S. HRG. 107–325

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 2500/S. 1215

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2002, AND FOR OTHER PURPOSES

Department of Commerce
Department of Justice
Department of State
Federal Communications Commission
Nondepartmental witnesses
Securities and Exchange Commission
Small Business Administration
The judiciary

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[1] Committee and subcommittee memberships—January 25, 2001 to June 6, 2001.

NOTE.—From January 3 to January 20, 2001 the Democrats held the majority, thanks to the deciding vote of outgoing Democratic Vice President Al Gore. Senator Thomas A. Daschle became majority leader at that time. Starting January 20, 2001, the incoming Republican Vice President Richard Cheney held the deciding vote, giving the majority to the Republicans. Senator Trent Lott resumed his position as majority leader. On May 24, 2001, Senator James Jeffords of Vermont announced his switch from Republican to Independent status, effective June 6, 2001. Jeffords announced that he would caucus with the Democrats, changing control of the evenly divided Senate from the Republicans to the Democrats. Senator Thomas A. Daschle became majority leader once again on June 6, 2001.

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[2] Committee and subcommittee memberships—June 6, 2001 to July 10, 2001. Senate committee and subcommittee assignments reverted to that which had been in existence at the conclusion of the 106th Congress.

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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

THURSDAY, APRIL 26, 2001

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

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Domenici, Hollings, and Inouye.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF HON. JOHN ASHCROFT, ATTORNEY GENERAL

OPENING REMARKS

Senator GREGG. We will begin the hearing.

We appreciate the Attorney General's promptness in appearing before the committee, which looks forward to hearing from the Attorney General.

I do not know if the ranking member has a statement he wishes to make; I would be glad to hear from the Senator from South Carolina.

Senator HOLLINGS. No. Thank you, Mr. Chairman. We welcome the Attorney General, and we are glad to proceed with the hearing.

Senator GREGG. I feel the same way. We are here to hear you, not you to hear us. So we will be happy to get your thoughts, Mr. Attorney General, and then ask some questions.

ATTORNEY GENERAL ASHCROFT'S OPENING REMARKS

Attorney General ASHCROFT. Thank you, Chairman Gregg and Ranking Member Hollings. It is a pleasure to be with you today. It is an honor and a privilege to appear before you to present the President's first budget request for the Department of Justice.

For fiscal year 2002, the President's budget seeks $24.6 billion for the Department, including $20.9 billion in discretionary spending authority and $3.7 billion in mandatory resources. While the 2002 request maintains the same overall amount of spending authority as provided by this subcommittee in 2001—less than 1 percent variance—we have managed to enhance a number of key ef-

forts, including reducing gun crime, stopping violence against women, combatting drugs, and guaranteeing civil rights for all Americans.

This budget includes a general shift in spending from State and local law enforcement in order to support our core Federal law enforcement mission and to better target assistance to areas of greatest need, such as crime in our schools, crimes committed with firearms, and violence against women. The Community-Oriented Policing Services, or COPS, program is continued at a somewhat reduced level, with resources re-targeted for school safety, law enforcement technology needs, and reducing DNA backlogs.

The budget includes nearly $1.1 billion in program increases to enable the Department to carry out its core mission, particularly in the areas of detention and incarceration, antiterrorism, cybercrime, and counterintelligence. Another $302 million in new funding is requested to address key technology initiatives focusing on systems integration upgrades and network reliability. Of this amount, $225.7 million will be used directly to assist State and local law enforcement agencies with technology needs.

The 2002 budget also focuses on several key areas that reflect the priorities of the Bush Administration—gun violence, violence against women, and drug crime, all threaten to deny the most fundamental right of our citizens, the right to their personal safety. The 2002 budget provides $650 million in additional funding to help secure this basic right.

GUN CRIME

There is no question that we need a renewed commitment to the vigorous enforcement of existing laws addressing gun crime. The recent gun violence on school campuses highlights the need for a collaboration among Federal, State, and local law enforcement officers to combat juvenile gun crime. I intend to intensify enforcement efforts against gun crime.

The first step toward this goal is our request for $153.8 million in increased resources to enforce vigorously gun laws through increased prosecutions, collaborative approaches to crimes committed with firearms, and by ensuring that child safety locks are available for every handgun in America.

DRUG ENFORCEMENT

To reinvigorate the war on illegal drugs, the 2002 budget includes $77.2 million in additional resources. Specifically, our budget seeks $58.2 million in enhancements for the Drug Enforcement Administration. The request also continues to provide $48 million for the Office of Justice Programs to assist State and local law enforcement agencies with the costs associated with meth cleanup and to aid in meth enforcement.

CIVIL RIGHTS

Through the efforts of the Civil Rights Division, the Community Relations Service, the United States Attorneys, the Federal Bureau of Investigation and the Office of Justice Programs, the Department seeks to protect the civil rights and liberties of all Americans.

The 2002 budget includes an increase of $105.7 million to further these efforts.

IMMIGRATION

For immigration-related activities, the 2002 budget includes an additional $240 million. Included within this amount is $75 million for the INS to add 570 new Border Patrol agents in 2002.

To address chronic space shortages and facility deficiencies, the budget also includes $42.7 million for INS Border Patrol facility construction. To enhance the resources of county prosecutors located on the Southwest border—these are State county prosecutors—our 2002 request includes $50 million in assistance to those individuals to deal with the challenges they face.

The Administration will propose splitting the mission of the INS in two, with separate chains of command reporting to a single policy official. I support this restructuring. I believe its time has come and look forward to working with this subcommittee as the proposal moves through the Congress.

STATE AND LOCAL LAW ENFORCEMENT

The 2002 budget proposal appropriations request provides over $4.2 billion for State and local law enforcement grant programs. Included within the request are newly-created initiatives or enhancements to existing programs to address specific crime problems. These proposals include an increase in Violence Against Women Act funding of more than 35 percent; expansion of the Weed and Seed Program; more drug treatment in State prisons; increased assistance for State prosecutors, and new gun violence programs.

Reductions are made primarily in four areas: (1) Byrne discretionary grants; (2) the State Criminal Alien Assistance Program; (3) the Local Law Enforcement Block Grant Program; and (4) State Prison grants.

This reduction in funding will allow the Department to fulfill its core law enforcement responsibilities, and to enhance key efforts including reducing gun crime, stopping violence against women, combating drugs, and guaranteeing civil rights for all Americans.

