorities.

But if you do a lot of the gun cases which traditionally were street-type crime cases that this Congress and this President have made a high priority—if you do that, you do put some people in jail and you do have to build some Federal jail space. That is an impact statement that really needs to be considered in the process.

Gil, you mentioned the people who will first respond to a terrorist act, your colleagues and sheriffs' deputies and fire departments. Do you believe it is a fit role for the Federal Government to help train those people on how to react to the various threats that they may face?

Mr. GALLEGOS. Absolutely, Mr. Chairman, Senator Sessions. In our report, we also recommend that the Attorney General establish an interagency training board that would look at various training requirements. One of the requirements that we are recommending is that there will also be State and local training experts that would have the ability to provide input, and the reason is so that they would be able to better mesh the idea of law enforcement training and how that carries on to the States and the cities on how to better respond to terrorism or some other crime. So we felt that it was important enough that there should be a consolidated effort to do that, and through training and through this board they could really get to the meat of what is needed out in the field.

Senator SESSIONS. Mr. Chairman, I would just mention that Fort McClellan, which was the Army's chemical weapons school in Alabama, is now beginning a program to train first responders. They have a waiting list of applicants and they have utilized their faculty from previous times and their chemical training facilities and all to do that. And it has been very well received, but we have put very little money in that in terms of how we are spending on counterterrorism. It is chicken feed, really, and I was disappointed this year that there wasn't an increase.

I think it will have to go up in the future because the true fact is that it is our police and fire people who are going to be there first and if they don't recognize anthrax or some poison gas, they are going to die and citizens are going to die. We can help them be prepared for that, I believe.

Judge Webster, on federalism, that is a very legitimate issue. I am sure all of you have discussed that and you have wrestled with it. I think it is appropriate, perhaps unwise on occasion, for the Federal Government to recognize certain areas that represent threats to the peace and dignity of the Nation and to emphasize it. We did it with drugs. We made a major step; we made concurrent jurisdiction with drugs, and we have done it with firearms. Arguments could be made that both of those are Federal Government coopting cases that should be State cases.

My general view is if we have good ATF agents and good prosecutors who have time to prosecute gun cases, they ought to be prosecuting them as they can in helping fight this problem in partnership with the State and local police. The way we did it in Mobile and the way they did it in Richmond was that the chief of police and the U.S. attorney and the ATF actually have a little memorandum of understanding on how they are going to work the

cases. And they work together, utilizing the capabilities of the Federal courts for certain type cases and State courts for others, and achieve some real results.

But we are prosecuting cases. Federal judges told me, and I know they have told you, Judge Webster, this is a gun case that ought to be tried in State court. But unless we change the laws, I am inclined to think we ought to enforce them and use the resources we have got for that.

Mr. WEBSTER. Our big problem was not so much with the laws that are on the books. It was just simply randomly enacting new laws because the Federal Government just sort of wanted to get in, wanted to be helpful. Those determinations that you describe are conscious judgments that they represented a threat to our national security and our national well-being, and that is certainly consistent with the Lincoln Doctrine which we quote in here that the function of the Federal Government is to do for the people and the States what they can't do as well for themselves, or cannot do at all. When they run up to a road block where they need help, nothing in our report should be considered as opposing that.

The Nunn-Lugar-Domenici bill is directed at precisely the kind of training that you were talking about for first-on-scene people for weapons of mass destruction, and we really badly need that now, not after the bomb goes off.

Senator SESSIONS. And we have made some progress in that, I believe, philosophically, in that the Department of Defense is giving that up to the Department of Justice because they are troubled by military training and being deeply involved in domestic response efforts of the cities and counties. I think that is probably more healthy.

Professor Dahlin, do you have anything to add to this discussion? It might be good to have a professorial view.

Mr. DAHLIN. You give a professor a chance and, of course, I have something to add. I guess I would make two or three points. First of all, back to the concern about national police and all of that, I think that the greatest danger to a national police force is a national criminal code. So if we keep adding and federalizing more and more common street crimes, someday we may wake up and look and say, look what we have done.

Second, I think that the recommendations for an impact statement and for a 5-year review are designed to help Congress do just what you are suggesting. You make a considered judgment that indeed this is a national issue. The impact statement allows that judgment to be ratified before the law is passed, and the 5-year review allows it to be tested against reality afterwards.

Finally, I am very concerned, and I think my fellow commissioners are as well, that what often has been happening is Congress passed a law, but it doesn't really add enough personnel even to the law enforcement agency, much less at the prosecutorial level or the judicial level or the correctional level. So you have a law that says an agency is supposed to enforce the law and the reality is they are not, and it seems to me that is a recipe for public cynicism. Of course, every time you pass a law where there is a jurisdiction with a State and local agency, you have now multiplied the number of coordination issues we have got to deal with.

So I think that absolutely, as Judge Webster said, there will be occasions when it is appropriate in our increasingly interconnected world for Federal law enforcement to get into areas that traditionally perhaps it has not. But that ought to be a much more deliberative, contemplative decision than I think it is at the present time.

Senator SESSIONS. Thank you, Mr. Chairman.

Senator THURMOND. Mr. Gallegos, your report recommends that the law enforcement and intelligence communities review their procedures and policies to ensure that they have adequate resources to coordinate activities. There seems to be no all-encompassing national intelligence architecture in the areas of terrorism and counter-drug intelligence-gathering.

Do you have any recommendations concerning streamlining the intelligence coordination among agencies?

Mr. GALLEGOS. Yes, sir, Mr. Chairman. One of the concerns that we had was the connectivity questions that come up with computerized intelligence. We know that the different agencies—Department of Justice, FBI, DEA, the Secret Service—everybody has their own component of criminal intelligence data.

What has been the real obstacle to consolidating that data is that the agencies either reluctantly have connected some of it or have just said they are not going to connect it. And we feel that that has to be a focus so that they are all dealing with the same information the same way. What has been found is that the agencies don't have the capabilities or perhaps the will to exchange that intelligence information.

We also have the creation of the various intelligence centers, from the EPIC Center in El Paso, which to this day is very reluctant to give up anything, any kind of information, especially to State and locals——

Senator SESSIONS. They might collect it, but they are not too quick to give it out.

Mr. GALLEGOS. Absolutely. They take your information, but it is hard to get your own information out of it. I know that from personal experience.

But the key is to get these different intelligence centers to talk to each other and to exchange the information and to be able to disseminate that information as appropriate. That is the key, not to have blanket dissemination, but to be able to disseminate the information based on the need to those particular agencies, whether they be Federal or State and local.

That is part of the policy development that has to be undertaken to ensure that it is easier to disseminate the information and that all the road blocks are not there. So when you have an agency that needs the intelligence, they can get it and they can use it appropriately.

Senator THURMOND. Judge Webster, your report makes recommendations to greatly change the roles of the inspector general. You recommend that the offices of inspector general lose their investigative powers, with investigations apparently remaining within the agency. According to the results of your public opinion survey, 78 percent of Americans favor outside monitors of agencies authorized to report any abuses of power.

Is your recommendation regarding the inspectors general consistent with public opinion?

Mr. WEBSTER. Mr. Chairman, I am not sure that it is consistent with public opinion, and I am not sure to what extent the public has an actual awareness of what the inspector general does and how that works out with the other agency responsibilities that have internal policing.

Our concern was that the inspectors general over the years—and we have had some very good ones in time—tend to focus more and more of their time on internal policing, that is law enforcement investigation, rather than their principal focus to see whether the agency or the department is doing its job well and whether or not it is using efficient management procedures and whether people are carrying out their work for the people of this country in an aggressive and informed way.

I confess a personal bias that I have always thought from the days when the inspectors general were first created that I wish they had been called auditors general because that is a role that the public generally thinks they are doing. They are monitoring how money is spent and how effective and efficient the performance is, and that is a very important outside role and I think it should not be diminished.

But inside the Department of Justice, we have had at any given time an inspector general, a head of the Office of Professional Responsibility, and a head of the Office of Public Integrity. This is bound to create internal tensions and confusion. And we thought that as long as we were giving you our best suggestions for the future that we really ought to examine what an independent inspector general contributes that is not already being done in the Department.

Senator THURMOND. Now, this question is for all of the panelists, all of you. The report makes numerous recommendations in various areas. I ask you this: What do each of you think is the one recommendation of your report that is most critical for the Congress to address immediately, and why?

We will start right here.

Mr. DAHLIN. Well, if you force me to take one, I guess I would take the strengthening of the executive order and giving the Attorney General greater authority because I think that would be at least a beginning step in helping to pull together law enforcement in a way that seems critical to me if Federal law enforcement is to be prepared to work with the problems that are going to be there in the 21st century.

Mr. STEWART. I would say eliminate the duplication of effort, duplication of responsibility, which causes disorganization and waste of resources.

Mr. WEBSTER. It is impossible for me to separate those five suggestions. There are many, many suggestions, dozens of suggestions. There are five basic principles that we submitted to you and they are integral; they can't really be separated.

If we look into the future of law enforcement in this century and where it is going to take us, we must have a strong, central, accountable source of leadership, such as Professor Dahlin emphasized. We must have the intelligence and the information needed

to combat terrorism. We must make global crime a national priority, and we must, in order to maintain our effectiveness, reduce the trend toward federalization. Finally, we must have a focus on professionalism, integrity, and accountability.

Now, it is up to the Congress how many of the specific suggestions we have made in our more lengthy report it wishes to push forward, but I think all five of those principles of concern need in some way to be addressed.

Mr. GALLEGOS. Mr. Chairman, I would echo the sentiments of Professor Dahlin. I think Executive Order 11396 creating the responsibility for the Attorney General is the biggest step to really consolidating the efforts and the coordination of Federal law enforcement.

While I agree with the chairman that the other principles have to be taken into consideration, I think this would be a tremendous step to really reducing the duplication of effort and really consolidating law enforcement as it should be.

Mr. SANDERS. Mr. Chairman, I think we are all saying basically the same thing that the package of recommendations are intertwined and irretrievably connected, and I would select all of them.

Senator THURMOND. Senator Sessions, do you have anything else you want to take up?

Senator SESSIONS. Well, I was intrigued by the inspector general recommendation. That is consistent with the long-term suspicion or feeling I have had that you really need—the best investigations I have had, Judge Webster, within an agency came from the FBI. There is pressure on inspectors general to not embarrass the agency, to get people to resign perhaps and just go away. I hate to say that, but there is not the intensity of interest of actually having a case go to trial and have that deterrence and justice that comes from a public official who has been mismanaging or stealing. So if we could separate those roles of auditing from criminal prosecutions, I think we might be better off, and I share that.

Again, Mr. Chairman, I think this report is very valuable. We simply have to consider how we can better produce law enforcement in America at less cost and a better product, to avoid duplication, counter-productivity, sometimes actual hostility between agencies, sometimes unbridled competition, such as over the gun-tracing thing. Those things could be done better if we had stronger leadership.

It ultimately will come down to having an Attorney General and high officials who have a passion for producing excellence. If you give the power to the Attorney General and the Attorney General is not interested or doesn't even have a Criminal Division chief for 18 months and is not interested in that and focused it, then you are not going to get the productivity we need. Perhaps that is something we need to look at in confirmations in the future, is will this person try to honor the taxpayers' money and produce efficient and effective law enforcement agencies for America.

Mr. Chairman, thank you for holding this. I have enjoyed it a lot. I respect this panel. I have known most of them for previous years. The report is of great value, and I think it is up to us now to wrestle with it and see if we can't improve law enforcement in America.

Senator THURMOND. Were you the attorney general in Alabama or a prosecuting attorney?

Senator SESSIONS. I was U.S. attorney for 12 years and attorney general for 2.

Senator THURMOND. That experience has been very valuable to you.

Senator SESSIONS. Thank you, sir.

Senator THURMOND. Now, before closing, I would like to place into the record a statement by Senator Hatch, and also a statement by Senator Leahy.

[The prepared statements of Senators Hatch and Leahy follow:]

PREPARED STATEMENT OF SENATOR ORRIN HATCH

Let me welcome the members of the Commission on the Advancement of Law Enforcement to our hearing this afternoon. I helped established the Commission in 1996 as part of the Hatch-Dole Anti-terrorism and Effective Death Penalty Act. I felt then that it was important to have an experienced panel of experts, from different law enforcement perspectives—federal, state and local—to examine our federal law enforcement structure in light of the changing environment of the 21st century. I feel even more strongly about that now, and I look forward to reviewing your report in greater detail and working with you as we explore ways to improve the federal government's role in protecting our citizens.

I am eager to explore your recommendations for improving coordination and cooperation with state and local law enforcement agencies. In addition, it has become increasingly clear to me that cyber-crime and cyber-terrorism, both foreign and domestic, pose the most significant new challenge to law enforcement. I strongly agree that the tools and techniques that carried this nation through the 20th century will not suffice in the 21st. To that end, the Committee will closely examine these issues in the coming months to make sure law enforcement is not outflanked by criminal activity carried out through our new information technologies.

The Commission's report also makes a number of recommendations for consolidation, some of which have been suggested before, such as the recommendation to combine the law enforcement functions of the ATF and DEA into the Federal Bureau of Investigation. I have long been open to the idea of consolidating ATF's enforcement functions within the Justice Department.

In particular, I am eager to do what I can to improve the Clinton Administration's dismal record of enforcing our firearms laws. In 1994, Congress passed the Brady law which required background checks for gun purchases. In December 1998, the National Instant Check System became operational. As of 1999, more than 250,000 persons who cannot legally purchase a gun have been prohibited from purchasing a gun because of these background checks.

Even though it is a federal felony to lie on a background check application for a gun purchase, the Clinton Administration rarely prosecutes these cases. Of the more than 250,000 persons who have been prohibited from buying a gun since 1994, there have reportedly been less than 200 referrals for prosecution. Just last month, the Denver Rocky Mountain News revealed that Colorado residents who lie on Brady background check applications are rarely prosecuted. I hope that the Justice Department will begin to prosecute Brady violations and will increase gun prosecutions generally.

While the Administration continually tries to politicize the issue of crime, I believe we must put public safety ahead of politics. The American people deserve no less. I thank the distinguished Commissioners and their staff for all the hard work that has gone into this report. I and the Committee look forward to working on these issues.

PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

The Report of the Commission on the Advancement of Federal Law Enforcement released earlier this week fulfills a congressional mandate issued as part of the Antiterrorism and Effective Death Penalty Act of 1996. It has taken longer than the original two years anticipated in that mandate to reach this stage, but the observations and recommendations of the distinguished members of the Commission are no less timely. I want to thank each of the Commission members for their distinguished public service both in the past and in connection with this report.

No nation is safe enough that it can afford sit back and believe it is adequately prepared to handle all possible threats to the public's safety. The United States should continually be updating its law enforcement resources and reevaluating the organization and goals of our Federal law enforcement efforts. While we may not all agree about specific recommendations, the report is an important contribution to making those ongoing efforts. I would like to comment briefly on three of the report's recommendations.

First, the report recommends that enforcement of our firearms and explosives laws currently handled by the Bureau of Alcohol, Tobacco and Firearms and the enforcement responsibilities of the Drug Enforcement Administration be transferred to the Federal Bureau of Investigation. In previous Judiciary Committee hearings on the incidents at the Branch Davidian compound in Waco, Texas, I have raised real concerns about the continuation of the Bureau of Alcohol, Tobacco and Firearms.

While I do not believe in change for the sake of change, I will keep an open mind to the suggestions of the Commission on reorganizing our Federal law enforcement agencies. Concentrating federal law enforcement powers not only under the Attorney General but also under Directors of the Federal Bureau of Investigation, who serve unique ten-year terms and may not be appointed or accountable to a serving President, may strike some as putting too much power in the hands of one person.