Chairman Gregg, Senator Hollings, I have outlined the principal focus of the President's 2002 budget request for the Department of Justice.

I hasten to add that I am still learning about many of the programs we have under the jurisdiction of the Department of Justice. You both have monitored spending in the Department for quite some time and are experts in that respect. I have much to learn, and I look forward to your advice and counsel.

PREPARED STATEMENT

Thank you. I would be pleased to be responsive to the extent that I can, to questions that you might have.

[The statement follows:]

PREPARED STATEMENT OF JOHN ASHCROFT

Mr. Chairman and Members of the Subcommittee: It is both an honor and a pleasure to appear before you this morning to present President Bush's first budget request for the Department of Justice. For fiscal year 2002, the President's budget

seeks $24.65 billion for the Department of Justice, including $20.94 billion in discretionary spending authority and $3.71 billion in mandatory resources, such as fees. This budget seeks to fulfill our basic federal law enforcement responsibilities, address emerging technology and critical infrastructure needs, and focus on the Administration's priorities of reducing gun crime, combating drug use, guaranteeing the rights of all Americans, and empowering communities in their continued fight against crime.

While the fiscal year 2002 budget request maintains the same overall amount of discretionary spending authority as was provided by this Subcommittee in fiscal year 2001, we have managed to enhance a number of key areas. The budget includes a general shift in spending from state and local law enforcement in order to support our core federal law enforcement mission, and better target assistance to areas of greatest need, such as crime in our schools, crimes committed with firearms, and violence against women. The Community Oriented Policing Services (COPS) program is continued at a somewhat reduced level, with resources targeted for school safety, law enforcement technology needs, and reducing DNA backlogs. The COPS request does not disrupt or affect the commitments made to put 100,000 more police on the streets and, in fact, goes further by proposing to hire up to an additional 1,500 School Resource Officers.

BASIC LAW ENFORCEMENT—THE CORE FEDERAL MISSION

The budget I present to you today first addresses the basic law enforcement responsibilities of the Department of Justice. The mission of the Department is clear: to enforce the law and defend the interests of the United States according to the law; to provide leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; to administer and enforce the nation's immigration laws fairly and effectively; and to ensure fair and impartial administration of justice for all Americans. The fiscal year 2002 budget includes $1.057 billion in program increases to enable the Department to carry out its mission, particularly in the areas of detention and incarceration, antiterrorism, cybercrime, and counterintelligence.

Increased Detention and Incarceration Capacity

The number of inmates in the Federal Prison System has more than doubled since 1990 as a result of tougher sentencing guidelines, mandatory minimum sentences, the abolition of parole, and increased federal law enforcement efforts. This surge in the prison population continually tests the limits of our detention and incarceration capacity. The fiscal year 2002 budget for the Department of Justice includes a $949.5 million increase in funding to support the federal responsibility of detaining individuals awaiting trial or sentencing in federal court, and incarcerating inmates who have been sentenced to prison for federal crimes.

The rapid growth in the federal inmate population is expected to continue. Despite the investment of nearly $5 billion for prison construction over the past decade, the prison system is currently operating at 32 percent over its rated capacity—up from 22 percent at the end of 1997. These conditions could jeopardize public safety and cannot be ignored. The fiscal year 2002 budget seeks an additional $809.27 million for the Bureau of Prisons to reduce overcrowding and accommodate future growth. Specifically, $669.97 million is requested to fund the construction of three Federal Corrections Institutions and four United States Penitentiaries; partial site and planning funds for two female facilities and two male facilities; and $139.3 million is requested for the activation of the Federal Corrections Institute in Petersburg, Virginia, and the United States Penitentiary and work camp in Lee County, Virginia; and, the contract confinement costs to meet the anticipated increase in the federal prison population.

To increase the detention capacity and staffing necessary to keep pace with the growth in INS enforcement activities, the Department's request includes an increase of $74.2 million. Within this amount is $42.3 million in new resources to support the staffing, transportation, medical, and removal costs associated with the utilization of an additional 1,607 detention beds in fiscal year 2002. And, $31.9 million in new resources will support detention planning and construction costs associated with additional detention bedspace and other improvements at INS Service Processing Centers. INS's detention and removal efforts will suffer if additional reliable bedspace is not created. In many INS districts, contracting for detention space is not a viable option, considering the remoteness of the locations in which INS operates.

The workload of the United States Marshals Service is, in many ways, unpredictable in that the Marshals' organization must meet the needs of the Judiciary and our investigators and prosecutors. The Marshals do not control the number of

threats that judges may be confronted with, nor the number of prisoners coming into its custody. For fiscal year 2002, our request includes $64.4 million in increased funding for the United States Marshals Service to cover the medical and housing costs associated with an increase of one million jail days for Marshals Service detainees held in non-federal facilities; to address the anticipated workload increases as a result of the D.C. Revitalization Act; for the staffing and equipping of courthouses that are new or undergoing significant renovations; and to support the costs of increased prisoner movements.

Also included within the Department's requested increase for incarceration and detention is a critically needed $1.65 million for the United States Parole Commission to support anticipated workload increases associated with its takeover of the District of Columbia's parole revocation and supervised release hearing functions, as outlined in the D.C. Revitalization Act.

Counterterrorism, Cybercrime, and Counterintelligence Efforts

Preventing terrorism, deterring computer crime, and thwarting foreign espionage are among the most serious challenges facing law enforcement today. The Department of Justice, with the strong support and leadership of your Subcommittee, has acted aggressively to prevent, mitigate, and investigate acts of terrorism, including the use of weapons of mass destruction, and the emerging threat of cybercrime. For fiscal year 2002, we are requesting $107.96 million in additional funding to support the Department's counterterrorism, cybercrime, and counterintelligence efforts.

The nation's growing dependency on technology systems has resulted in a heightened vulnerability of our banking system, critical transportation networks, and vital government services, while also significantly increasing the incidence and complexity of crime. To address the emerging cyber threat, the fiscal year 2002 budget includes $33 million in increased resources. Within this amount, $28.14 million will support the FBI's counter-encryption capabilities, and the development of cyber technologies for the interception and management of digital evidence. For the U.S. Attorneys, $2.95 million is included to support 24 new positions for the prosecution of crimes committed using the Internet. And, $1.9 million is included for the Criminal Division for 14 new positions to continue coordinating the rising number of investigations and prosecutions of multi-jurisdictional national and international intrusion; denial of service attacks and virus cases; and to provide increased network security and encryption capabilities for its automated infrastructure.

To combat the threat of terrorism, the fiscal year 2002 budget includes $39.4 million in new funding. For the FBI, $32 million is requested for security and investigative duties at the 2002 Winter Olympics in Salt Lake City, Utah; for increased security requirements at various FBI locations; and, to support its incident response readiness responsibilities. In addition, recognizing the critical role state and local public safety agencies have in managing the consequences of any terrorist event involving weapons of mass destruction, the Department's budget request includes $220.5 million to continue the Office of Justice Programs' Counterterrorism programs in fiscal year 2002 and ensure state and local response readiness. For the INS, $6.59 million in new funding is included to establish intelligence units along our northern and southern borders. These units will monitor terrorist activities and smuggling operations, and assist in tracking the movement of illicit narcotics, weapons, and other contraband across our nation's borders.

The Department's fiscal year 2002 budget also requests $31.6 million in additional funding to allow the FBI to more completely and effectively assess and defeat foreign intelligence threats to our national security. Included within this amount is funding for the Criminal Division to continue assisting the FBI with investigations involving counterintelligence, particularly those involving espionage and high technology export violations.

TECHNOLOGY AND CRITICAL INFRASTRUCTURE NEEDS

Coordination between federal, state, tribal, and local law enforcement agencies is crucial to crime solving and criminal apprehension. The pooling of information and resources can greatly increase efficiency and decrease the time involved in solving a case. Because law enforcement agencies have developed a reliance on one another for accurate and timely information, our crime fighting agencies must maintain up-to-date information systems and develop secure processes for sharing this information. The fiscal year 2002 budget request includes $302 million in new funding to address these needs, focusing on systems integration, upgrades, network reliability, efficient processes, and state-of-the-art technologies. In addition, the Department plans to request the use of $67 million from its Working Capital Fund for infrastructure needs.

For the FBI, our budget request includes $67.7 million to support the second year of Trilogy, the FBI's 3-year information technology upgrade plan. Another $6.5 million will permit the acquisition of communication circuits that will support faster transmission of data and greater network reliability. For activation of the new FBI Laboratory in Quantico, Virginia, we are seeking $1.16 million in direct spending and the use of up to $40 million from the Department's Working Capital Fund. To continue the critically needed integration of the INS and FBI Fingerprint Identification Systems, we are seeking $28 million $1 million in direct spending and the use of up to $27 million from the Working Capital Fund. This funding will be used to improve INS fingerprinting capabilities, and integrate the INS Automated Biometrics Identification System (IDENT) with the FBI's Integrated Automated Fingerprint Identification System (IAFIS). This investment of resources will better equip us to prevent a recurrence of an incident similar to the Rafael Resendiz-Ramirez serial killings that occurred in 1999.

To directly assist state and local law enforcement agencies with their technology needs, the fiscal year 2002 budget includes an increase of $225.7 million in grant funding. Specifically, the Department is requesting $20.7 million for Crime Identification Technology Act (CITA) funding; $35 million to address the backlog of state convicted offender DNA and crime scene DNA samples that exist nationwide; $35 million for the Crime Lab Improvement Program (CLIP) to improve the general forensic science capabilities of laboratories; $35 million for the Criminal Records Upgrade Program to promote compatibility among criminal history, criminal justice, and identification record systems nationwide; and $100 million for technology grants for state and local law enforcement under the COPS program. The fiscal year 2002 budget significantly increases the funding available to state and local law enforcement for technology initiatives a natural follow-on to the COPS program that provided additional officers on the street. Now we need to ensure state and local law enforcement is adequately equipped with the best technology to do its job.

BUSH ADMINISTRATION PRIORITIES

The budget I present to you today also focuses on several key areas that are reflective of the priorities of the Bush Administration. During my confirmation hearings, I said I believe a citizen's paramount civil right is safety. Americans have a right to be secure in their persons, homes and communities. Gun violence, violence against women, drug crime, and sexual predators all threaten to deny this most fundamental right. It is a core responsibility of government, led by the Attorney General and the Department of Justice, cooperating with local law enforcement officials, to secure this right. Our fiscal year 2002 budget provides $650 million in additional funding to advance this effort. Children do not learn in schools overrun by neighborhood violence. Jobs will not be found in communities where criminals own the streets, and no American who now feels threatened should have to move to live in a safer neighborhood.

Reducing Gun Crime

I announced at the outset of my tenure as Attorney General that one of my top priorities would be the formation of a new firearms enforcement initiative, along with a task force to develop and implement this initiative. This group includes the Bureau of Alcohol, Tobacco, and Firearms and various components from within the Department of Justice, including the Office of the Attorney General, FBI, Criminal Division, Executive Office of United States Attorneys, and others. They have been meeting regularly and I look forward to hearing their recommendations in the next several weeks.

There is no question that we need a renewed commitment to the vigorous enforcement of existing laws addressing gun crime. The recent spate of gun violence on school campuses and the alarming rate at which gang related violence occurs in schools, on playgrounds, and at parks throughout the country highlight the need for federal prosecutors to work with state and local law enforcement to pursue serious juvenile offenders. I intend to renew enforcement efforts in this area by building on successes in existing jurisdictions and by developing a comprehensive strategy to target gun violence. The fiscal year 2002 budget request for the Department of Justice takes the first step toward this goal and includes $153.78 million in increased resources to vigorously enforce gun laws through increased prosecutions, strategic approaches to crimes committed with firearms, and ensuring that child safety locks are available for every handgun in America.

For the U.S. Attorneys, $9 million is included to support Project Sentry, a new federal-state law enforcement partnership to identify and prosecute juveniles who violate state and federal firearms laws and the adults who supply them with guns. This funding will be used to hire a prosecutor in each of the 94 U.S. Attorneys' Of-

fices around the country who will focus on gun crimes involving or affecting juveniles, including school-related violence and trafficking firearms to minors.

Another $20 million will be provided to Project Sentry through the COPS program and the Juvenile Justice Title V program. This funding establishes safe school task forces across the country that will also prosecute and supervise juveniles who carry or use guns illegally, as well as the adults who illegally furnish firearms to them.