Furthermore, the Commission was created by Congress out of concern over the quality of federal law enforcement agencies in the aftermath of the tragedies at Ruby Ridge, Idaho, in 1992 and Waco, Texas, in 1993. The conduct and role of the FBI in both those incidents has been rightly and strongly criticized in independent and congressional investigations. As the ongoing investigations by Special Counsel John Danforth and by Senator Specter suggest, the final chapter on the Waco incident has not yet been written. While the FBI has made important organizational changes since those two incidents, we should move cautiously before concentrating additional power in that single law enforcement agency.

Second, I agree with the Commission's recommendation that we must focus additional effort on computer-related crimes. On July 1, 1999, I introduced S. 1314, the Computer Crime Enforcement Act, along with Senators DeWine and Robb. Our legislation would authorize a Department of Justice grant program to help States prevent and prosecute computer crime. Grants under the bill may be used to provide education, training, and enforcement programs for State and law enforcement officers and prosecutors in the rapidly growing field of computer criminal justice.

Computer crime is quickly emerging as one of today's top challenges for state and local law enforcement officials. All 50 states have now enacted tough computer crime control laws. These state laws establish a firm groundwork for electronic commerce, an increasingly important sector of the nation's economy. Unfortunately, too many state and local law enforcement agencies are struggling to afford the high cost of enforcing their state computer crime statutes. Our legislation, the Computer Crime Enforcement Act, would help address the worsening threats we face from computer crime.

Technology has ushered in a new age filled with unlimited potential for good. But the Internet age has also ushered in new challenges for federal, state and local law enforcement officials. Congress and the Administration need to work together to meet these new challenges while preserving the benefits of our new era. The Computer Crime Enforcement Act is a common sense solution that puts the responsibility of computer crime law enforcement back in the hands of the States. They are the ones who should be prosecuting these crimes.

Finally, I agree with the Commission's recommendation that the Congress should restrain its impulse to federalize more local crime laws. I spoke on the floor of the Senate on March 2, 1999, about this issue after the release a year ago this month of the comprehensive report of the American Bar Association's Task Force on Federalization of Criminal Law, chaired by former Attorney General Edwin Meese. We should think carefully before federalizing crimes traditionally handled by the State and local enforcement authorities. Each time we federalize a crime, we are essentially telling our State legislatures, our State law enforcement officials, and our State prosecutors that they are insignificant.

Every Congress in which I have served—I have served here since 1975—has focused significant attention on crime legislation. No matter which party controls the White House or either House of Congress, the opportunity to make our mark on the criminal law has been irresistible. In fact, more than a quarter of all the Federal criminal provisions enacted since the Civil War have been enacted since 1980 and more than 40 percent of those laws have been created since 1970.

In fact, at this point the total number is too high to count. The best that the Meese Task Force could do was estimate the number of Federal crimes to be over

3,300. Even that does not count the nearly 10,000 Federal regulations authorized by Congress that carry some sort of sanction.

Federalizing criminal activity already covered by State criminal laws that are adequately enforced by State and local law enforcement authorities raises three significant concerns, even if the Federal enforcement authority is not exercised.

First, dormant Federal criminal laws may be reviewed at the whim of a Federal prosecutor. Even the appearance—let alone the actual practice—of selectively bringing Federal prosecutions against certain individuals whose conduct also violates State laws, and the imposition of disparate Federal and State sentences for essentially the same underlying criminal conduct, offends our notions of fundamental fairness and undermines respect for the entire criminal justice system.

Second, every new Federal crime results in an expansion of Federal law enforcement jurisdiction and further concentration of policing power in the Federal government. Americans naturally distrust such concentrations of power. That is the policy underlying our posse comitatus law prohibiting the military from participating in general law enforcement activities. According to the Meese Task Force, the ranks of Federal law enforcement personnel grew a staggering 96 percent from 1982 to 1993 compared to a growth rate of less than half that for State personnel. The Task Force correctly noted in its report that: "Enactment of each new federal crime bestows new federal investigative power on federal agencies, broadening their power to intrude into individual lives. Expansion of federal jurisdiction also creates the opportunity for greater collection and maintenance of data at the federal level in an era when various databases are computerized and linked."

Finally, and most significantly, Federal prosecutors are simply not as accountable as a local prosecutor is to the people of a particular town, county or State. I was privileged to serve as a State's Attorney in Vermont for eight years and went before the people of Chittenden County for election four times. They had the opportunity at every election to let me know what they thought of the job I was doing.

By contrast, Federal prosecutors are appointed by the President and confirmed by the Senate, only two Members of which represent the people who actually reside within the jurisdiction of any particular U.S. Attorney. Federalizing otherwise local crimes not only establishes a national standard for particular conduct but also allows enforcement by a Federal prosecutor, who is not directly accountable to the people against whom the law is being enforced. The Meese Task Force warned that the "diminution of local autonomy inherent in the imposition of national standards, without regard to local community values and without regard to any noticeable benefits, requires cautious legislative assessment."

I thank the members of the Commission for coming to testify before the Committee today. Their hard work and dedication to making law enforcement efforts in the United States as organized and prepared as possible are commendable and constructive. I look forward to discussing these important issues with them.

Senator THURMOND. Now, we will keep the record open for about one week for follow-up questions or for additional materials to be placed in the record.

Senator Sessions, do you have anything else?

Senator SESSIONS. No, sir.

Senator THURMOND. Now, I want to thank all of you witnesses for attending and giving the fine testimony you did. Your presence here and your testimony is most valuable not only to help us but for the common good. We thank you again for your presence and your good work, and wish you well.

We now stand adjourned.

[Whereupon, at 4:16 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS AND ANSWERS

RESPONSES OF THE COMMISSION TO QUESTIONS FROM SENATOR LEAHY

Question 1A. Computer crime is quickly emerging as one of today's top challenges for State and local law enforcement officials. All 50 States have now enacted tough computer crime control laws. Unfortunately, too many State and local law enforcement agencies are struggling to afford the high cost of equipment and training to enforce these statutes. How does the Commission recommend that Congress address this problem and enhance law enforcement's ability to enforce State computer crime laws?

Question 1B. While the Commission has refrained from opining about pending legislative proposals, in light of the Commission's recommendation against further federalizing crime, please explain whether the approach of S. 1314, the Computer Crime Enforcement Act, which would create a grant program for State and local law enforcement agencies to enhance their technology and training to combat computer crime, respects the appropriate role of State and local law enforcement?

Answer. The Commission strongly agrees that computer crime is rapidly emerging as one of the top challenges for State and local law enforcement. Indeed, the Commission raises the specter of cybercrime in its opening sentence in the Introduction to the report (page 15).

We note on the same page that "Cybercrime can assault any county's physical and information infrastructure." In sections on cyberterrorism (page 69) and on international cybercrime (page 75), we analyze the implications of the very serious subject.

In question 1A, you ask how Congress might address this problem and enhance the ability of States to enforce their computer-crime laws. We suggest:

- A Federal program of grants, technical, and training to States to help them develop and expand their capability and capacity to enforce computer-crime laws;
- Federal research and development to find way to cope with this kind of highly complicated criminal activity; and
- Use of Federal ability to coordinate law enforcement activities across several States, which may be necessary to assist States in preventing, investigation, and prosecuting computer crime.

These kinds of activities are entirely proper for the Federal Government provide strong support to States while limiting Federal intrusion, and place responsibility and accountability at the appropriate level of government.

In question 1B, you ask for the Commission's views on the approach of S. 1314, the Computer Crime Enforcement Act, which would create a grant program for State and local law enforcement agencies to enhance their technology and training to combat computer crime. Does this approach respect the appropriate role of State and local law enforcement?

The Commission's answer is yes, this approach does respect the role of State and local law enforcement. As we state in our answer to Question 1A, a grant program as envisioned in S. 1413 is consistent with concepts of Federalism that the Commission believes should guide Congress in enacting legislation affecting State and local law enforcement.

Question 2. The Child Custody Protection Act, S. 661/H.R. 1218, would establish a new Federal criminal prohibition against transporting a minor across State lines for the purpose of avoiding a law where the minor resides respecting parental involvement in the minor's decision to obtain an abortion. A consequences of this law

would be that Federal investigative and prosecutorial resources would be employed to enforce State parental involvement laws, including in States without such laws but where a minor may travel to obtain an abortion. Is this proposal consistent with the principles against the federalization of crime that the Commission articulated in its report?

Answer. As a general rule, the Commission believes that if a State has the power to prosecute a crime in that State, it should do so.

In cases where both a Federal and State interest can be established, the Commission proposes a thorough study of the implications of making the crime a Federal crime. Under the Commission's proposed Federalization Prevention Act, Congress and the Executive Branch would be required to provide a Law Enforcement Impact Statement in addition to the current budget impact statement. Obviously, in the example you provide, important issues to be addressed in the impact statement would be the extent to which such a law would use Federal investigative and prosecutorial resources and the effect of such usage both on State and local law enforcement and on the ability of Federal law enforcement to focus on cybercrime, cyberterrorism, and other emerging Federal law enforcement issues. That analysis of the impact of the legislation under consideration would provide Congress with information at the beginning of the legislative process. Over the 5 years following enactment, Congress would be able to consider the value of the criminal statute, and the statute would expire after 5 years under a sunset provision unless Congress extends it.

Question 3. As the Commission's report points out, the Federal Government exercises concurrent jurisdiction over many crimes traditionally handled by State and local law enforcement. In a number of cases in which concurrent jurisdiction exists, the Federal Government has sought or is seeking the death penalty in States that do not permit the imposition of such penalty, despite Department of Justice guidelines that in cases of concurrent jurisdiction, "a Federal indictment for an offense subject to the death penalty will be obtained only when the Federal interest in the prosecution is more substantial than the interests of the State of local authorities." In order to minimize Federal forum-shopping and respect more fully the views of State residents and voters on the issue of the death penalty, would the Commission support a proposal requiring the Attorney General or her designee to certify, before a Federal death penalty may be sought, that (1) the State does not have jurisdiction or refuses to assume jurisdiction over the defendant; (2) the State has requested that the Federal Government assume jurisdiction; or (3) the offense charged clearly invokes specific Federal interests, including crimes of genocide; terrorism; use of chemical weapons or weapons of mass destruction; destruction of aircraft, trains, or other instrumentalities or facilities of interstate commerce; hostage taking; torture; espionage; treason; the killing of certain high public officials; or murder by a Federal prisoner?

Answer. This question raises issues involving concurrent Federal and State jurisdiction, specifically cases where the Federal Government seeks a death penalty in States that do not permit imposition of the death penalty. You cite Department of Justice guidelines to the effect that "a Federal indictment for an offense subject to the death penalty will be obtained only when the Federal interest in the prosecution is more substantial than the interests of the State or local authorities." You ask if the Commission would support a proposal that requires the Attorney General or her designee to certify, before a Federal death penalty may be sought, that (1) the State does not have jurisdiction or refuses to assume jurisdiction over the defendant; (2) the State has requested that the Federal Government assume jurisdiction; or (3) the offense charged clearly involves specific Federal interests, including crimes of genocide; terrorism; use of chemical weapons or weapons of mass destruction; destruction of aircraft, trains, or other instrumentalities or facilities of interstate commerce; hostage taking; torture; espionage; treason; the killing of certain high public officials; or murder by a Federal prisoner.

The Commission's answer is yes, we would support such an approach. What this question proposes is consistent with our views about keeping lines of jurisdiction and authority clear between Federal and State law enforcement. This approach ensures that cases with serious Federal implications can be prosecuted in Federal courts, while those more weighted toward State interests are prosecuted in State courts. An example of how this might work can be seen in the current Federal prosecution for murder in the Starbuck's robbery in Washington, DC; the Attorney General has approved a prosecution that seeks the death penalty, even though the death penalty is not permitted under District of Columbia criminal law.

We also note that the issues raised in this question are appropriate matters to be considered in the Law Enforcement Impact Statement that we mention above.

RESPONSES OF THE COMMISSION TO QUESTIONS FROM SENATOR BIDEN

Question 1. There has been a great deal of debate about forcing the U.S. Attorneys to prosecute gun cases with a Federal nexus. Is this an example of the strain on the system that is of concern to the Commission?

Answer. Indeed, there has been a great deal of debate on the ability or inability of U.S. Attorneys to prosecute Federal gun cases in all their manifestations. For example, on October 21, 1999, Deputy Attorney General Eric Holder said prosecution by U.S. Attorneys of all 400,000 people who filed false statements [on gun purchases] would "overwhelm the system." In other instances, low rates of prosecution have already been identified by the Executive Office of the United States Attorney:

- Prosecutions under the Brady Act (background checks);
- Prosecutions for the transfer of a handgun or ammunition to a juvenile;
- Possession of a handgun by a juvenile;
- Prosecutions of possession or discharge of a firearm in a school zone; and
- Prosecutions for possession of firearms by a juvenile at school.

The Commission is concerned about these types of strains on the Federal system. It is for this reason the Commission proposed the Federalization Prevention Act. Under that Act, proposed legislation would be examined, before passage, to determine its impact on the Federal system—and reexamined after 5 years to ascertain whether it is working as expected.

Question 2. You indicate in your report that "although technically Constitutional, there are public perception problems related to double jeopardy." I know that the Department of Justice has a policy on this—it's called the Petite Policy (the Petite Policy is the process by which Justice decides which cases to prosecute even though the States already have done so). And, I also know that they prosecute cases after a State has already done so only in rare cases and only with high-level Justice Department approval. Do you know of any specific examples of cases where someone was charged and brought to trial in both State and Federal courts that caused the type of public perception problem that you are alleging?

Answer. The quoted phrase does not appear in the Commission Report's narrative on double jeopardy (see page 92). The Commission Report says, "Equally troubling is the possibility that federalization threatens the concept of 'double jeopardy' in a very real, but not unconstitutional manner."

The Commission relied on the content of the ABA's 1998[1] study and analysis of the double jeopardy issue on the following point: a behavior may violate both State and Federal law. Under the concept of dual sovereignty (the State and the Federal Government), the Supreme Court has said that the same offense can also be viewed as a different offense for Constitutional purposes. But as the Senator notes, the DOJ Manual is guided by the *Petite* policy in these instances, and instances of this type of prosecution are extremely low, perhaps several dozen a year and only when there is a compelling Federal interest support dual or successive Federal prosecution.

The Commission Report does not allege a "public perception problem." The Commission's public opinion survey did not ask a specific question on double jeopardy. The Commission relied on its collective experience when it noted that the "widespread application [of double jeopardy] could strike many Americans as unfair."

The Commission's intent was to draw attention to potential consequences of a widespread applicability of double jeopardy cases that may go beyond *Petite* guidelines. For example:

- The distinction, or appearance of dual punishment, between an excessive financial penalty payment and criminal prosecution;
- Cases where the same offense can violate separate State and Federal laws (for instance, the Rodney King cases—State assault charges on the arresting officers versus Federal charges that police officers violated King's constitutionally protected right to be free from the use of unreasonable force during arrest);
- Cases like that of Terry Nichols (Oklahoma bombing), who is claiming that a State trial for first degree murder (160 counts) would constitute double jeopardy because he has already been convicted in Federal court of eight counts of involuntary manslaughter in the deaths of eight Federal agents; and
- A State court judge (Idaho) dismissed a State murder charge against Kevin Harris (Ruby Ridge incident) after his acquittal in Federal court of murdering a Federal agent. The judge invoked the State's double jeopardy law, saying he could not be tried again after his acquittal.

[1] Task Force on Federalization of Criminal Law (1998), *The Federalization of Criminal Law: Defending Liberty, Pursuing Justice,* Washington, DC: American Bar Association.

Double jeopardy issues have the potential to strike the American public as unfair, depending on one's perspective on sensitive issues: being deprived of assets and being subjected to criminal punishment, race relations/civil rights, acts of terrorism and the demands for justice, etc. If double jeopardy issues might be seen as unfair, it is clear also that even for the legal profession, there is confusion. As then-Justice Rehnquist once said, "* * * the decisional law in the [double jeopardy] area is a veritable Sargasso Sea which could not fail to challenge the most intrepid judicial navigator." *Albernaz* v. *United States*, 450 U.S. 333 (1981).

Question 3. You indicate in your report that Title 18 of the Federal Criminal Code is "unwieldy." Can you cite any examples of statutes that need to be modified or eliminated? Can you name me five Federal crimes that should not be Federal crimes and why?

Answer. At this juncture, there are more than 3,000 Federal crimes on the books. Few crimes, no matter, how local in nature, are beyond the reach of Federal criminal jurisdiction, and the number of crimes deemed "Federal" continues to increase. The 1994 Crime Bill alone created two dozen new Federal crimes, including: driveby shootings; possession of handguns near a school; possession of a handgun by a juvenile; embezzlement from an insurance company; theft of a major artwork; and murder of a State official assisting a Federal law enforcement agency. Although many of these crimes are a threat to public safety, they are already outlawed by the States and need not be included in the Federal Criminal Code.

As a result of the trend toward federalization, the Federal Government often becomes involved in cases that are better handled by local law enforcement personnel. Carjacking is another example of a crime that should never have been federalized. The Federal carjacking law was enacted in response to an atrocity that occurred in the State of Maryland. The law was unnecessary because most States already had carjacking laws and a crime designation to cover the offense. Other statues that fall into this category relate to school violence, disrupting rodeos, sale of drugs in school zones, and the transfer of guns in school zones.

The Supreme Court took a stand on the last offense in *United States* v. *Lopez* when it declared the Gun Free School Zones Act of 1990 unconstitutional. The Act made it a Federal offense for any person to possess a firearm at any place that the individual knows is a school zone. In *Lopez,* a State indictment was dismissed so that Federal charges could be brought, even though the State (like nearly all States) had laws that prohibit guns in or near schools.

Our views on this subject were reinforced not only by the 1998 ABA study but also by the testimony of the expert witnesses who appeared before the Commission.

Question 4. In your report you call for an external review of Federal law enforcement. Do you have concern that this is just going to add another layer of bureaucracy to a system that you are criticizing for being too bureaucratic?

Answer. No. External review will not create a new bureaucracy review and accreditation are handled by the Commission on Accreditation of Law Enforcement Agencies, Inc. (CALEA), which already exists and was, in fact, created under a grant from the U.S. Department of Justice. Moreover, as the Commission reported (page 103), accreditation is a voluntary process of self-study and peer-review based on some 436 law enforcement standards developed by law enforcement professionals around agency missions and mandates. Since CALEA began in 1979, some 500 law enforcement agencies in the United States have been accredited through the program. The U.S. Marshals Service has already earned accreditation from CALEA and the Capitol Police are currently in the process of obtaining such accreditation.

In addition, Federal crime laboratories are joining the American Society of Crime Laboratory Directors (ASCLAD), an organization of more than 400 directors of local, Federal, and international forensic laboratories. ASCLAD's primary interest is in achieving quality in the delivery of forensic science services by improving the quality of management practices in forensic laboratories. The FBI and, it is believed, DEA are already members. We believe that every Federal criminal forensics laboratory should be accredited based on scientific standards currently in place in professional laboratories around the country. Compliance will help build public and judicial confidence in laboratory findings, much like those found in State and local government.

The Commission heard testimony on the value of external review and accreditation from several respected law enforcement professionals, including Jami St. Clair, President of ASCLAD, and Sylvester Daughtry, Jr., Chairman of CALEA.

The Commission, in its report, recommends the creation of the Federal Law Enforcement Officer Training Board and the Interagency Coordination Board. If created, these boards will facilitate the coordination of policy development, operations, and methods for evaluating the efficiency of agencies. regarding the issue of over-

sight of citizens complaints, this is the responsibility of the Attorney General. The Congress must fulfill its oversight duties with respect to Federal agencies by ensuring that the Attorney General investigates and reports on citizen complaints.

Question 5. You recommend that Executive Order 11396 (giving the Attorney General broad authority over all criminal matters) be updated to reflect new national and global realities. You also suggest that it be reissued so that the Attorney General becomes the focal point of Federal law enforcement. But, the Executive Order is quite clear regarding the Attorney General's authority. What can she do immediately to see that the order is carried out and that the problem of too many conductors leading too many orchestras is addressed? What can be done to help facilitate this process?

Answer. Executive Order No. 11396 was signed by President Lyndon Johnson more than 30 years ago and has lain dormant since. As noted in our report, if the directive had been carried out, the Commission believes that many of the coordination problems that trouble Federal law enforcement today would have been put to rest.

Because the Executive Order has lain dormant for so long, however, the Commission believes that attempting to implement it at this late date in the life of the current Administration would not be effective. In fact, given how long the Executive Order has been ignored, we believe its purposes can be realized only by reissuing and strengthening it to reflect the new global and international realities. As noted in our report, the revised executive Order should incorporate coordinating authority for the Attorney General that is as broad as the authority the Director of Central Intelligence has with regard to intelligence matters under Executive Order No. 12333. Specifically, the revised Executive Order No. 11396 should provide the Attorney General with explicit authority to:

- Act as the primary advisor to the President on law enforcement matters;
- Develop and implement objectives and guidance for the law enforcement community;
- Promote and ensure the development and maintenance of services of common concern to Federal law enforcement agencies;
- Formulate and implement policies and procedures regarding law enforcement;
- Ensure that the law enforcement community establishes common security and access standards for managing and handling data and intelligence;
- Ensure that programs are developed to protect information, sources, informants, methods, and analytical procedures;
- Establish appropriate staffs, committees, and other advisory groups to assist in the execution of the responsibilities of the Attorney General;
- Monitor agency performance and, as necessary, conduct program and performance audits;
- Provide for policies to ensure uniform procedures for responding to citizens' allegations of misconduct on the part of Federal law enforcement agencies or officers;
- Reduce unnecessary overlap or duplication among agency programs and missions; and
- Submit an annual report to Congress about accountability, citizens' complaints, and their resolution.

In addition, as noted in our report, an Attorney General strengthened in the full exercise of the powers contemplated in the revised Executive Order No. 11396 will require advice and guidance on any number of matters. That is why the Commission also recommends the establishment of a permanent, independent, Interagency Advisory Board on Federal Law Enforcement. Such a board will make the Attorney General's increased authority more palatable to other Federal law enforcement agencies. It will also improve the quality of the decisions that the Attorney General makes in carrying out this increased authority.

Question 6. You have suggested that the FBI become the sole criminal activity and national security agency. You have also suggested that significant portions of the Bureau of Alcohol, Tobacco and Firearms be merged into the FBI and that the Inspector General's Offices be consolidated. Do you suggest other mergers that are not contained in your report? What do you see as the most significant hurdles to these mergers? What will the mergers really mean off paper—will there by layoffs of law enforcement officers? How would Congress oversight jurisdiction change?

Answer. This multi-part question goes to the heart of the consequences of proposing mergers, consolidations, and elimination of Federal law enforcement agencies.

This question raises issues that are the proper concern of the Commission's proposed permanent Interagency Advisory Board on Federal Law Enforcement and how

it might operate. This 19-member board, made up of representatives of the 14 major law enforcement agencies examined in our report and five additional representatives from other Federal law enforcement agencies, would provide the Attorney General with advice in two areas: the needs of small agencies; and the growth and role of the function of the Inspector General. A principal focus of Interagency Advisory Board work would be to assess the effects of mergers, consolidations, and elimination of Federal law enforcement agencies. (Page 111.) The matter of Congressional oversight jurisdiction is, of course, an entirely different matter and one for Congress itself to consider.

Before we address the questions, we wish to clarify and correct what appear to be two misapprehensions: First, at no time has the Commission advocated that the Federal Bureau of Investigation become the "sole criminal activity and national security agency." On the contrary, the Commission greatly respects the missions, jurisdictions, capabilities, and personnel of the many Federal criminal justice and national security agencies that contribute so effectively to the safety and security of our citizens and our Nation. We do believe that greater effectiveness and efficiency can be affected through restructuring the Federal law enforcement community along the more functional lines that we suggest in our Recommendation I (page 108), but we do not recommend that the FBI become the sole criminal justice agency. Likewise, we believe that far more effective use can be made in Federal, State, and local law enforcement of intelligence gathered by the Nation's intelligence agencies. This use is particularly important in light of the spread of global crime, cybercrime, and terrorism. We do not recommend that the FBI become the sole national security agency.

Second, at no time does the Commission recommend that Offices of Inspectors General be "consolidated." We believe that the current structure of the OIGs should be examined with an eye toward restructing, and that such a review might turn up cases in which some offices could be merged. Congress might request that the Interagency Advisory Board undertake such a review and provide Congress with its recommendations.

The Commission will now address this multi-part question in order:

Question 6A. Does the Commission suggest other mergers that are not contained in its report?

Answer. No. Although the Commission does not recommend merges not contained in its report, we do recommend that Congress and the President look toward a long-term restructuring that would rationalize and realign Federal law enforcement and security agencies in the Executive Branch into five broad functional areas (pages 110–111):

- Criminal Activity and National Security;
- Protective and Border Security;
- Financial and Regulatory Enforcement;
- Corrections Enforcement; and
- Resource Enforcement.

This realignment would doubtless involve mergers of agencies. For example, the Commission suggests an incorporation of the functions of the Bureau of Land Management and the Fish and Wildlife Service (now in the Department of the Interior) with existing law enforcement functions from the Department of Agriculture. (Page 111.) Currently, three separate law enforcement agencies report to Congress—Capitol Police, Government Printing Office Police, and the Library of Congress Police. In fact, if these three were consolidated, there would only be one chief of police, one set of hiring and training standards and policies, integrated communications systems, and reduction of bureaucracy.

Question 6B. What does the Commission see as the most significant hurdles to these mergers?

Answer. The hurdles to mergers of Federal law enforcement agencies are parochialism and protection of bureaucratic turf. The problems of overlapping jurisdictions, duplication of effort, and multiplicity of the same functions have been well studied by other groups before us, including Vice President Al Gore's Performance Review (please see our answer to Questions 8 and 11, below). In fact, every independent review that we could find arrived at the same conclusions that we did about consolidating agencies. These other groups have understood, as we do, that existing agencies, and their Congressional oversight committees, are reluctant to give up their territory or their power.

We also recognize the difficulty that Congress faces in addressing the different agency authorizations. Congress looks at Federal law enforcement agencies department by department in the various authorization bills. Committee consideration of

this legislation is also based on agency, not function. We address this dimension in Question 6D.

Question 6C. What will these mergers really mean off paper—will there be layoffs of law enforcement offices?

Answer. No. The Commission believes that there is plenty of criminal justice work to do, and that Federal law enforcement personnel levels should not be reduced. We do recommend some shifts in personnel and reviews of existing structures to obtain "more bang for the buck" in Federal law enforcement. But we have not suggested and do not now suggest any layoffs. The Commission heard testimony that actually more officers are needed, especially by the agencies that perform patrol and other uniform services.

Question 6D. How would Congressional oversight jurisdiction change?

Answer. In some cases, Congressional oversight jurisdiction would change significantly. Committees and Subcommittees charged with oversight of Federal law enforcement agencies that were merged have to reallocate oversight responsibilities. Examples are the transfer of law enforcement functions of the Bureau of Alcohol, Tobacco, and Firearms from the Department of the Treasury to the FBI, and the merger of the Drug Enforcement Administration into the FBI.

The effect on Congressional oversight should not be minimized. It could be difficult to accomplish. Just a few years ago, however, Congress itself reorganized its Committees with new functions, new oversight jurisdictions, and even new nomenclature—all along more functional and less traditional lines. The same could be done here.

Question 7. We do have an agency that is supposed to streamline and coordinate drug policy—and that agency is the Office of National Drug Control Policy. I fought for 10 years to get that office funded. Have you consulted them regarding streamlining and who is best equipped to take on these tasks?

Answer. In Appendix H. Acknowledgments of its final report, the Commission states: "Unfortunately, a few persons, including some heads of Federal law enforcement agencies, declined the Commission's invitation to testify, thus depriving the Commission—as well as Congress and the American public—of valuable and useful information for this report." Although the Commission invited the head of the Office of National Drug Control Policy or his representative to appear before it numerous times, all of its invitations were repeatedly, and adamantly, declined.

Question 8. Why not just take the FBI's drug crime jurisdiction away? Is there really a significant difference between putting the DEA under the FBI—or having both under the general umbrella of Justice?

Answer. Your question poses the alternative to the Commission's recommendations that drug crime jurisdiction be moved from the Drug Enforcement Administration to the Federal Bureau of Investigation. Why not just remove drug crime jurisdiction from the FBI and place it in DEA—or at least place both "under the general umbrella of Justice"?

Removal of drug crime law enforcement responsibilities, such as they exist, from the FBI to DEA would make no sense. A large number of operational and administrative activities that support law enforcement prevention, identification, investigation, and other efforts within the FBI would have to be duplicated within DEA. The transfer of drug crime jurisdiction from the FBI to DEA would make matters far worse than they are now—all operational activities and support services are now duplicated within DEA for the single purpose of drug law enforcement. (Report pages 110–115.)

Quite to the contrary, one reason for moving DEA functions to the FBI is to provide DEA's drug law enforcement activities with the whole range of support capability that the FBI brings to the table. The advent of cybercrime and transnational crime necessitates a closer working relationship between agencies. A consolidated FBI, DEA, and ATF will absolutely facilitate the dismantling of criminal operations and terrorist cells because more effective investigations are best handled and coordinated within one agency.

Please note that, to ensure that drug enforcement activities continue to have high visibility and access to law enforcement officials at the highest levels, the Commission believes that this newly transformed function should be headed by a senior official who reports directly to the Director of the FBI. (Footnote 111.)

Other thoughtful observers have arrived at the same recommendation that the Commission makes. In the early 1980s, when William French Smith was Attorney General, Rudolph W. Guliani, then Associate Attorney General, oversaw a study that recommended the merger of the DEA into the FBI. In 1993, moreover, Vice President Al Gore made the same recommendation in this report, "Red Tape to Results." (Page 115 and footnotes 112 and 117.)

The Commission believes that removal of drug law enforcement responsibilities—accompanied by budget, statutory authority, and personnel—from DEA to the FBI, in a new separate division, would reduce unnecessary overlap and duplication among agency activities. The other way around, the merger would increase overlap and duplication.

Finally, you ask about the difference between moving DEA under the FBI or leaving both "under the general umbrella of Justice." The Commission believes that the differences are very great. First, by leaving both agencies under the general umbrella of Justice, duplication and redundancy would continue and likely grow; DEA will need to build out more capability that it now lacks and that already exists in the FBI. Second, sharing of intelligence, planning for coordinated activities, and operational cooperation in and control of field operations would continue to be accomplished through the Attorney General's office, because both the Director of the FBI and the Administrator of DEA report to the Attorney General. The Commission believes that this sharing, coordination, and cooperation will be accomplished more effectively through a senior official (namely, the Director of the FBI) who is more accessible, closer to the field, and more conversant on a daily basis with activities in both the FBI and the newly reconstituted DEA.

The Commission quoted, with approval, the assessment given in the Gore report cited above:

> * * * a drug case may involve violations of financial, firearms, immigration and customs laws, as well as drug statutes. Unfortunately, too many cooks spoil the broth. Agencies squabble over turf, fail to cooperate, or delay matters while attempting to agree on common policies. (Page 114)

The Commission recommendation is aimed at reducing the number of cooks.