Within the Office of Justice Programs, $49.78 million is requested for a new gun violence program that will provide grants to encourage states to increase the prosecution of gun criminals and assist them by providing funding to establish programs that target gun criminals through increased arrests and prosecutions and public awareness to deter gun crime. This funding will support Project Exile and Project Ceasefire type programs that vigorously enforce our gun laws and send a clear signal that our culture will not tolerate the illegal use of firearms.

Another $75 million is included for Child Safe, a new program that will provide funds to ensure child safety locks are available for every handgun in America. The Office of Justice Programs will provide $65 million annually to state and local governments on a dollar-for-dollar matching basis. Locks will be distributed by local municipalities, counties, or private organizations. The annual federal matching funds will also be available to match private contributions by organizations seeking assistance in the goal of providing locks for every handgun in America. The remaining $10 million will be spent, annually, on administrative costs and advertising, including a national toll-free hotline to make sure all parents are aware of the program.

Combating Drug Use

The cost of illegal drug use to this nation continues to rise and is borne by all Americans through tax dollars for increased law enforcement, incarceration, treatment programs, and medical needs. Estimates of the total cost exceed $100 billion annually, yet do not begin to capture the human costs associated with drug abuse that are measured in wasted human capital, and the pain and suffering of many American families. The fiscal year 2002 budget for the Department of Justice includes $77.2 million in additional resources for law enforcement agencies to combat illegal drug use.

Specifically, our budget requests $58.16 million in enhancements for the Drug Enforcement Administration (DEA). Included within this amount is $30 million and 3 positions for DEA's global information technology and intelligence network, FIREBIRD. This funding will enable the DEA to complete its deployment, provide network security, and support technology renewal of the system. Another $15 million and 62 positions are included to provide critical support for DEA's role in the interagency Special Operations Division, and DEA's Investigative Technology programs, particularly for investigations associated with the Southwest Border, Latin America, the Caribbean, Europe, and Asia. To meet mission critical requirements within the laboratory services program, $13.1 million and 69 positions are also included. This request will give DEA sufficient chemist resources to address a growing backlog of exhibits, and establish a laboratory equipment base that will better support program operations.

The production and use of methamphetamine (meth) has been on the rise over the past few years, and the number of meth laboratories has increased dramatically across the country. In 1998 and 1999 combined, law enforcement agencies seized meth labs in every state except 3. Meth lab enforcement and clean-up efforts are complicated by the presence of hazardous materials produced during the manufacturing process. Cleaning up these labs is a costly and risky business posing life-threatening consequences to our law enforcement officials who come across these labs, as well as severe and toxic environmental damage to the surrounding area. State and local law enforcement agencies can be overwhelmed by the need to confront even one large laboratory. Meth dealers and drug organizations have targeted rural communities, places where many of the local law enforcement agencies have neither the expertise nor the resources to deal with this serious threat. The fiscal year 2002 budget continues to provide $48 million for the Office of Justice Programs to assist state and local law enforcement agencies with the costs associated with meth cleanup and to aid meth enforcement.

While law enforcement is an effective and essential tool in combating the violent crime associated with illegal drug use in communities throughout our nation, treatment for the individual abuser is also important. Our fiscal year 2002 request includes $14 million to expand residential substance abuse treatment in federal and state prison systems. We have also requested $5 million for the National Institute of Justice to expand the Arrestee Drug Abuse Monitoring (ADAM) program to 15 additional sites across the country, so that more communities will have sound data

about the links between drugs and crime on which to base their law enforcement policies and offender treatment practices.

Guaranteeing Rights for All Americans

The Department of Justice has a unique role in guaranteeing the rights of all Americans. This role includes promoting the enforcement of our nation's civil rights laws and deterring violent crimes against women. Through the efforts of the Civil Rights Division, the Community Relations Service, the United States Attorneys Offices, the FBI, and the Office of Justice Programs, the Department seeks to protect the civil rights and liberties guaranteed to all Americans. The fiscal year 2002 budget includes an increase of $105.7 million to further its role in this area.

Specifically, we have requested a $102.5 million increase in Violence Against Women Act programs to support new and existing programs. Authorized under the Victims of Trafficking and Violence Protection Act of 2000, the budget includes: $15 million for the Safe Havens for Children Pilot Grant Program; $40 million for the Legal Assistance for Victims Program; $10 million for the Grants to Reduce Violent Crimes Against Women on Campus Program; $5 million for a new Elder Abuse, Neglect and Exploitation Program; and $7.5 million for education and training to end violence against and abuse of women with disabilities.

Our request also includes $1.2 million in funding to support three studies by the Office of Justice Programs' Bureau of Justice Statistics. The first study will deal with police initiated stops of motorists for routine traffic violations. The second study will deal with deaths while in law enforcement custody as required under the Deaths in Custody Act. The third study will measure victimization of the population with disabilities in the United States.

For the Civil Rights Division, the fiscal year 2002 budget includes a $2 million enhancement to address several important initiatives, including enforcement of the newly enacted Trafficking Victims Protection Act of 2000, which affords expanded protections and services for trafficking victims and creates several new federal crimes for which the Division is the lead component with respect to enforcement. With the fiscal year 2002 allocation, the Division will be able to hire additional prosecutors and conduct a community outreach program.

The fiscal year 2002 funding will also help the Civil Rights Division implement the President's New Freedom Initiative to assist persons with disabilities, including expanded outreach to America's small business sector, improved access to information technologies and voting, and swift implementation of the Supreme Court's *Olmstead* decision to provide services to people with disabilities in community-based settings. The fiscal year 2002 budget includes funding for new attorney hires that will allow the Civil Rights Division to undertake a broad voting rights initiative aimed at ensuring voter access and the integrity of the voting process. Our fiscal year 2002 budget request also includes funding to increase the Division's presence in employer and other communities to prevent immigration-related unfair employment practices.

Empowering Communities in their Fight Against Crime

The active involvement of communities throughout America is a critical and necessary resource in our fight against crime. By broadening the base of resources available at the local level, communities will be better equipped to provide their citizens with the tools necessary to ensure a safe environment in which their children can grow and learn. Nowhere is this more evident than in the success of the Weed and Seed Program where communities work in partnership with federal, state, and local law enforcement agencies to target criminals, "weed" them out of their neighborhoods with swift and certain prosecution, and then go to work to take back the houses, schools, and recreation centers, that made the communities a safe haven and home to so many. President Bush's fiscal year 2002 budget includes a $25 million increase for the Weed and Seed program building upon an initiative that was first started during his father's Administration and with the active support of many on this Subcommittee.