Incidentally, the Commission believes that the drug criminal law enforcement should, under any plan for reorganization, remain within the Justice Department. Congress may place other Federal programs aimed at reducing the illegal drug problem in the United States in other Federal agencies, especially the Department of Health and Human Services. Those programs may relate to health and social aspects of the problem, but programs relating to criminal law enforcement should remain solidly within the Department of Justice. Indeed, in a message to Congress in 1968, President Lyndon Johnson recognized to his dissatisfaction that drug enforcement activities were split at that time between the Department of the Treasury and the Department of Health, Education, and Welfare, based on the type of drug violation involved (whether marijuana or LSD). He proposed consolidating drug enforcement within the Justice Department, where it very properly resides today.

Question 9. Your report suggests that we "ensure that the legitimate needs of law enforcement agencies to override encryption systems are balanced by judicial supervision to protect the privacy and civil liberties of civilians." Of all the different proposals that have been put forth over the past few years, is there one plan that you believe should be adopted?

Answer. By one count, the Electronic Privacy Information Center listed more than 50 bills in Congress under the rubric of tracking privacy, speech, and cyber-liberties as of September 1999. The Commission could not evaluate these legislative proposals and is not in a position to knowledgeably recommend one over another. It leaves that to the professionals in this area. The Commission does, however, believe that whatever proposal is finally passed must meet the legitimate needs of law enforcement while protecting the privacy and civil liberties of private citizens. To these ends, we suggest the following general guidelines for such legislation:

- Balance resources between prosecution and protection;
- Educate people on how to protect their systems;
- Promote development of capabilities of State consumer protection agencies;
- Encourage industry to improve its own security;
- Encourage the Federal Government to protect its own systems;
- Encourage industry to develop a clearinghouse of reliable information, consumer software, firewalls, and other technology to protect systems;
- Train State and local prosecutors to prosecute cyber violators, but coordinate with the FBI, not the Department of Commerce, on source detection nationally and internationally;
- Relegate the Federal/FBI role to cases involving national security and substantial national economic interests;
- Enact Federal legislation with stiff penalties for unauthorized selling of personal information;
- Promote policies that are not intrusive on personal systems by government; and
- Avoid a knee-jerk barrage of compartmentalized legislation. Instead, get serious and develop a coherent plan.

In addition, the Commission wants to stress the importance of providing additional funds for research and technology to deal with terrorist threats. To take but one example: encryption of information by criminals presents serious threats to public safety. Encryption may be used by terrorists (or by drug lords) to communicate their plans in secret, or to maintain records in a form that frustrates search warrants and wiretap orders. The Government and the private sector must proceed together with energetic efforts to protect the legitimate needs of citizens and businesses for electronic communication and electronic commerce, while preserving Government's legitimate need to gain access to data and information as part of legally authorized search procedures.

In similar fashion, electronic commerce, "smart" cards, and Internet trading are fast becoming established as standard practice for financial and telecommunications services. Shifting from paper money to its electronic equivalents present serious new international challenges for law enforcement at all levels. Additional research focusing on the vulnerability of these emerging technologies to terrorism and international crime needs to be undertaken.

Finally, the Commission notes that the Information Age brings with it new threats to national security and to a wide variety of critical public and private services. As recent analyses from the Center for Strategic and International Studies (CSIS) point out, the real possibility for an "electronic Waterloo" exists if public officials do not pay sufficient attention to threats to the Nation's information security. The Commission endorses the CSIS report and calls for the development of national security policies that respond effectively to the emerging threat of cyberterrorism and cybercrime. At the same time, the Commission is aware of recent criticisms that policies governing cybersecurity at times appear to be pursued without explicit consideration of potential threats to privacy and civil liberties. Law enforcement officials must understand that the techniques, procedures, and technologies at issue here are so powerful that Federal agencies must be alert to public anxieties about the potential for abuse, no matter how remote that potential may be.

Question 10. You suggest that a 5-year sunset provision be adopted so that all crimes defined as Federal expire after 5 years. What public policy would this facilitate? How would you draw the line and make a distinction between what crimes should have a sunset provision?

Answer. This provision would facilitate several public policies. First, it would support the Constitutional principle of Federalism itself by helping to ensure a reasoned division of responsibility between the Federal Government and State governments. Second, this provision would help promote respect for the rule of law by helping to limit Federal law enforcement efforts to those areas that clearly can be seen to be matters requiring the energies of Federal law enforcement agencies. Under this provision, we are more likely to have vigorous Federal enforcement of the laws that can withstand this scrutiny, whereas under our current system Federal laws are passed but often not enforced to any great degree. Such "hollow laws" breed disrespect for the rule of law. Third, for the reasons just noted, this provision will advance the public policy of effectiveness in enforcement. Fourth, a more rational division of labor between Federal and State law enforcement efforts will be more efficient as well. Finally, by limiting Federal law enforcement's involvement in areas better left to State and local law enforcement, Federal law enforcement will be freed to pursue the very serious national and transitional criminal activity that pose an increasing risk to the safety and security of our citizens.

As to how to draw the line to determine what crimes should have a sunset provision, the Commission believes that enacting a new Federalization Prevention Act that requires the Congress and the Executive Branch to provide a Law Enforcement Impact Statement—in addition to the existing budget impact statement—is one important way to get to this issue. Additionally, the sunset provision of this new act would ensure that newly enacted statues meet their intended purposes and that:

- The statutes do not cause adverse financial or other burdens to State, local or even Federal law enforcement agencies and personnel;
- The statutes are in fact necessary and not simply promulgated to address a crime that is in the public mind but is already addressed at the State level; and/or
- The statutes do not deal with a crime that is no longer an issue.

Question 11. You have suggested that there are too many Federal police forces, and cite as an example the fact that Congress and the Supreme Court have different forces even though they are across the street from each other. What should be done to address this problem?

Answer. This question raises the issue of the proliferation of Federal police forces. The Commission does not take a simplistic view of this matter; we do not think that there are simply too many Federal police forces.

Rather, the Commission recommends a review of the number of Federal police forces with an eye to consolidating agencies where appropriate. One opportunity for consolidation might involve those forces that operate directly under Congress, namely the U.S. Capital Police, the Library of Congress Police, and the Government Printing Office Police. These agencies might be merged into one agency, with a goal of eliminating duplication, achieving savings in resources, reducing the number of separate bureaucracies, and increasing operational efficiency.

The Commission thinks that this kind of merger offers an ideal example of how its proposed permanent Interagency Advisory Board on Federal Law Enforcement might operate. This 19-member board, made up of representatives of the 14 major law enforcement agencies examined in our report and five additional representatives from other Federal law enforcement agencies, would provide the Attorney General with advice in two areas. One of those areas would involve the need for many small Federal police agencies, including those on Capitol Hill. (Page 111.)

The Commission noted, as your question correctly states, that Congress and the United States Supreme Court have different police forces even though they are located across the street from each other. The Commission hastens to point out that it did not mean to imply a merger between these police forces; to do so might raise Constitutional issues of separation of powers.

As to the merger of Federal police agencies that report to Congress or of those within the Executive Branch, concerns about separation of powers do not arise. The Commission recommends a review by the Interagency Advisory Board to eliminate duplication, to set common standards for police, and to achieve more efficiency. Many States and municipal jurisdictions have undertaken this effort, and have done a good job.

ADDITIONAL SUBMISSIONS FOR THE RECORD

COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT; NATION FACES CHALLENGING CRIMES IN THE NEW CENTURY, COMMISSION WARNS

Washington.—Global crime, cybercrime, and terrorism in new and increasingly dangerous forms will threaten the safety of Americans and the national security of the United States early in the next century, a Congressional Commission warned today. In the past two months alone:

- Terrorists who highjacked a civilian airliner were not apprehended and may commit other terrorist acts in the future.
- An individual crossed our northern border with what were described as powerful bomb-making materials. U.S. and Canadian authorities are investigating a link to others with possible terrorist connections.
- Much concern was expressed about terrorism and computer crime at the millennium. Fortunately, no serious incidents took place.
- The President continues initiatives to fight cyber-terrorism and to improve law enforcement capabilities of the Bureau of Alcohol, Tobacco, and Firearms.
- Virginia Governor Gilmore's Commission, established by the Congress, reportedly will conclude that the Nation is vulnerable to terrorists armed with weapons of mass destruction.

Data gathered by the Commission on the Advancement of Federal Law Enforcement raises serious concerns about the readiness of the Federal Government to meet its responsibilities to protect Americans and the Nation, the Commission said in a report delivered to Congress today.

"The Nation must move now, on an urgent basis, to prepare to detect these criminal activities at the source, to counter them in all appropriate ways, and to protect Americans to every possible extent," the Commission said.

Congress directed the Commission to explore such concerns as the coordination of Federal law enforcement agencies and cooperation between Federal agencies and their State and local counterparts. Global criminal cartels, cybercrime (computer-based crime), and terrorism challenge law enforcement agencies in this country at all levels of government, the Commission found. The Commission identified many areas in need of improvement in coordination and cooperation.

Under Commission recommendations, a revamped Federal law enforcement structure would make the Attorney General responsible for coordinating all major Federal law enforcement policies and practices, giving her sweeping authority to focus the Nation's law enforcement resources on critical problems. Federal law enforcement is not sufficiently marshaled or focused on key issues, the Commission found.

Law Enforcement functions of the Bureau of Alcohol, Tobacco, and Firearms, now part of the Department of the Treasury, would be moved to the Federal Bureau of Investigation. The entire anti-drug effort of the Drug Enforcement Administration would become a separate division of the FBI under the reorganization. Both the FBI and DEA are now part of the Department of Justice.

"Much of today's current structure is based on problems of the past, such as Prohibition," said Commission Chairman William H. Webster, a former Federal judge, Director of the FBI, and Director of Central Intelligence. "The Nation critically requires a Federal law enforcement establishment that is ready to meet the crime problems of the future."

Those problems, the Commission said, are increasingly likely to involve global criminal enterprises, including terrorism, narcotics trafficking, and cybercrime, among others. At the same time, the Commission said that Congress should resist the tendency to "federalize" more and more crimes. Most crime in the United States is local in nature, the Commission noted, and State local governments provide most law enforcement. Because its resources are limited, rather than focus on local crimes, Federal law enforcement should focus on crimes that are national and international in nature and that are otherwise designated as its responsibility under Federal law. It should, however, continue to provide technical and scientific support, including access to criminal justice databases, to State and local law enforcement agencies.

"The Nation needs and deserves a Federal crime-fighting force that knows its proper role," said Webster, "operates in a highly coordinated way, shares information, is better trained, and makes much better use of high technology than is the case today."

Congress established the Commission in the Antiterrorism and Effective Death Penalty Act of 1996. With submission of its report, the Commission completed its

work and expires at the end of February. Hearings on the report are expected in both the House and Senate.

Copies of the Commission report can be purchased from the Government Printing Office, Superintendent of Documents, by calling 202–512–1800 and asking for "Law Enforcement in a New Century and a Changing World" (Order No. 020–000–00276–0).

The report also can be downloaded from the University of Arkansas, Criminal Justice Institute National Center for Rural Law Enforcement website at www.ncrle.net.

For further information, please contact:

Honorable William H. Webster
Milbank, Tweed, Hadley & McCloy
Washington, DC
202/835–7550

Chief Robert M. Stewart
State Law Enforcement Division, State of South Carolina
Columbia, SC
803/737–9000

Professor Donald C. Dahlin
Department of Political Science, University of South Dakota
Vermillion, SD
605/677–6497

Gilbert G. Gallegos
National President, Fraternal Order of Police
Albuquerque, NM
505/344–3159

Robert E. Sanders
Punta Gorda, FL
941/575–2114.

FACT SHEET—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

For the first time in recent history, a Congressional Commission set out to study the integration of widely disparate and often conflicting issues to strengthen the law enforcement fabric of the Federal Government while protecting democracy and the rights and liberties of individual citizens.

The Commission on the Advancement of Federal Law Enforcement saw its role as one of calling the Nation's attention to the broadcast concerns in national and international law enforcement and urging it and its Federal law enforcement establishment to break down the barriers of institutional thinking and find new ways to approach the challenges of crime in the new century.

In creating the Commission, Congress issued a broad mandate of issues for study. From the outset, the Commission determined that conducting an in-depth study of Federal law enforcement, with all of its complexities, was impossible within the mandated reporting period. Thus, it decided to synthesize the main issues that will distinguish law enforcement in the next century from law enforcement today.

Global crime, cybercrime, and terrorism pose the new, emerging security threats to the Nation and challenge the Federal law enforcement community. The report of the Commission on the Advancement of Federal Law Enforcement is a call for an open mind, for a rethinking of current law enforcement approaches, for a willingness to move forward so that Federal law enforcement can safeguard the Nation's citizens and protect the Nation's security in the years to come.

COMMISSION MANDATE

Section 806 of Public Law 104–132 (Antiterrorism and Effective Death Penalty Act of 1996) provided for the establishment of a five-member Commission on the Advancement of Federal Law Enforcement and mandated that the Commission report its findings to Congress and the general public within 2 years.

The Commission charter directed it to examine 10 factors related to Federal law enforcement:

- Federal law enforcement priorities for the 21st century, including capabilities to investigate and deter terrorism;
- The manner in which significant Federal criminal law enforcement activities have been conceived, planned, coordinated, and executed;

- Standards and procedures of Federal law enforcement, including their uniformity and compatibility;
- The investigation and handling of specific Federal criminal law enforcement cases, selected at the Commission's direction;
- The need for the current number of Federal law enforcement agencies and units;
- The location and efficacy of the office with direct responsibilities for interagency coordination—aside from the President of the United States;
- The degree of assistance, training, education, and other human resource management assets devoted to enhancing professionalism;
- The existence and efficiency of independent accountability procedures;
- Coordination among law enforcement agencies with regard to international crime; and
- Coordination of Federal law enforcement activities with those of State and local enforcement agencies.

An additional charge in Section 806 authorized the Commission to examine any other matters it considered appropriate.

The Commission wrestled with this complex and sweeping mandate througout its tenure, ever mindful that its deliberations were taking place in the shadow of the five recent major events that involved law enforcement—the bombings of American embassies in Kenya and Tanzania; the bombing of the World Trade Center in New York; the destruction of the Alfred P. Murrah Federal Office Building in Oklahoma City; the deadly inferno that ended the confrontation with Branch Davidians in Waco, Texas; and the tragic standoff at Ruby Ridge, Idaho. The specifics of the Commission's charge, and the larger issues in which they are embedded—issues of personal safety and security, freedom from unreasonable search and seizure and protection against domestic and foreign terrorism—affect every man, woman, and child in the United States.

Over its 2-year tenure, it met more than 20 times and took verbal and sometimes written testimony from some 70 witnesses, including two members of President Clinton's Cabinet and numerous presidential appointees. Its work was also informed through several other sources of data. For example, at the direction of the Commissioners, staff—with assistance from the survey research firm, QS&A Research—conducted a nationwide public opinion survey. In addition, more than 140 leaders of Federal agencies with responsibilities in some facet of law enforcement were asked to respond to a 31-question survey prepared and administered by Commission staff. From the 37 completed survey responses received, staff prepared a detailed analysis of data from the 14 agencies considered to be the primary Federal law enforcement entities.

In the main, the Commission's interest focused on agencies that employ "1811 series" employees—and other personnel with the authority to investigate, carry firearms, and make arrests.

In addition, Commission staff conducted an extensive review of the literature on law enforcement, Federal law enforcement, and the administration of justice. Finally, the Commission contracted for papers on specific issues—such as terrorism, transnational crime, narcotics trafficking, and the nature and origins of Federal law enforcement in the United States—from the academic community. This combination of surveys, literature review, and academic papers represents one of the most extensive examinations of Federal law enforcement in recent history.

BACKGROUND

The connection of the work of the Commission on the Advancement of Federal Law Enforcement to the well-being of the American people is direct and simple.

The initial concept for the Commission was developed following the disasters at the Branch Davidian Compound and Ruby Ridge—events that raised serious questions about the quality of Federal law enforcement.

The interests that motivated policy makers to launch the Commission's study varied, sometimes quite dramatically. Some policymakers wondered about the Federal Government's capacity to protect American citizens from foreign terrorists acting on U.S. shores. Others were concerned that policy on essential aspects of law enforcement, such as the use of deadly force, was either unclear or ignored, a situation fraught will peril for citizens and officers alike. Still others worried that too many Federal law enforcement entities had been created, making coordination among them, and with State and local law enforcement agencies, difficult, if not impossible. Almost certainly, just as many people were intent on using the two tragic incidents listed above, to criticize Federal law enforcement as were committed to examining any mistakes made to determine how to prevent similar tragedies in the future.

All in all, the range of views that accompanied the initial conceptions of the Commission was disparate. Some were perceived—fairly or unfairly—as charged with ideological overtones from all sides of the political spectrum. As a consequence, when Section 806 was finally enacted, initial plans for the Commission's budget and term of office were cut back. Months passed before an appropriation for the Commission's work was enacted and almost 2 years went by before the full, five-member complement of Commissioners was appointed.

In the years that intervened between the initial conception of the Commission and its authorization, funding, and creation, the United States passed a lethal watershed, witnessing one of the most brutal terrorist acts ever carried out on American soil—the destruction of the Alfred P. Murrah Federal Office Building in Oklahoma City. In April 1995, two Americans, Timothy McVeigh and Terry Nichols conspired to detonate a powerful and sophisticated homemade bomb hidden in a truck parked outside the building. Their bomb killed 168 people, including children in a daycare center.

Rapid police communication led to the holding of McVeigh, who had been apprehended immediately after the bombing on an unrelated traffic offense. Effective law enforcement agency coordination led to a powerful prosecution that resulted in the conviction of the two primary culprits. During the course of that investigation, however, the climate under which the Commission's mandate was framed changed dramatically.

Federal agencies, fairly or unfairly, derided for poor performance at Ruby Ridge and Waco, were perceived to have performed with praiseworthy professionalism in Oklahoma City. Within minutes of the explosion, the building and the surrounding crime scene were secured. Within hours, a sketch of a suspect (drawn with sufficient accuracy to alert the local police officers who had arrested McVeigh) was in the hands of police forces around the county. Within a day, a vehicle identification number attached to a bit of a truck axle discovered a block from the explosion, led investigators to a local truck rental agency. And, within a week, a fairly complete picture of the recent comings and goings of McVeigh and Nichols was available—a picture tying McVeigh irrevocably to the barbarous act and to his jail cell. The Federal law enforcement system, illuminated in the glare of intense international publicity, had carried out is functions responsibly, professionally, credibly, and well.

The success of investigators and other law enforcement personnel in apprehending and developing evidence against McVeigh and Nichols transformed public perceptions of Federal law enforcement and the perceived role for the Commission. Instead of serving as a vehicle for criticizing Federal law enforcement agencies, the Commission was now encouraged to examine strengths and weaknesses. The Commission's mandate, broad as it was, laid out the possibility of an investigation that recognizes that perfect performance, however much desired, is also well nigh impossible. The specifics of the Commission's charge and the larger issues in which they are embedded—issues of personal safety, freedom from unreasonable search and seizure, and protection against the threat of domestic and foreign terrorism—are compelling as law enforcement enters a new century and changing world.

CENTRAL CONCLUSIONS

Because of the complexity of its charge, this Commission does not want its central conclusions obscured by the amount of detail in the document that follows. Based on a study that involved approximately 70 witnesses, a comprehensive literature review, and a review of papers and surveys commissioned for its use, the Commission wishes to state its conclusions as directly and simply as possible. It believes that:

- Federal law enforcement agencies are among the finest in the world and that most Americans share that view.
- Of necessity, the Federal law enforcement apparatus is large and complex. Different agencies have different missions and quite distinct areas of jurisdiction. Better coordination is necessary and desirable, and some consolidation is required.
- The capacity for oversight and coordination is weak and needs improvement. As a policy matter, it is difficult to know who is in charge of what. With issues of citizen safety and national security at stake, effective cooperation, greater clarity of roles and responsibilities, and agreement on uniform standards should not be left to chance.
- Law enforcement officers will confront vastly more sophisticated and complex crimes in the 21st century than ever before. The Federal law enforcement community must prepare for this new reality.

RECOMMENDATIONS

Based on these conclusions, the Commission presents a five-part action agenda. Its recommendations emphasize the need for the President and Congress to:

I. Make it clear that the Attorney General has broad coordinating authority for Federal law enforcement and for minimizing overlap and duplication.—The Commission recommends that the President and Congress improve the administration of Federal law enforcement, and its effectiveness, by making it clear that the Attorney General has broad authority for oversight and coordination and by minimizing overlap and duplication of agency functions.

II. Provide the intelligence and information needed to combat terrorism.—The Commission recommends that the law enforcement and intelligence communities review their procedures and policies to ensure that the President, Congress, and the National Security Council have adequate resources to coordinate activities and to pursue the information that Federal, State, and local law enforcement agencies need to combat terrorism.

III. Make global crime a national law enforcement priority.—The Commission recommends that the President and Congress expand the attack on global crime, narcotics trafficking, and cyber-crime with new determination and energy.

IV. Reverse the trend toward federalization.—The Commission recommends that Congress and the President support a new "Federalization Prevention Act" to minimize Federal intrusion into State and local law enforcement and reverse the recent trend toward "federalizing crime."

V. Focus on professionalism, integrity, and accountability.—The Commission recommends that the President and Congress require that Federal law enforcement agencies establish new standards for professionalism, integrity, and public accountability.

TOWARD A NEW CENTURY AND A CHANGING WORLD

This Commission believes that the Nation will face grave law enforcement challenges in the years ahead. Its five-part action agenda is designed to address those challenges. Members of the Commission believe that the public understands the need for these actions and will support policymakers as they work to put them in place. The Commission urges the Congress and the President to move forward with its agenda.

Federal Law Enforcement in Eight Prominent Law Enforcement Events

Event & Year	General Description and Disposition
Pan Am Flight 103 (1988)	On December 21,1988, a Pan American jet bound from London to New York exploded over Lockerbie, Scotland, killing all 259 people on board and 11 more on the ground. British investigators shortly reported that a bomb in the luggage compartment caused the crash. Nearly 3 years later the United States and Britain announced criminal charges against two Libyan intelligence officers for the bombing and suggested Libyan leader Moammar Gadhafi was involved as well.[6] Various investigations and court cases concluded that "seriously flawed" aviation security systems in Europe and "willful misconduct" by Pan Am in airport security contributed to the disaster. In April 1999, the two Libyan suspects were turned over to Scottish authorities for trial before a Scottish court convened in the Netherlands.
Ruby Ridge (1992)	Randy Weaver, who had turned down an offer to become an ATF informant in the late 1980s, was subsequently cited for weapons violations and announced he would never show up in court. An arrest warrant was issued and surveillance of his rural Idaho home began. In August 1992, a shoot-out developed involving U.S. Marshals and Weaver's 14-year-old son Sammy and a friend, Kevin Harris. Sammy's dog was killed, Sammy died, and a U.S. Marshal was killed by a shot from Harris. An FBI hostage rescue team arrived. (The orders and rules of engagement are the subject of intense dispute in the ongoing litigation that has resulted from this matter.) During the confrontation that ensued, Randy Weaver was shot: he survived. (What Weaver was doing while he was shot is also the subject of dispute in the case.) An FBI agent shot at one of three armed individuals who had emerged from the Weaver cabin. His shot penetrated the cabin door and hit Weaver's infant and wife, Vicki, who, unbeknownst to the agent, was standing behind the door. Both were killed. (There is vigorous dispute as to whether she was holding her infant at the time she was killed.) Subsequently, 12 FBI agents, none of them members of the hostage rescue team, were disciplined. The Department of Justice paid $3.1 million to the Weaver family. FBI Director Freeh admitted that certain mistakes had been made. The head of the FBI's violent crimes section pleaded guilty to obstruction of justice in destroying an official document. (He admitted destroying an after-action report that assessed the situation at Ruby Ridge.) An Idaho jury acquitted Weaver of murder and conspiracy, but Weaver served 1 year in jail on the original charges. Ongoing internal investigations clearly indicate that the Ruby Ridge confrontation raised a host of law enforcement issues that have yet to be resolved.
World Trade Center (1993)	On February 26, 1993, a rented Ford Econoline van packed with explosives detonated in the parking garage beneath the World Trade Center in New York killing six, injuring more than 1,000 and leaving a 100-by-100-foot crater in the garage. A massive investigation involving the FBI, ATF, and the New York City Police was launched immediately. Within 6 days, investigators took into custody a Muslim fundamentalist, Mohammed Salameh, who came to their attention because he insisted on demanding a refund for the Ford Econoline van, which he had rented in New Jersey and claimed had been stolen. In March, five additional suspects were charged; in June another eight were arrested, all apparently part of a fundamentalist conspiracy involved with the World Trade Center or plans to bomb the United Nations and Manhattan commuter tunnels. In July, Sheik Omar Abdel Rahman, thought to be the mastermind behind these plans, was arrested. Subsequently, four Arab defendants were convicted for the World Trade Center bombing; a fifth pled guilty to a bombing conspiracy and agreed to testify against the others; Sheik Rahman and nine of his followers were convicted in October 1995 of plotting bombings and other acts of terror.
Waco (1993)	On February 28, 1993, the Bureau of Alcohol, Tobacco, and Firearms (ATF) made an unsuccessful attempt to execute an arrest warrant for the leader of the Branch Davidians.

David Koresh, related to violations of Federal firearms laws and a search warrant for the Davidian compound at Mount Carmel, outside Waco, Texas. A massive firefight ensued, during which four ATF agents and six Davidians were killed. The Davidians barricaded themselves inside the compound, and the FBI assumed control of the scene. On April 19, 1993, following a 51-day standoff that included constant attempts to negotiate the surrender of the Davidians, the FBI inserted tear gas into the compound to force the Davidians' exit out of the compound. A fire began and quickly engulfed the entire building. Although 9 adult Davidians escaped the blaze, 86 others died within the compound, including Koresh. Five of the surviving Davidians were convicted of the voluntary manslaughter of the four ATF agents, and violations of Federal firearms laws; two others were convicted solely on firearms charges. Following this event, the FBI overhauled its procedures for such crises by forming the Critical Incident Response Group (CIRG), which integrates FBI hostage negotiation functions with its capacity for an immediate and decisive hostage rescue response.

Oklahoma City (1995)

On April 19, 1995, a powerful, sophisticated homemade bomb, hidden in a truck, was detonated outside the Alfred P. Murrah Federal Office Building, killing 168 people, including children in a daycare center. McVeigh, a Gulf War veteran and antigovernment activist, was arrested within hours for driving an automobile without a license plate. While in custody, local police noted his resemblance to the police sketch of a suspect in the Murrah investigation. Shortly, it turned out that the rental truck used in the bombing had been rented by McVeigh. Subsequently: McVeigh was convicted in Federal court on 11 counts of planning and carrying out the bombing; he was sentenced to death in August 1997. Nichols was convicted of conspiracy and involuntary manslaughter by a Federal jury and sentenced to life in prison, without parole. In March 1999, the Oklahoma County District Attorney charged Nichols with 163 State counts of murder and conspiracy, opening up the possibility that Nichols could yet be sentenced to death.

Unabomber (1996)

The FBI arrested Theodore Kaczynski at his cabin in Montana in 1996 (based on a tip from his brother), thus ending an 18-year manhunt for the notorious "Unabomber," a serial murderer responsible for killing three people and injuring 23 with homemade bombs distributed through the mail. A task force involving the FBI, the Office of the Postal Inspector, and ATF spent more than $50 million tracking Kaczynski over the years. Subsequently, in a 1998 plea bargain, Kaczynski pled guilty to three murders; spared the death penalty, he was sentenced to four life sentences, plus 30 years in prison.

Montana Freemen (1996)

In June 1996, following an 81-day standoff, 14 "Freemen" surrendered to the FBI after the agency cut off electricity to the ranch where they had holed up since March. The Freemen had refused to pay mortgages, taxes, or any government levies since the 1980s. FBI Director Louis J. Freeh described the agency's new policy for dealing with such volatile confrontations as "patience and fortitude." Subsequently, there were 21 convictions involving at least 3 members of the Montana Freemen on numerous offenses including conspiracy, bank fraud, and threatening a Federal judge.

Atlanta Centennial Park (1996)

On July 27, 1996, security guard Richard Jewell noticed a suspicious knapsack in Centennial Olympic Park. Before it could be removed, the knapsack exploded, killing one woman, injuring more than 100 people, and leading to the heart-attack death of a Turkish television cameraman. Initially hailed as a hero, Jewell became the center of a media frenzy when it was revealed that he was a prime suspect in the investigation. Three months passed before he was cleared and questions arose immediately about violations of his constitutional rights. A Special Agent was suspended for 5 days without pay for failing to properly provide Miranda warnings to Jewell, and two Special Agents in Charge were censured for managerial deficiencies. Director Freeh described the agents' decision to interrogate Jewell in that fashion as a "major error in judgment." Another fugitive is now suspected of the crime, but it has still not been solved.

Sources: Public documents and accounts collected in Commission Background Material Books numbered 128 through 132.

The 14 Primary Law Enforcement Agencies (FY 1998)

Department and Agency	Personnel*	Budget** (in millions)
Department of Justice		
Federal Bureau of Investigation	11,710	$1,911.0
Drug Enforcement Administration	4,246	674.0
Immigration and Naturalization Service	17,573	29.0
United States Marshals Service	2,924	43.4
Federal Bureau of Prisons***	28,390	70.9
Department of the Treasury		
Bureau of Alcohol, Tobacco, and Firearms	1,775	317.2
Internal Revenue Service	3,292	415.9
United States Customs Service	11,910	2,591.0
United States Secret Service	3,613	500.0
Department of Agriculture		
United States Forest Service	614	48.9
Department of the Interior		
Bureau of Indian Affairs	307	78.5
Bureau of Land Management	196	14.7
National Park Service/National Park Rangers	1,596	58.6
National Park Service/United States Park Police	601	60.0
Total	**88,747**	**$6,813.1**

Sources: Commission on the Advancement of Federal Law Enforcement Survey, 1999.

* Personnel authorized to carry firearms.

** Dollar amounts refer to personnel costs for those authorized to carry firearms.

*** The Federal Bureau of Prisons (BOP) personnel figure (28,390) represents employees who meet annual firearms qualification requirements and are currently certified. Thus, the figure includes BOP employees who are not correctional officers but who can carry and use firearms if required. The number of full-time correctional officers is estimated to be 12,600. See footnote 25 and Appendix G for additional information.

Terror and Violence in America: A Catalog of Horrors

Recent years have borne witness to a startling increase in terrorism and violence in the United States. Examples of such incidents include the following:

1992 White supremacist Gordon Sellner wounds a deputy in Montana and becomes an "open fugitive" on his ranch; the Bureau of Land Management building in Reno, Nevada, is bombed; eight members of the Pilot Collection Society—the Nation's largest tax protest group—are arrested for defrauding people of millions of dollars; Vicki and Sammy Weaver, the wife and son of Randy Weaver, are shot and killed during a standoff with Federal agents at Ruby Ridge, Idaho. Deputy U.S. Marshal William Degan was also shot and killed.

1993 Mir Aimal Kasi kills two and injures three outside CIA Headquarters in Virginia; a car bomb at New York's World Trade Center kills six and injures 1,000; the 51-day siege at the Branch Davidian compound ends with a death total of 92, including four Federal agents; eight suspects, from a variety of neo-Nazi groups, are arrested in Los Angeles for plotting to start a race war; pipe and fire bombings of the NAACP building and a gay bar in Tacoma, Washington, are accomplished by American Front Skinheads; the Animal Liberation Front fire bombs several major department stores in Chicago.