The fiscal year 2002 budget also includes $5 million for the development of a faith-based, pre-release pilot program at four federal prisons. The pilot will include male and female programs at different geographic sites and security levels. This faith-based initiative—which will be voluntary and open to inmates of any faith, or no faith at all—aims to combat crime and curb recidivism so that ex-offenders can remain ex-offenders. Religion and crime are age-old enemies, and a growing body of empirical evidence shows the potency of the "faith factor" to change behavior. This model initiative, with a strong focus on one-on-one, post-prison aftercare, will offer moral guidance and a caring community to help ex-offenders re-enter society with hope and responsibility.

Improving Immigration Services and Border Enforcement

The Immigration and Naturalization Service (INS) has two principal functions: enforcement and service. Right now, the INS's performance is widely criticized. This Administration intends to turn the agency around. Restructuring of the INS will be a top priority. The fiscal year 2002 budget includes an additional $240.14 million for immigration-related activities.

The Bush Administration is committed to building and maintaining an immigration services system that ensures integrity, provides services accurately and in a timely manner, and emphasizes a culture of respect. The fiscal year 2002 budget includes $45 million in increased resources to reduce the backlogs in benefits processing. This request, combined with $35 million in base funding and $20 million in premium processing fees, represents the first $100 million installment in a five-year, $500 million initiative to provide quality service to all legal immigrants, citizens, businesses, and other INS customers. It will enable INS to establish and accomplish a universal six-month processing standard for all immigration applications and petitions and, through employee performance incentives, make customer satisfaction a high priority.

The fiscal year 2002 budget also includes $75 million for the INS to add 570 new Border Patrol agents in 2002, with plans to add another 570 in 2003. With these 1,140 additional agents, the total increase of 5,000 Border Patrol agents authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) will be achieved. Approximately 11,000 agents will be deployed along the nation's northern and southern borders by the end of 2003, 11 percent more than the 2001 level of 9,800.

In support of the additional agents, another $20 million is requested in fiscal year 2002 for the INS to increase the deployment of force multiplying border enforcement technology. The Integrated Surveillance Intelligence System (ISIS) will provide day and night visual coverage of the border, can be deployed in rugged terrain and in vast open areas, and serves as a deterrent to potential illegal border crossers in areas where Border Patrol agents are not immediately visible.

To address chronic space shortages and facility deficiencies, the fiscal year 2002 budget includes $42.73 million for INS Border Patrol facility construction. Many of the Border Patrol facilities were built prior to the 1970's and cannot accommodate the tremendous growth in the number of agents.

For the Executive Office of Immigration Review (EOIR), the fiscal year 2002 budget includes $4.85 million in increased funding to coordinate with INS initiatives, which are anticipated to increase annually the Immigration Judge caseload and the Board of Immigration Appeals caseload by 10,000 cases. The budget also includes an additional $1.2 million for the U.S. Attorneys to meet immigration workload generated from a rise in habeas corpus petitions filed by detainees held in INS custody indefinitely. These detainees have been issued an order of deportation but cannot be removed because their country of origin will not accept them. Many detainees challenge the legal authority of the INS to hold them by petitioning for a writ of habeas corpus. Another $1.36 million is requested for the Office of the Inspector General to address corruption and civil rights violations involving Department employees along the Southwest border.

To enhance the prosecutorial resources of county prosecutors located near the Southwest border, our fiscal year 2002 request includes $50 million. Thousands of federal drug arrests occurring near the Southwest border are referred to county prosecutors because the quantity of drugs seized is too small to meet the threshold set by local U.S. Attorneys for prosecution. The Department will devote $50 million to assist counties near the Southwest border with the costs of prosecuting and detaining these referrals. Grants will be awarded based on Southwest border county caseloads for processing, detaining, and prosecuting drug and alien cases referred from federal arrestees.

The Administration will propose splitting INS into two agencies with separate chains of command, but reporting to a single policy official in the Department of Justice. I support this restructuring, believe its time has come, and look forward to working with the Subcommittee as the proposal moves through the Congress.

Redirection of State and Local Resources

The fiscal year 2002 budget provides over $4.2 billion for state and local law enforcement grant programs. Included within the request are newly created initiatives or enhancements to existing programs to address specific crime problems. These proposals include: an increase in Violence Against Women Act funding of more than 35 percent; an expansion of the Weed and Seed program; more funding for drug treatment in state prisons; increased assistance for state prosecutors; and new anti-gun violence programs.

Reductions are made primarily in four areas: (1) Byrne discretionary grants; (2) the State Criminal Alien Assistance Program; (3) the Local Law Enforcement Block Grant Program; and (4) State Prison grants. These funding reductions are recommended for programs that have fulfilled their original purpose, outlived their authorizations, or are less essential to core federal law enforcement functions. This redirection in funding will allow the Department to meet many of the federal law enforcement agency priorities that I have highlighted for you here today.

CONCLUSION

Chairman Gregg, Senator Hollings, Members of the Subcommittee, I have outlined for you today the principal focus of President Bush's fiscal year 2002 budget request for the Department of Justice. I am new to the job of Attorney General of the United States and am still learning about many of the programs we have under our jurisdiction. You both have monitored spending by the Department for some time and I look forward to your advice and counsel.

Thank you. I would be pleased to answer any questions you might have.

Senator GREGG. Thank you, Mr. Attorney General. I appreciate that statement.

You have outlined the proposals which you have come forward with. Let me ask you for specifics in some areas that we are interested in.

INS RESTRUCTURING

You mentioned that you are going to propose the splitting of INS into two operating units; one would be the Washington function, and one would be the citizenship function. Maybe you could give us a little more explanation as to how you plan to structure those.

Would the enforcement function be set up as an independent agency, such as FBI/DEA, or would it be still under the INS umbrella?

Would the enforcement units be housed independently within the border, or would they be joined with other agencies that serve on the border? And what is the manning structure of the enforcement side?

This committee has authorized and appropriated—I guess we do not authorize; well, we do authorize occasionally——

Senator HOLLINGS. We have to for the FBI; we have never had authorization for the FBI.

Senator GREGG. We have been known to authorize on this committee, but we try not to. But we have appropriated for a significant number of Border Patrol individuals, enforcement agents, and unfortunately, we have not had success in filling the complement. So I would be interested to know where we stand in that area, too.