1994 California clerk/recorder Karen Matthews is brutally beaten at her home by a group of antigovernment extremists when she refuses to file their bogus legal documents; four members of Blue Ridge Hunt Club in Virginia are arrested for planning to attack National Guard bases if the Government ever plans gun confiscation; two members of the Minnesota Patriots Council are convicted for planning to use a toxic biological substance, ricin, to kill Federal law enforcement officers; Timothy McVeigh and Terry Nichols bomb the Murrah Federal Building in Oklahoma City, killing 168 and injuring hundreds.

1995 Members of the North American Volunteer Militia are arrested for threatening judges in Montana; a pipe bomb destroys the car of a Forest Service official in Nevada; four members of the Oklahoma Constitutional Militia are arrested for plotting a bombing campaign against gay bars, abortion clinics, and welfare offices.

1996 Louis Edward DeBroux, a "constitutionalist," pleads guilty to plotting to kill a Georgia judge as a warning to other judges in the State; prosecutions begin against the Aryan Republican Army for its role in 20 bank robberies in the Midwest to finance a revolution; 11 members of the Constitutional Common Law Court are charged in Tampa, Florida, with threatening Federal judges; Federal and State authorities endure an 81-day standoff, in remote eastern Montana, before arresting 24 members of the Montana Freemen; 12 members of the Arizona Vipers militia are arrested on weapons and explosives charges; four members of the Washington State Militia and four "freemen" are arrested on bomb-making charges; a bomb explodes in the midst of the Olympic Games in Atlanta and an antigovernment extremist Eric Rudolph, still at large, is named a suspect in that bombing.[49]

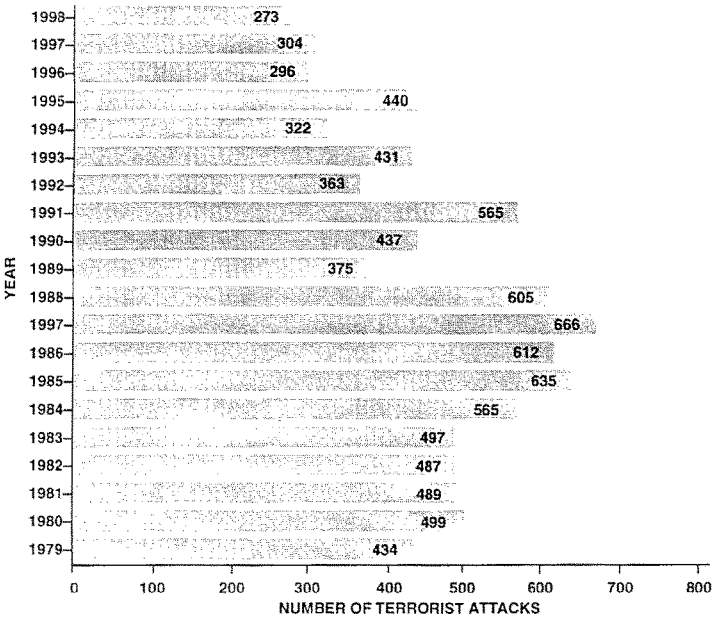
1997 In Tulsa, three "common-law court advocates" plead guilty to filing bogus liens and "arrest warrants" against IRS agents and other Federal officials; the Kehoe brothers, convicted for their roles in two shootouts with Ohio police, are charged with murder in their attempt to establish an Aryan People's Republic; the FBI arrests four members of the Texas Klan group for planning a gas refinery bomb attack and armored-car robberies to finance activities; Federal agents arrest members of the Colorado First Light Infantry on weapons and explosives charges; the IRS field office in Colorado Springs is bombed; "sovereign citizen" Carl Drega embarks on a murderous rampage in New Hampshire, killing two State troopers, a part-time judge, and a newspaper editor, before dying in a firefight at his home, which contained a huge arsenal of explosives and pipe bombs.

1998 Several members of the North American Volunteer Militia are arrested for criminal activities in Montana, including threatening judges; four members of the Oklahoma Constitutional Militia are arrested for plotting a campaign of bombings against gay bars, abortion clinics, and welfare offices; members of the white supremacist group, The New Order, are charged with a wide-ranging plot to bomb public buildings across the country; three Texas white supremacists are charged with killing a black man by dragging him behind their truck until his body tears apart; a bomb-laden pickup truck is discovered in the basement of the courthouse in Tippecanoe County, Indiana; an Internet web-page begins soliciting for the assassination of four Federal officials.

1999 Two teenagers enter Columbine High School in Littleton, Colorado, and launch a lethal fusillade of gunfire and explosives, killing 14 students and one teacher, before taking their own lives, the sixth school shooting around the country in the past 36 months.

Sources: State/Local Anti-Terrorism Training Program and Harvey W. Kushner (1998), *Terrorism in America*, Springfield, IL: Charles C Thomas Publishers, Ltd.

Attacks by International Terrorists, 1979-1998



Source: U.S. Department of State Publication 10610, Office of the Secretary of State, Office of the Coordinator for Counterterrorism, released April 1999. "Patterns of Global Terrorism." See http:www.state.gov/www/global/terrorism/1998Report/p.gif.

Terror Around the World: A Global Catalog

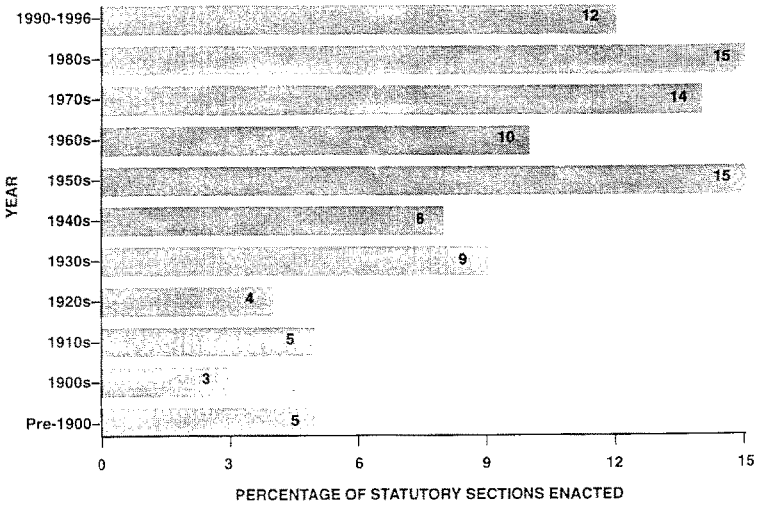
The incidence of terrorism around the globe demonstrated a steady increase from the late 1970s through the later years of the 1980s, with incidents such as the Lockerbie air disaster that shocked the sensibilities of the world. Since then, a fairly steady decrease has been in evidence, thanks in part to diplomacy, the development of extradition treaties and transnational agreements, and reduced activity on the part of some organizations, such as the IRA and several Middle Eastern organizations, with a history of relying on terror as a means of advancing their ends. In sheer numbers, the incidence of terror is now the lowest in 2 decades.

Fewer incidents, however, do not mean less terror. Although State Department figures for 1998 record the lowest number of attacks since 1971, the number of persons killed and wounded in that year was the highest on record (741 dead and 5,952 injured). Recent examples of terrorist activities around the globe include:

1996	2/9/96	IRA claims responsibility for detonating a bomb in a parking garage in the Docklands Area of London, killing two people and wounding more than 100, including two American citizens.
	2-3/96	Suicide bombers from the Islamic Resistance Movement (HAMAS) blow up buses in Jerusalem, killing 35 and injuring scores, and engage in a suicide bombing outside a Tel Aviv shopping mall that kills 25. At least five American citizens are killed in the three attacks.
	6/25/96	A large fuel truck explodes outside the U.S. military's Khubar Towers apartments near Dhahran, Saudi Arabia, killing 19 Americans and wounding 500 others.
	12/17/96	Peru's Tupac Amaru Revolutionary Movement takes over the Japanese ambassador's residence in Lima and holds 500 hostages—428 of the hostages are freed quickly. It is 4 months before a Peruvian assault team ends the siege, freeing the remaining 78 hostages and killing their captors.
1997	2/23/97	The body of U.S. mining consultant Frank Pescatore is discovered some 2 months after he is taken prisoner by the Revolutionary Armed Forces of Colombia.
	2/ 23/97	A gunman intent on punishing the "enemies of Palestine" enters the observation deck of New York's Empire State Building and opens fire on tourists. A Danish visitor is killed and tourists from Argentina, France, Switzerland, and the United States are wounded before the gunman turns his gun on himself.
	4/97	Just hours before Pope John Paul II lands in Bosnia, police discover and defuse 23 landmines set along the route he is scheduled to travel to Sarajevo.
	11/12/97	Four U.S. citizens, employees of Union Texas Petroleum, and their Pakistani driver are shot and killed one mile from the United States consulate in Karachi.
	11/17/97	Six gunmen enter the Hatsheput Temple in Luxor, Egypt, and for 30 minutes methodically shoot and knife tourists trapped in the temple's alcoves. The murdered include 58 foreign tourists, 3 Egyptian police officers, and 1 Egyptian tourist guide.
1998	8/98	Devastating bombings occur at the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, killing 291 and injuring some 5,000 in Kenya, with 10 fatalities and 77 injuries in Tanzania.
	8/98	The "Real IRA," a splinter organization disaffected with the parent group's participation in talks about peace and forming a government, detonates a car bomb in a crowded village in Northern Ireland, Omagh, killing 35 people and injuring hundreds.
	Year-long	A multinational oil pipeline regarded as a U.S. target by Colombian terrorists is bombed 77 times.

Source: U.S. Department of State, annual reports on global terrorism; and U.S. Department of State Publication 10610, Office of the Secretary of State, Office of the Coordinator for Counterterrorism, released April 1999. "Patterns of Global Terrorism." http:www.state.gov/www/global/terrorism/1998Report/p.gif

Percentage of Federal Statutory Sections Enacted, by Decade



Source: Task Force on the Federalization of Criminal Law (1998). *The Federalization of Criminal Law: Defending Liberty, Pursuing Justice*. Washington, D.C.: American Bar Association, p. 9.

Cyberspace—A New Frontier

The process of maintaining community tranquillity, individual security, and personal property can no longer be defined solely by police officers on the beat, FBI agents conducting interviews, or Customs officials at airports and border crossings. New information technologies can outflank and out maneuver every traditional law enforcement technique. Putting more police officers on American streets will do little to deter criminals like the "hacker" who stole millions of dollars from a bank in New York with little more than a few key strokes from a personal computer in St. Petersburg, Russia.

The Internet may be the new Information Superhighway, but it also offers a broad thoroughfare to criminal riches. As millions of Americans open on-line trading accounts and surf the Web, professional looking sites cleverly dangle phony get-rich-quick schemes in front of them. Technology and Internet scams and crimes are proliferating:

- The SEC's Internet cyberforce investigates approximately 100 complaints about scams daily. Many of these frauds (such as the Web site that touted a phony high-tech startup, complete with SEC approval and a partnership with Microsoft) are extremely sophisticated. The phony site in question pulled in $190,000—including $10,000 wired from Hong Kong—before it was shut down.
- The Internet offers regulatory safe havens that are potentially more lucrative than mere post office boxes located in the Caribbean, the South Pacific, the Mediterranean, or Southern Africa.
- Federal investigators have come across at least two virtual jurisdictions, nations that are not really nations but advertise all of the services of countries, including citizenship, identity papers, passports, banking, securities, telecommunications, and real estate services. One of them apparently was briefly recognized by the 1996 Atlanta Olympic Committee.
- When the Defense Information Systems Agency (DISA) launched 38,000 hacker attacks against its own systems to test their vulnerability, only 4 percent of the people in charge of the systems realized they were under attack and only 1 out of 150 reported the attack to their superiors.
- The Y2K phenomenon may become more than a technical problem, if criminal elements become involved in it. Evidence has surfaced that organized crime has recruited programmers who are hired out to "fix" Year 2000 computer problems so that the computers of unsuspecting customers can be programmed for theft or extortion.
- In a 1997 war game directed by the intelligence community, 35 computer specialists, using tools freely available on the Internet, "shut down" large segments of the Nation's power grid and silenced the command-and-control system of the Pacific Command in Honolulu.

PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY,
EXECUTIVE COUNCIL ON INTEGRITY AND EFFICIENCY
March 2, 2000.

Hon. STROM THURMOND, *Chairman,*
Subcommittee on Criminal Justice Oversight, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN THURMOND: Enclosed is the response from the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) to the Commission on the Advancement of Federal Law Enforcement report, "Law Enforcement in a New Century and a Changing World," presented at your hearing on February 3, 2000. We request that this response in its entirety be included in the record for this hearing as our official response to the Commission's report.

The 1978 Inspector General Act and amendments established that the detection and prevention of fraud, waste, abuse, and wrongdoing in the Federal Government would be one of the highest priorities of the Offices of Inspector General. The Inspector General community has lived up to this responsibility. Over the last nine years, the community has achieved more than 122,000 successful criminal prosecutions and obtained over $13 billion in investigative recoveries. Our successful record in handling varied and complex criminal and civil cases and working with other law enforcement agencies speaks for itself.

As discussed in the enclosed response, the Commission's report contained inaccuracies, unsupported statements, and conclusions that lack empirical data and factual findings. We are further troubled that the Commission did not provide an opportunity for the Inspector General community to present substantive information concerning our operations.

Thank you for allowing the community to provide our views on the Commission report. We welcome the opportunity to further discuss our response or address other issues related to the Inspector General community.

Sincerely,

GASTON L. GIANNI, Jr.,
Vice Chair, PCIE.

BARRY R. SNYDER,
Vice Chair, ECIE.

Enclosure.

RESPONSE TO THE FINAL REPORT OF THE COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT—"LAW ENFORCEMENT IN A NEW CENTURY AND A CHANGING WORLD"

EXECUTIVE SUMMARY

The President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) categorically disagree with the recommendations of the Commission on the Advancement of Federal Law Enforcement (Commission), as they apply to the inspector general community. The Commission's observations, which are flawed and unsupported, suggest that law enforcement authority be removed from the Offices of Inspector General (OIGs) and assigned to other federal law enforcement agencies, such as the FBI and Customs Service. The Commission cites no objective evidence to support its sweeping recommendations with regard to the OIGs. Further, we are concerned that the members of the Commission were not sufficiently informed as to how OIGs actually operate, since the IG community was not consulted about the Commission's proposals or given the opportunity to provide the Commission with substantive information concerning our operations.

In fact, an accurate and objective review of the record would reveal the following:

- OIG law enforcement operations have been highly successful in producing tangible results, directly addressing the problems of fraud, abuse, waste, and wrongdoing in federal programs. During fiscal years 1991 through 1999, the PCIE and ECIE member agencies achieved more than 122,000 successful criminal prosecutions and obtained over $13 billion in investigative recoveries. In addition, federal agencies took more than 19,000 personnel actions based on PCIE and ECIE investigations during the same period.
- The Commission's recommendations directly conflict with rationale of the Inspector General Act of 1978 and its amendments. This legislation specifically assigned investigate authority to the OIGs because investigations of fraud, waste,

and abuse conducted by "traditional" law enforcement agencies were not effectively coordinated and did not contribute to improved program management at the agency level.