Attorney General ASHCROFT. Well, let me begin with the last question. For some time, there was great difficulty in INS in attracting and developing the personnel to fulfill the charge of this committee. We had appropriations for new people that we were not attracting.

I think we are solving that problem. We have made up for the backlog of the non-hires of last year, and we have a net new force of about 160 people so far this year, so that we are on track, and we feel like we are making that recovery.

That is important. It takes more than mere appropriations; it takes actual implementation. That is one of the reasons why we are, and the President has, focused on this agency. The news about INS has not always been as favorable as it should be and could be,

and the President has signalled his very deep concern by indicating that he wants to divide these functions.

I do not think it is totally clear yet whether there would be a single reporting individual in INS, or whether there would be a single reporting individual in the Justice Department, outside of INS.

What is very clear is that the functional separation is essential, that people in the enforcement responsibility have one mentality, and the people in the service area should have another mentality and another approach. The President is committed to, I think, achieving this kind of separation of function.

We are working to attract the very best-qualified individual to run the Immigration and Naturalization Service. It must be an individual of tremendous skill, administrative vision, and a capacity to inspire a work force of over 30,000 individuals.

In terms of the deployment of the individuals on the border, I think there are some ideas, frankly, which come from this committee which I think have great value. One is to seek to find ways to elevate the amount of communication between the enforcement arm of the INS and other enforcement agencies, whether it be the DEA or other personnel in the area. So it may be that the physical surroundings, locating INS agents who are in the enforcement business in proximity to drug enforcement officials and other individuals with law enforcement responsibilities, would have a way of enhancing or elevating our capacity to get our job done well.

The slate is substantially open on INS. I think the President acknowledged when campaigning for office, and has reaffirmed that since he has been in office, that this is a matter of great priority. We need to and can do a better job, and we look forward to doing a better job. And in shaping that, I would hope that this committee would be very active in helping us get the best structure and personnel.

BORDER PATROL FACILITIES

Senator GREGG. I know you have not had a chance yet—and I understand you are headed down to the border fairly soon—but one thing you are going to notice immediately when you arrive there is that the facilities situation is a disaster. Because we have increased the number of personnel on the border, we use old taco stands that should accommodate about 20 or 30 people to house many more than that. We have about a $1.5 billion backlog in facilities and construction needs at INS, most of it border construction needs for housing Border Patrol.

It is very hard for the Border Patrol to do an effective job if they do not have the facilities. I notice that in your budget, you are talking about $128 million or something like that for new facilities within INS.

This committee will probably want to find more money for facilities. If you have suggestions for where we should take it from, we would be happy to listen to them. But I do think that facilities—and you are going to sense this fairly quickly—run along with personnel. As we have added these personnel, we have not had facility reconstruction.

Senator Hollings.

Senator HOLLINGS. General, welcome.

Attorney General ASHCROFT. Thank you.

Senator HOLLINGS. I understand this is your first hearing, and while I did not support your nomination, you and I have got to work together for the good of the Government.

INS REORGANIZATION

Picking up from what the chairman was talking about a minute ago up here with the INS, you have got to get somebody in there who is really strong. It is not so much just a division of INS. I would be hesitant about dividing and reorganizing and so on. Rather, I would try to organize what is there. It is the biggest backlog—you ask for an answer, and you are lucky if you get it 9 to 12 months from now, and that kind of thing—and that is not just recently. I have been—and the distinguished chairman has been on the committee here for years—and this was 5 years ago, 4 years ago, right on through the 1990's. We tried our best. We have been putting all the money there, but we have not gotten any results.

And the growth industry in law enforcement ought to be watched carefully by you as the Attorney General. I know that just about 10 years ago, your budget was $4 billion, and now it is $24 billion. Health care costs and law enforcement costs are in a race in this land to see which can consume us first.

But look at the INS very, very carefully, and you will have our cooperation. We have been sort of nags, trying to get the INS cleaned up as fast as possible. And I cannot see why there is all the holdup.

We have a Border Patrol school in South Carolina, and we have put out 3,000 Spanish-speaking agents down at the old Navy Yard. We had the facilities, so we put them in there on a crash basis, and it has worked extremely well, and they are very happy. They have gone down to the border, and three or four have already been killed in the line of duty and so on. So that part of INS is working, but it is the actual bureaucracy, citizenship and immigration, that is backlogged.

TOBACCO LITIGATION

I am sure you saw the morning story about tobacco. I know you as a very strong-willed person, because I have worked with you on the Committee on Commerce on tobacco. I understand that a man convinced against his will is of the same opinion still. While there were 19 of us on the committee for proceeding and voted to proceed on the tobacco case, you were the one dissenting vote.

Is it your opinion that we ought to proceed with the case or not proceed with the case?

Attorney General ASHCROFT. Let me clarify my position expressed in my vote on the Commerce Committee. That was not an opinion expressed on this case. That was expressed on a global settlement that would have given the Federal Government and State governments, together, a settlement of the case. This case was a subsequent filing, I believe.

My opinion on this case—first of all, this is an ongoing matter of litigation. Our budget request on this case is exactly the same budget request as was fashioned and submitted by Ms. Reno in anticipation of the year 2002. It is identical to the budget request

which she submitted as well for the year 2001. It is for $1.8 million to continue the case. It is in anticipation, in the event that the needs arise and so on, that additional funding would be available to the case in the way that it has been in the past.

There are a number of issues pending in the case. There were three aspects of the case that were submitted to the court originally. Two of them were dismissed by the court. One of those two dismissals is sought to be remedied by the Department, and it is the Department's position that it can be remedied, and it is now pending decision by the court.

A decision about the position of the Justice Department in terms of any change that would be made in my judgment, would be a decision best informed by what the court does with the two pending matters before the case now. The decision and the position of the Department have remained unchanged in this litigation.

TOBACCO LITIGATION FUNDING

Senator HOLLINGS. Now, going back to Commerce, that is exactly what intrigues me. We woke up one morning in June 3 years ago, and there was a headline with a figure that I had never heard of—$368 billion. And the $368 billion was a settlement amount that the tobacco companies, the White House, the health communities, and the attorneys general—and you were a former attorney general—had all gotten together on.