- For over 20 years, the OIG law enforcement community, through the PCIE and ECIE, has collectively undertaken aggressive measures to foster high professional levels of training, work quality and work standards. As a result, the PCIE and ECIE members have developed a highly skilled and diverse workforce of approximately 2,900 criminal investigators involved in criminal and related civil cases nationwide.
- The OIGs are well established within the law enforcement community. The IGs are as accountable to the Department of Justice for their investigative efforts as every other federal law enforcement entity. The Department has extended blanket deputation to all PCIE-member OIGs, and supports legislation to grant statutory law enforcement authority for those offices. Both proposed statutory and existing law enforcement authorities are exercised and monitored under procedures developed by the Department of Justice.
- As Congress specifically recognized and assured when it passed the Inspector General Act of 1978, no conflict of roles exists among or between the audit, evaluation, and criminal investigations components of the OIGs. The Commission's supposition that such a conflict exists or could arise is unsupported and incorrect. Placing investigators together with auditors, analysts, and attorneys in the overall OIG organization has generated a highly effective, synergistic environment which has substantially improved their effectiveness in dealing with white collar crime, and which would be destroyed if law enforcement authority were to be removed from the OIGs.
- The Commission's recommendations to remove law enforcement authority from OIGs would not be practical to implement, or if implemented would be detrimental to effective management of federal programs. Among the problems likely to arise would be severely limited information flow to agency heads and the Congress on law enforcement issues, diminished coordination of investigative activities within and across agency lines, and a drastic loss of expertise about agency programs among law enforcement personnel.

INTRODUCTION

This white paper provides the responses of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council and Integrity and Efficiency (ECIE) to the final report of the Commission on the Advancement of Federal Law Enforcement (Commission).

The members of the PCIE and ECIE appreciate being afforded the opportunity to place their views on the record. For the purposes of this paper, we are limiting our remarks strictly to the Commission's comments and observations pertaining to the offices of inspector general (OIGs or IGs). As will be apparent, we differ pointedly with the Commission's conclusions about the role and organizational placement of the OIGs within the federal law enforcement community.

The Commission's report contains a number of sweeping recommendations that would alter not only the fundamental conceptual underpinnings of the inspector general community, but also the way in which law enforcement services are made available to most federal agencies. However, it appears that the Commission reached its conclusions without objective evidence or empirical support for their opinions. While our disagreement with the Commission's report extends to essentially every aspect of their views about the inspectors general, we are focusing this paper on the five issues listed below, which we believe represent the principal thrust of the Commission's commentary:

1. The Commission favors an ultimate configuration of the federal law enforcement structure under which IG law enforcement authority would be assigned to other agencies (presumably the FBI), leaving the IGs to function as "Auditors General."

2. The proposed Interagency Advisory Board on Federal Law Enforcement which the Commission recommends to be established in the executive branch, should be "directed to examine the growth and role of the function of the Inspector General * * * throughout the Federal Government and to consider the wisdom and feasibility of consolidating these offices."

3. The Commission's report questions the ability of OIGs to maintain appropriate professional standards, training, and quality in its law enforcement activities.

4. The Commission believes that the proliferation of so many independent law enforcement entities makes it difficult to achieve the level of coordination by the

Department of Justice contemplated under EO 11396 (February 1968). The Commission's report makes repeated references to the IGs as the principal source of such proliferation and, on page 47, offers the observation that, "to bring a more realistic frame of reference to the discussion" the number of federal agencies with law enforcement authority could be readily reduced by 40 percent if the OIGs were to be consolidated into a single entity.

5. The Commission perceives there to be inherent conflicts between the program review/evaluation role of the IGs and their law enforcement role.

This white paper will clearly show that the foregoing conclusions and observations are neither accurate nor justified by reference to the way in which the IG community implements its law enforcement authorities.

THE INSPECTOR GENERAL LEGISLATION SHAPES THE ROLE AND ORGANIZATION OF THE OIGS

The changes in IG authorities contemplated by the Commission are in direct conflict with the rationale behind Inspector General Act of 1978 (Act), its amendments, and the case law construing the legislation. While recommending, in effect, that twenty years of law and practice based on the IG Act should be reversed, the Commission made essentially no reference to the legislative underpinnings of the IG community. However, the role and organization of the OIGs are entirely derivative of the IG Act, and it is simply not possible to understand the IG concept without reference to the legislation. Therefore, as our starting point for setting the record straight we will explain the purposes of the Act and the shortcomings in the structure of federal law enforcement that it was designed to correct.

The implicit language and legislative history of the Act make it clear that the Congress was addressing many of the concerns raised by the Commission's report, particularly with respect to coordination of law enforcement activities between the Department of Justice and other executive agencies. By creating inspectors general in each agency with independent investigative capabilities. Congress expected to remove conflicts of roles among and between agency components responsible for investigations of agency programs. By establishing investigative offices with expert knowledge of the programs and organizational structure of their respective agencies, Congress recognized that management's needs would be more effectively served than by drawing law enforcement services from another agency. This organizational structure would also realize the synergistic effects of having audit and investigative personnel working in concert on problems of fraud and abuse in agency programs.

Congress repeatedly and explicitly stated its intent that the inspectors general be investigative officials. Each PCIE IG must, by law, appoint an Assistant Inspector General for Investigations, "who shall have the responsibility for supervising investigative activities relating to [his/her agency's] programs and operations [IG Act, 5 U.S.C. App. at section 3(d)(2)]. Further, Congress directed that it is the "duty and responsibility" of each Inspector General to "conduct * * * audits *and investigations* relating to the programs and operations" of their parent agency (emphasis added).

The role of the inspectors general as criminal investigators has also been clearly and repeatedly recognized by federal courts. See, for example, *U.S.* v. *Educational Development Network Corp.,* 884 F.2d 737, 740–744 (3rd Cir. 1989) (recognizing an Inspector General's authority to issue a subpoena in a criminal investigation); *U.S.* v. *Aero Mayflower Transit Co., Inc.,* 831 F.2d 1142, 1145 (D.C. Cir. 1987) (recognizing both civil and criminal investigative authorities of the Inspectors General with coextensive subpoena powers); *U.S.* v. *Medic House, Inc.,* 736 F.Supp. 1531, 1537 (W.D. Mo. 1989) (enforcing a subpoena in a Medicare criminal fraud case, noting that the IG has "express authority" to conduct such cases).

EXCERPTS FROM THE LEGISLATIVE HISTORY OF THE INSPECTOR GENERAL ACT

A review of the legislative history of the Inspector General Act of 1978 indicates that Congress considered many of the same issues of coordination and cooperation raised by the Commission, and designed the Act to alleviate them. In reporting the Act to the House, the Government Operations Committee acknowledged that Justice Department officials had testified that: "with some exceptions, working relationship with other Federal departments and agencies on fraud matters (were) far from optimum. [They] also told the subcommittee that coordination would be easier if all agencies had a single high-level official devoting full time to overall direction of both audit and investigative activities." (House Report No. 95–584, pages 5–6, 1978)

On this same issue, the corresponding Senate Report No. 95–1071 states, at page 7, that the existence of an inspector general with both audit and investigative authority "strengthens cooperation between the agency and the Department of Justice

in investigating and prosecuting fraud cases. The Department [of Justice] testified emphatically that those agencies that have been the most effective co-partners * * * have been those with viable offices of Inspector General." As Deputy Assistant Attorney General Keeney testified, "The combining of audit and investigation functions under an Inspector General in the respective departments and agencies virtually ensures that the performance of the agencies will improve."

During floor consideration in the Senate on September 22, 1978, of H.R. 8588, The Inspector General Act of 1978, Senator Eagleton discussed the rationale for calling the office "Inspector General" as opposed to the Senate-proposed "Inspector and Auditor General." Senator Eagleton stated: "It has an established, well-understand meaning. It conveys rather a multiplicity of functions, including audit, investigations, inspection review of legislation and the formulation and coordination of all policies to promote efficiency and economy in Government and prevent and detect fraud, abuse and waste. The change of name signals no reduction in my determination and the committee's that the audit function play an essential role in the work of the new Inspectors General. One hundred investigators operating on their own can accomplish comparatively little when dealing with multibillion-dollar programs. One hundred investigators operating in connection with several hundred authors can become a vital force to combat fraud, abuse, and waste in agency operations and programs, and to promote economy and efficiency generally." (Congressional Record, September 22, 1978, page S30954)

On the question of possible conflicts between audit and investigative roles, the Senate Report indicated that: "the legislation gives * * * no conflicting policy responsibilities * * * sole responsibility is to coordinate auditing and investigating efforts and other policy initiatives designed to promote economy, efficiency and effectiveness of the programs of the establishment."

On the Senate floor, Senator Eagleton further discussed the statutory provision for separate offices for audit and investigations: "The second amendment restores a provision which the committee deleted from the House version of H.R. 8588. The House-passed bill provided that each Office of Inspector General would have an Assistant Inspector General for Audit and an Assistant Inspector General for Investigation. The committee believed that while most Inspectors General would organize their offices with separate assistants in charge of audit and investigation, such a requirement should not be statutorily mandated. Both the House and Senate committees, however, agreed that the offices would operate more effectively if the separation between audit and investigation was statutorily delineated and I have no reluctance to adopt the House approach." (Congressional Record, September 22, 1978, S30954)

Further, Representative Fountain stated that enactment of this legislation would: "help to coordinate, within each agency and throughout the Government, the work of numerous audit and investigative units which are now disorganized and without effective leadership." (Congressional Record September 27, 1978, H32033)

As will be shown in the remainder of this paper, stripping the IGs of investigative authority would return agencies to the situation, which existed before passage of the IG Act. Although the Commission does not address these facts, the record clearly demonstrates that, in the pre-IG period, law enforcement efforts within agencies often operated at cross-purposes and the means of addressing fraud, waste, abuse, and wrongdoing were uncoordinated either within and across agency lines. These unsatisfactory situations—precisely those which the Commission wishes to avoid—were resolved by the IG Act, but could recur if the history of the Act and the accomplishments of the IG community under the IG legislation are ignored.

ACHIEVEMENTS OF THE INSPECTOR GENERAL LAW ENFORCEMENT COMMUNITY

The IG Act of 1978 was passed by nearly unanimous votes in both houses of Congress, despite the fact that the (Carter) Administration opposed the measure, and nearly every agency called to testify about it recommended that IGs not be provided statutory authorities. Now, over twenty years later, offices of inspector general with full statutory powers are in place in essential every federal agency. They are mainstays of the effort to address criminal activity in federal programs. Congress has maintained continuous oversight of the IGs, and on several occasions, with strong support of several Administrations, has expanded both the number of IG offices and their authorities. Although the Commission chooses to view this as a "startling" proliferation of small law enforcement agencies, we would suggest that it is more accurately depicted as demonstrating how the success of the IG concept has justified its being expanded and strengthened.

Further, the IG law enforcement entities have compiled an outstanding record of tangible accomplishments. While success cannot be measured solely by outputs, the

numbers below unambiguously indicate that (1) IG law enforcement entities are producing substantial results in their present organizational configuration and, (2) the issues they address—fraud, abuse, and wrongdoing in federal programs—represent significant and serious problems that warrant focused and specialized law enforcement attention.

SELECTED INVESTIGATIVE OUTPUTS, PCIE AND ECIE MEMBER ORGANIZATIONS FY 1991–FY 1999

Output Measure	Results
Investigative Recoveries	$13,025,606,341
Successful Prosecutions	122,774
Personnel Actions	19,359

Notes: (1) Source of date is PCIE/ECIE Progress Reports to the President, FY 1991–1999. (2) Numbers have been edited wherever possible to remove duplicative or overlapping reports resulting from joint activities. (3) Includes results reported by the Chief Postal Inspector as a member of the ECIE, 1991–1996, and by the Office of Inspector General, U.S. Postal Service, 1997–1999. (4) Reporting period 1991–1999 was selected to reflect uniform reporting standards which came into use in 1991.

In contrast, the Commission report adduced no evidence—either statistical or anecdotal—to suggest that the IGs have not been effective, or that law enforcement within federal agencies would improve if authorities were to be stripped from the IGs and placed in the FBI or other agencies. The Commission's authoritive iteration of its position regarding IG law enforcement authorities appears as the following unsupported statement of opinion, on page 116 of its final report: "The Commission believes that to the extent Inspectors General are involved in law enforcement operations the cooperation of existing law enforcement officials from agencies such as Customs and the FBI to work with OIG officials is a better route than creating separate law enforcement entities within OIGs."

International Coordination and Law Enforcement Quality in the IG Community

The Commission report makes repeated and generalized observations to the effect that "small" law enforcement agencies (a category in which the Commission clearly includes the (IGs) find it difficult to maintain adequate standards of training, quality control, and professionalism. The underlying assumption of these comments appears to be that quality and professionalism are directly proportional to the size of a law enforcement agency.

We find the Commission's analysis to be oversimplified and its assumptions erroneous as applied to the IG community. Virtually since their inception under the 1978 IG Act, the IG law enforcement entities have worked closely with each other and with other agencies to assure the quality of their work and the professionalism of their personnel. As the results of these efforts, law enforcement with the OIGs has evolved into a community of over 2,900 well-trained criminal investigators whose primary thrust involves federal criminal or related civil cases, often worked in conjunction with the "traditional" agencies such as the FBI, U.S. Secret Service, ATF, DEA, and Customs, as well as state and local law enforcement bodies. Many of the OIG cases involve specialized areas of investigation where the other agencies defer to the expert knowledge of the IG special agents. Rather than discounting "small" law enforcement agencies out of hand as being doomed to professional inferiority, we would suggest that the IG community's collective activities represent a standard on which other agencies can model their own efforts to assure that they observe the highest levels of training, quality, and professionalism.

Within the IG community, the PCIE and ECIE have taken the lead in ensuring professional quality criminal investigations. These efforts have been coordinated through the PCIE/ECIE Investigations Committee, which is comprised of IGs from representative agencies who have been active in various aspects of law enforcement and the Director, Office of Government Ethics. The chair of the committee has traditionally been an Inspector General with diverse federal law enforcement experience.

The Investigations Committee has produced several documents that have provided guidance to the community on professional law enforcement standards. Arguably, the most important is the revised "Quality Standards for Investigations." This publication includes individual investigator standards for qualifications, independence, and due professional care. It also establishes cases management standards in planning, execution, reporting and information management. The standards recommend each criminal investigator have professional training adequate to conduct criminal investigations at the federal level and that special agents also be involved in profes-

sional development programs providing increased knowledge levels as the investigators advance through their career.

Two other publications of particular note developed through the Investigations Committee are a "best practices" document and a government-wide publication entitled "OIG Investigations and You." In 1998, a working group of Assistant Inspectors General for Investigations (AIGIs) developed model guidance for all OIGs in operational practices within law enforcement agencies. These included training standards, types, use and care of weapons, use of deadly force, investigative practices, civil liberties, and record keeping. The working group suggested minimum training standards that required every criminal investigator complete training from the Federal Law Enforcement Training Center (FLETC), the FBI Academy, or other comparable basic training program. "OIG Investigations and You" was prepared by the Investigations Committee as an electronic document that could be distributed to the entire federal workforce. This pamphlet explains the rights and responsibilities of federal employees when they are involved in an OIG investigation.

Another critical role of the Investigations Committee is oversight of the Inspector General Criminal Investigator Academy (IGCIA) located in Glynco, Georgia. Serving as the board of directors for the IGCIA, the committee has worked closely with FLETC officials and the community to develop a professional training program for IG special agents that meets recommended standards for federal investigators. In the past year, the IGCIA was dramatically increased in size to better meet the training needs of the OIG community. The IGCIA provides criminal investigator training for IG special agents as the designated follow-up to the FLETC Criminal Investigator Basic program. The IGCIA also conducts follow-up training in areas of investigations deemed critical to meet DOJ and community standards. Advanced training is also provided to meet special training needs as individuals continue through their career.

Closely related to this effort, the IG community has actively participated in the operations of FLETC, including representation on the FLETC Board of Directors, curriculum development committees, and other development programs. Special agents from the PCIE and ECIE agencies participate in classes at FLETC, and occasionally, on an as-needed basis, at the FBI Academy and other accredited training facilities.

Though the Investigations Committee remains the central focal point for investigative issues, there are other activities within the community that have influenced the development of community-wide professional law enforcement operations. These include the coordination of joint OIG investigations, establishment of quality assurance programs in every OIG, participation in multi-agency task forces, and legal coordination.

Every OIG has established quality assurance safeguards within its investigative program. These address the need for maintaining the highest quality of professional operations. Most of these reviews are based upon the standards established in "Quality Standards for Investigations."

COORDINATION BY THE DEPARTMENT OF JUSTICE

The Commission's assertions that proliferation of OIGs and other "small" law enforcement agencies undermines the overall direction of federal law enforcement efforts and makes coordination by the Department of Justice (DOJ) difficult are not reflected in actual practice. The IGs are as accountable for their actions as any other law enforcement agency, and, because of the semiannual requirements, must provide a public record of their principal activities on a regular and continuing basis. Every IG has a continuing relationship with congressional oversight committees and, because of their audit role, with the General Accounting Office (GAO). Every IG holds membership on either the PCIE or ECIE, which are chaired by the Office of Management and Budget and exist precisely for the purposes of assuring that the IGs efforts are appropriately coordinated within the Executive Branch and that important government-wide problems are addressed.

On a case-by-case basis, Assistant United States Attorneys direct most federal law enforcement efforts by making prosecutorial decisions in their respective districts concerning issuance of indictments, empanelling grand juries, use of grand jury subpoenas, and the approval of surveillance, undercover operations and other investigative techniques. IG criminal investigators are subject to all of the Department of Justice standards, guidelines, and control associated with these activities. Through this process, DOJ and the United States Attorney's Offices provide oversight as well as guidance to the OIGs. With few exceptions, the United States Attorneys have embraced and commended the investigative services they have received from the OIGs,

recognizing both the investigative abilities of OIG agents and the expertise that these agents possess with respect to specific agency programs.

In addition, the Department of Justice has supported OIG inclusion in special task force operations, which are being used more frequently. These task forces cover the range of federal investigations in areas such as welfare and Medicare fraud, health care fraud, organized crime, drug trafficking, border and immigration integrity, multi-objective projects such as Operation Safe Homes and Operation Talon, and other high profile criminal investigative initiatives involving the programs of every federal agency. Not only are special agents from OIGs included in these task forces, they are considered full partners, often taking lead roles in critical aspects of an investigation. These partnerships in most cases include, among other, the FBI, Secret Service, DEA, ATF and/or Customs.

While the IG Act of 1978 did not explicitly provide a full range of criminal law enforcement authorities, because of the proven success and professionalism of the IG law enforcement community, such authorities have become available progressively as the OIGs have evolved. For many years, the only method by which full law enforcement authority was extended to most OIG investigators was for the DOJ to authorize deputation to each individual on a case-by-case basis. However, at this time, blanket deputation for IG special agents is provided through memoranda of understanding (MOU) between DOJ and the respective OIGs. As a further step, DOJ now supports legislation to grant statutory law enforcement authority (to include uniform qualification and related standards) for all OIGs in the PCIE.

Deputation agreements mandate uniform standards for completing basic and continuing special agent training, including regular criminal and civil legal updates, and for conducting criminal investigations. It also requires coordination and procedural adherence to DOJ standards. The present blanket authorities through the MOUs also require reporting and DOJ oversight of IG investigative operations. The net result is observance of professional standards throughout the IG community that meet all the requirements of the DOJ.

Further, the inspectors general have MOUs with the FBI and other federal law enforcement agencies to ensure coordination. This has resulted in a working relationship that ensures that all aspects of federal law enforcement work closely together. It also means that overlapping or conflicting investigations are less apt to happen. Some of these agreements have been in place since the establishment of the first IGs in 1978.

Clearly, the existence of law enforcement components within individual OIGs has strengthened rather than undermined federal law enforcement efforts. Even if "traditional law enforcement" moves in the direction envisioned by the Commission, to combat globalized crime, more sophisticated narcotics trafficking, and terrorism, the need to address crime in government programs will continue to exist. Although the Commission does not appear to make the connection, we note the finding in their own survey of attitudes toward crime (discussed on page 30 of the Commission's final report) that "white collar fraud," which is the principal focus of IG law enforcement, elicits a high level of public concern, equivalent to carjacking and organized crime. Thus, instead of conflicting or overlapping, the continued presence of strong IG law enforcement authorities remains essential to ensuring that the priorities of Congress and the American public are implemented.

WORKING TOGETHER—SYNERGY WITHOUT CONFLICT

As quoted above from the IG Act's legislative history, in fashioning the IG legislation, Congress very intentionally did not choose to isolate the law enforcement personnel who would be investigating agency programs within an organization devoted solely to criminal law enforcement. As anticipated, the investigative role of the IGs has been greatly improved by the close working relationships among the investigators, auditors, attorneys, and evaluators who comprise IG staffs. Indeed, skilled analysis by auditors of complex financial transactions involved in white collar fraud schemes has become a cornerstone of efficient investigation and prosecution of those crimes. Implementing the Commission's recommendation to remove law enforcement authority from the IGs would sever this collaboration by removing the investigators, with their specialized experience and expertise, from the agencies in which they are located. There is no historical, anecdotal, or statistical evidence of which we are aware, or which is offered by the Commission, to support the upheaval their recommendation would cause.

REMOVING LAW ENFORCEMENT AUTHORITY WOULD DISRUPT IMPORTANT CONTRIBUTIONS TO MANAGEMENT OF AGENCY PROGRAMS

The foregoing sections of this white paper demonstrate that the IG offices, as presently constituted, have met and exceeded all of the expectations which Congress associated with the IG Act. Further, the IGs have been operationally effective, and have implemented and observed very high standards of quality, training, and professionalism. In the absence of any information or analysis by the Commission to buttress its viewpoint, these factors alone provide convincing support for maintaining IG law enforcement authorities.

There is, however, yet another serious shortcoming of the Commission's report. Although the Commission purported to address only law enforcement concerns, in fact it undertook to make recommendations about the structure, function, and role of parts of nearly every federal agency. And those parts—the OIGs—themselves have the authority to affect essentially every program in their respective agencies. Therefore, an assessment of the Commission's report cannot focus simply on law enforcement in isolation, but must consider the potential impact of its comments and recommendations on the full range of management challenges facing federal agencies.

By this standard, we conclude that actual implementation of the Commission's recommendations about the IG community would either generate results contrary to their expressed purpose or would create management problems more serious than the law enforcement problems the Commission discusses. Specifically, if law enforcement authority were to be removed from the OIGs in keeping with the Commission's recommendations, we believe the following three management problems would quickly ensue. Ironically, Congress recognized in 1978 that the absence of law enforcement at the agency level generated precisely these problems, and they addressed all of them in the IG Act.

A. INFORMATION FLOW TO CONGRESS AND THE AGENCY HEADS WOULD BE REDUCED

The Inspector General Act establishes an information flow that is unique among federal law enforcement agencies. The IGs ultimately report their findings to and through the agency head. At the same time, the mechanism of the IG semiannual reports assures that information on the IGs most significant results, accomplishments, and problems is provided to Congress. The "seven-day letter" provision, although seldom used, provides an independent "fast track" channel for the IG to bring exceptionally serious problems to Congress' attention on an urgent basis.

All of these provisions were in direct response to (1) the obvious void of information flow among the traditional law enforcement agencies, federal agencies whose programs or personnel were being investigated, and Congress, and (2) the limitations of the case-by-case approach taken by the traditional law enforcement agencies as a means of developing useful information for the program management or legislative perspective. The IG Act requirement that the agency head forward the IG report to Congress, with his comments, assures both that agency management considers and addresses the IGs' reports and that Congress receives the benefit of management input, as well as the IGs, on significant problems.

The current reporting system fills the essential needs of both agency management and Congress for continuing and reliable information about problems that warrant their attention and action. However, adopting the Commission's recommendations for removing law enforcement authority from the IGs would re-create the former information void. Outside law enforcement agencies would have no responsibility to report to agency heads or Congress, and the connection between investigative results and program operations—the essence of the IG Act reporting system—would be lost.

B. THE IGS' POSITIVE CONTRIBUTION TO EFFECTIVE PROGRAM MANAGEMENT WOULD BE DISMISSED

From the inception of the statutory inspectors general, both Congress and the agencies have understood them to be more than simply audit and law enforcement organizations superimposed on existing agency structures. In fact, the premise of the IG concept is that it would improve the management of federal programs by identifying and rooting out fraud, abuse, waste, inefficiency, and wrongdoing. To consider IGs strictly as law enforcement entities is to ignore their larger, underlying purpose.

Placement of the IGs, and their associated law enforcement authorities, within the agency, gives the agency head more control of his programs than if the law enforcement personnel serving the agency were from another agency. On page 58 of its final report, the Commission states that: "[T]he independence of OIGs as man-

dated by Congress from program operations and from management within a department can become a future problem area without coordination and oversight of IG action."

But in fact, this statement is not only unsupported by any objective information in the Commission's report, it is inherently illogical as support for removing law enforcement authority from IGs and placing it in another law enforcement agency. As the IG Act unambiguously recognized, an agency is far better able to coordinate, and benefit from, law enforcement activities undertaken by its IG than it would the activities of the FBI if law enforcement authority were removed from the IG and placed with the FBI.

The proximity and visibility of OIG agents within an agency bestows several tangible advantages for the integrity of the agency's programs. First, an official with concerns about fraud in his programs will be far more likely to contact an OIG agent in the office next door than to call a "centralized law enforcement entity." Further, the presence of an OIG with law enforcement capabilities generates a deterrent effect. Many OIGs conduct fraud awareness and outreach programs. In fact, such proactive efforts are mandated in the IG Act, which speaks of the "preventing" as well as "detecting" fraud, waste, abuse, and mismanagement. The effectiveness and feasibility of outreach activities are tied directly to their applicability to specific situations found in the agency. A centralized law enforcement agency would likely find it difficult to mount efforts which are relevant across the board.

The Commission's quotation of a National Performance Review comment, which is taken out of context, to the effect that some agency personnel consider IG personnel to be high-handed, is utterly misleading. It was not a conclusion of that report, but a statement by an anonymous government official. Any law enforcement organization may be considered threatening or coercive by persons who are subject to its authority; in fact, federal employees may be compelled to provide information to IGs and all other federal law enforcement agencies, to the extent that such disclosures do not violate their constitutional rights. The fact that some nameless persons may hold a certain opinion of IG staff does not support the point that it is inappropriate for law enforcement authority to reside in the IGs.

C. LAW ENFORCEMENT EFFORTS WOULD SUFFER FROM THE LOSS OF SPECIALIZED KNOWLEDGE OF AGENCY PROGRAMS

We strongly disagree with the Commission's premise that the IG community is outside the "mainstream" of federal law enforcement. In fact, over 20 years of expertise in addressing criminal violations particular to the agencies they serve has actually placed the IG criminal investigative components in a better position to service the law enforcement needs of their agencies than a "generalist" law enforcement entity. To suggest, as the Commission seems to do, that a general federal law enforcement agent could be conversant in the intricacies of Medicare fraud, oil and gas royalty fraud, and passport and visa fraud is simply not reasonable. Further, OIG special agents not only have expertise germane to their own agency, but also on the way common frauds are prepetrated in the agency context. For example, while OIGs in all agencies may investigate procurement fraud, procuring services to construct an embassy overseas is vastly different from procuring a cleanup of a wetland endangered by an oil spill. Simply knowing the Federal Acquisition Regulations is not enough—to be truly effective, one needs to know how it is applied within the specific agency.

Many of the trends noted the Commission report itself as to the increasing sophistication and organization of criminal behavior mean that the need has increased for federal law enforcement personnel to "specialize" and become truly expert about what they are doing. Congress has recognized this by heightening the responsibilities of various IGs to fight fraud. One among many examples is the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which established the Health Care Fraud and Abuse Control Program, administered jointly by the Attorney General and the Department of Health and Human Services (HHS), acting through the HHS Inspector General [see 42 U.S.C. 1230a–7c(a)(1)]. The HHS IG receives mandatory funding from the Medicare trust funds to support intensified efforts against fraud and abuse in the Medicare/Medicaid programs. Using its new authority and resources, in three years since passage of HIPAA, the HHS IG has achieved a 139 percent increase in criminal convictions in health care cases, a 111 percent increase in health care administrative sanctions, and a 51 percent increase in fines, penalties, restitution, and multiple damages in health care investigations over the combined total amount for the prior 10 years.

In this regard, government program needs warrant the same highly directed and expert attention as the problems of terrorism, international narcotics trafficking,

and global crime identified by the Commission's report. Further, much as "specialized" law enforcement personnel may not be aware how to address terrorism, efforts to combat fraud in government programs will not be well-served by a "generalist" law enforcement entity that needs to learn the intricacies of the victimized program before it can develop an investigative plan to deal with the criminal. Although the Commission may hold the opinion that it is "better" to provide law enforcement services from large "generalist" agencies than from smaller "specialist" entities, it offers no evidence to indicate the need for one excludes or replaces the need for the other.

PRESIDENT'S COUNCIL ON
INTEGRITY AND EFFICIENCY,
February 4, 2000.

Hon. STROM THURMOND, *Chairman,*
Subcommittee on Criminal Oversight, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Investigations Committee of the President's Council on Integrity and Efficiency, I want to register my strong opposition to the conclusion reached by the Commission on the Advancement of Federal Law Enforcement concerning the investigative authority of Inspectors General. On page 116 of its report, "Law Enforcement in a New Century and a Changing World," the Commission recommends: "* * * the function of the Office of the Inspector General should be to act as an Auditor General, not as a law enforcement entity."

We do not duplicate other law enforcement agencies. We coordinate and work closely with the Attorney General and the U.S. Attorneys to enhance their ability to investigate and prosecute fraud in our respective agency programs.

The hallmark of our existence is independence from political pressure and objectivity in finding fact. We are a justifiably proud community of office of inspectors general because of our accomplishments. Our law enforcement agents are traditionally and extensively training in all aspects of criminal law enforcement. They are professional in every sense of the word and possess the integrity and accountability necessary to ensure productive law enforcement.

I request to have this letter placed in the record of the Committee Hearing of February 3, 2000 on this report and the opportunity to meet with you to discuss the specifics of why the report is erroneous with respect to these matters. Please feel free to call me at (202) 606–1200.

Sincerely,

JOSEPH R. WILLIAMS,
(For Patrick E. McFarland,
Chair, Investigations Committee).

For Record

ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

29-139 O - 96 (172)

SEC. 806. COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT. 18 USC prec. 1 note.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law

Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities [illegible] the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(4) The investigation and handling of specific Federal criminal law enforcement cases by the United States Government and the Federal law enforcement agencies therewith, selected at the Commission's discretion.

(5) The necessity for the present number of Federal law enforcement agencies and units.

(6) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(7) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(8) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and to correct Federal law enforcement abuses.

(9) The degree of coordination among law enforcement agencies in the area of international crime and the extent to which deployment of resources overseas diminishes domestic law enforcement.

(10) The extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on Federal criminal enforcement operations and programs that directly affect a State or local law enforcement agency's geographical jurisdiction.

(11) Such other related matters as the Commission deems appropriate.

(c) MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(A) 1 member appointed by the President pro tempore of the Senate.

(B) 1 member appointed by the minority leader of the Senate.

(C) 1 member appointed by the Speaker of the House of Representatives.

(D) 1 member appointed by the minority leader of the House of Representatives.

(E) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(3) TERMS.—Each member shall be appointed for the life of the Commission.

(4) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(6) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(d) STAFFING AND SUPPORT FUNCTIONS.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(2) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

GS agen

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission, unless doing so would threaten the national security, the health or safety of any individual, or the integrity of an ongoing investigation.

(4) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) REPORT.—The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate 30 days after submitting the report required by this section.

O