Of course, watching that case as it developed, we found that Congress did not confirm the settlement—but the State attorneys general went forward with the health community, and they got $206 billion of that $368 billion in settlement. This was separate and apart from three States that preceded them—Florida, Texas, and Minnesota—their settlement amounted to about $40 billion. So let us say it was $246 billion of the $368 billion agreed to and settled and now in the course of being distributed.

That left $122 billion on the table. And I am saying, look, I am from the Government, I am a United States Senator, I am up here with the Justice Department appropriation, and there is $122 billion that the defendant, the companies, have already agreed to pay; they just want to know when and how.

And yes, it has been a struggle to bring that case with this particular committee and the full committee, because it has been party vote right down the line. I made the motion that we proceed with the case, and my Republican colleagues to a man voted no, not to proceed.

So finally, the distinguished chairman and I got together on a compromise. As you indicate, it is the same situation as last year. Now, when you say it is the same, yes, the former Attorney General was ready to bring the case, and they were in the process of doing so, and they were using the section of the statute whereby they charged the various departments for the amounts of money in order to finance it.

Having said that, again, I just wonder what you think. Are you for the case or against the case?

Attorney General ASHCROFT. The Department of Justice is proceeding with the case, and I support the Department's position. I think that we have made the right kind of request and have the

same, identical structure which my predecessor had asked for in the appropriation, so the capacity to proceed with the case exists in the Department in the same way that it would have in previous settings and would have in this setting, had the election been different.

Senator HOLLINGS. Well, there is a difference in the Department's and your request in the sense that the memo says it has been reported that the attorneys working on the case want $57.6 million more in order to proceed with the case and do not want to charge the various other departments of Government. That $57 million is not in there. Do you favor a request of more moneys to finance the case, or not?

Attorney General ASHCROFT. The budget submission which we have made, we believe is the right approach to preserving the appropriate prerogatives of the Department in this matter.

ATTORNEY REASSIGNMENTS

Senator HOLLINGS. Then, I will have to backtrack with respect to that $57 million in accordance with your comment about the competence of the attorneys. Of course, the former Assistant Attorney General said he thought they were very competent, but I understand by the headline that you are reassigning the attorneys for lack of competence?

Attorney General ASHCROFT. First of all, sir, I have not read the newspapers this morning. I have——

Senator HOLLINGS. That is not your story, then?

Attorney General ASHCROFT. I have not made any indication about any reassignment of attorneys. I have not made a decision about the case.

The Department has a position in this case, and I believe that if we were to reevaluate that position, it should be based upon what the courts do in response to the matters that are pending in the court.

As I indicated earlier, the court has dismissed two counts in this case filed by the Federal Government. One effort has been sort of reconfigured by the Department and resubmitted. A motion to dismiss is pending in that matter.

I believe that an appropriate time for decisionmaking in the case would be upon receiving an understanding of what the court's disposition of these motions is.

Senator HOLLINGS. Well, understand, General, that I am not trying to harass you. In fact, I agree with you that there is something about their competence that raises question when they ask for $57.6 million. Financially, that is a pretty good investment—if you can spend $57 million and get back $122 billion, which is what the companies have already agreed to pay. They just want to know when and how.

But otherwise, to spend $57 million, I cannot imagine 57 lawyers with $1 million worth of hours in a year. I would go and investigate that memo in your own Department, because they are incompetent if they think it would cost that much to bring the case.

The records have been made already in the Florida case, the Minnesota case, and others. That is the bureaucracy of law practice today. You just punch your computer to get Interrogatories Num-

bers 1 through 25, and get the motions and depositions for all of these, put out the subpoenas, and go over the documents. I can do that in an afternoon myself.

So to spend $57 million traveling all around the country is just trying to bureaucratize a case that has already been made, the amount has been agreed to, and all you have to do is fill in the blanks.

So I hope that you proceed with the case. There was some difficulty getting the money from the other departments. I do not mean to belabor it, but I think that in the Government's interest, there is $122 billion already agreed to sitting on the table, and I cannot see for the life of me not picking that up. And your Department, and you, the Attorney General, want to do that, I would imagine.

GUN PROSECUTOR PROGRAM

Now, General, let me ask you about the community gun prosecutors. I note in the budget here where you zeroed out the Community Gun Violence Prosecutors but placed in lieu thereof a State and Local Gun Prosecutor Program and Southwest Border Prosecutor Initiative, with the same amount of money.

My Republican friends opposed that Clinton program of Community Gun Violence Prosecutors, but it looks like you have the same thing—am I right or am I wrong? Could you clarify that for me, please?

Attorney General ASHCROFT. Well, we do have an emphasis on prosecuting gun crime. It is a substantial emphasis, and it involves increased resources. It includes a special emphasis on juvenile gun crime, and it includes a triggerlock program, and it includes special assistance to prosecutors along the Southwest border in the amount of $50 million, I believe it is, for prosecutors along the Southwest border.

So there is an array of services and ideas in this budget designed, one, to prosecute violent gun crime generally; two, to focus on juvenile gun crime; and three, to focus resources along the Southwest border where the problems have been intense.

Senator HOLLINGS. The problems have been more so on the Southwest border than, say, in downtown New York or California?

Attorney General ASHCROFT. Well, the entire prosecutorial load has been great there. There is a proposal for a whole new range of judges and so on in the Federal system, which is the subject of another debate, with the idea that the courts are overloaded there, dealing with these problems along the Southwest border.

INS, for example, has processed more cases in the last 7 years than they did in the previous 40 years, and that is part of this whole situation that we have described where the budget of the agency has been doubled in the last 6 years, and we have still got these very serious problems, including delays in services that should be made to individuals who are relying on the agency.

Senator HOLLINGS. It is not necessary now, but you can submit for the committee the number of prosecutors and how that is supposed to work, this new program.

Attorney General ASHCROFT. I would be happy to do so.

Senator HOLLINGS. I would appreciate it.

[The information follows:]

GUN PROSECUTOR PROGRAM

Project Safe Neighborhoods is a nationwide commitment to reduce gun crime in America by networking existing local programs that target gun crime and providing those programs with additional tools necessary to be successful. To strengthen partnerships among Federal, State and local law enforcement and prosecutors, the new $49.78 million prosecution assistance program will provide grants to encourage States to increase prosecution of gun criminals through increased arrests, prosecutions and public awareness in order to deter youth gun crime. This program will also support gun violence reduction programs such as Richmond's Project Exile and Boston's Operation Ceasefire, to name a few. The Department is developing legislation that will set forth the details of this program, as well as that of other gun violence initiatives.

The differences between this program and last year's Community Prosecution Program, which had a $75 million "Community and Local Gun Prosecutor" hiring component, is primarily one of scope. The $75 million Community and Local Gun Prosecutor program provides hiring grants to state and local jurisdictions to employ new prosecutors to work in partnership with communities to prosecute gun law violation cases. The discretionary grant program assists jurisdictions in hiring community prosecutors for up to 3 years and will require the grantee to design a retention plan intended to retain the prosecutor for a minimum of 1 year past the end of the grant period.

The $49.78 million Gun Violence Reduction Program will encompass a broader range of gun violence reduction strategies that could include: (1) hiring and training more judges, prosecutors, correctional officers, and probation officers; (2) providing training for Federal, State and local law enforcement officers and prosecutors on current laws and trends, including firearms identification, Federal and State search and seizure laws, crime scene and evidence management, and firearms trafficking and tracing; (3) implementing public awareness campaigns to advertise tough sentences for gun crimes and to foster community ownership of this initiative; (4) improving criminal history record information systems; and (5) developing information-sharing case management systems that ensure that all segments of the criminal justice system are contributing to and using the same case files for serious offenders.

FAITH-BASED PROGRAM

Senator HOLLINGS. Finally, let me counsel with you with respect to the faith-based program. That immediately raises a sign to stop, look, and listen for this particular Senator. You and I have been up here as Senators, and we travel, and if we learn anything in our travels, looking at other countries, keeping up with the news and so forth, it is that the greatness of this land is the separation of church and state. This is in contrast to the trouble in Ireland, which is religion-based, the trouble in the Mideast, which is religion-based, the trouble in India, which is religion-based, the trouble in the Philippines is religion-based. I can go around the world and just say thank heaven we have separation of church and state in this country.

I do not go along with this Mickey Mouse wording of things—in other words, you are saying church organizations. Now, you and I both have the greatest respect for the church and its organizations, and we have worked with them, both of us, in public life and so on, and they work well.

Having been on the committee, I can tell you the experiences that we have when Chairman Gregg and I go over on the House side. The first thing the House wants to do is knock out everything that is not authorized. That is one good way to get rid of a lot because the Judiciary Committee upon which you served gets backed up on issues of guns and abortion and prayer in schools and so on—and the authorizing bills do not get through, so Chairman

Gregg and I sit there, trying to backstop the real needs and do the right thing.

This faith-based program has not been authorized, and we do not know exactly how it is to be done. That is why I held up a reprogramming request by the White House. It is not that I am hostile or anything else, but I have grave misgivings. I have got to be convinced—I am from Missouri—you have got to show me. So I would like you to show me how you plan to implement this program and give us also an outline of those particular facets of this faith-based thing.

We have had the announcement by the President and meetings of different church groups, but there have been all kinds of questions as to is this a legitimate church group, how much money, how is it to be monitored. Then, on the church side, they say, wait a minute, if you start monitoring me and telling me from Washington how to run my church program, I am not going along with that. So you have got to involve just what you and I are trying to avoid.

So if you could outline that for us—I am not in favor of these moneys until we get at least some outline of what is intended by the President and what the program entails.

Attorney General ASHCROFT. Senator, thank you very much.

The House and Senate together with the previous President of the United States authorized, I believe, on several occasions, both in the Temporary Assistance to Needy Families and in the Substance Abuse and Mental Health Services Administration—SAMHSA—reauthorization last year, and I think the Community Development Block Grants, what they would characterize as, I think, a field-leveling situation, which basically states that there are certain aspects when States choose to do business outside their own governmental entity, that they have the opportunity to make contracts with entities including—there would not be a disqualification for faith-based organizations.

SAFEGUARDS WITH FAITH-BASED PROGRAMS

There is a very serious set of safeguards, and they have to be scrupulously observed, or the problems that you have suggested, I think, are very serious problems or could be. One of the safeguards included in the legislation is that no person, who has simply any discomfort in receiving a benefit in that setting, is forced to receive it. They have a right to say, "I want a benefit in a different setting."

Another safeguard is that the money cannot be used for religious purposes. It can only be used to achieve secular purposes. This is in accordance with the supervision—the way the courts have written these rules.

Now, we have had faith-based organizations active for a long time in some areas of social services, primarily in the resettlement areas related to INS and citizenship. Those areas have had historic involvement, and it has been successful, and we have not had any inappropriate entanglement or inappropriate infringement of the rights of individuals or entanglement by the Government with the institutions. I think those are the kinds of patterns that need to guide us as we move forward.

Senator HOLLINGS. Give us the guidance as we move forward. That is what I am asking for. Just outline the different things that you seem to understand and know about, just quickly off-the-cuff. If we have it down in black and white so that everybody can understand it, I would appreciate it.

Attorney General ASHCROFT. I would be happy to work with you and to do that, to send you the guidance and the safeguards that we believe are appropriate.

Senator HOLLINGS. Thank you.

[The information follows:]

FAITH-BASED INITIATIVE

In a comprehensive effort to reform the nation's welfare system, in 1996 Congress overwhelmingly passed, and President Clinton signed, the Personal Responsibility and Work Opportunity Reconciliation Act. One provision of that Act, known as "Charitable Choice" (42 U.S.C. Section 604a), authorized states to provide services through religious and charitable organizations, so long as such programs do not violate the establishment clause of the Constitution. This provision was passed with a bipartisan majority, voting 67–32. Since then, Charitable Choice has been extended to the welfare-to-work program, and it also covers the Community Services Block Grant.

In 2000, Congress voted twice to extend Charitable Choice to substance abuse services provided under the federal Substance Abuse and Mental Health Services Administration (SAMHSA). Expanded Charitable Choice allows, but does not require, government or government officials to contract with charitable, religious or private organizations, or to create voucher systems, to deliver more social services within the states. Charitable Choice has passed Congress repeatedly, and always with strong bipartisan support.

The Charitable Choice provision prohibits proselytizing of welfare clients, and bars any discrimination against clients on the basis of religion. Further, welfare recipients have the right to receive benefits in a traditional setting, if they choose.

During the week of January 28, 2001, the Bush Administration announced a further effort to expand the role of faith-based organizations (FBOs) and other neighborhood organizations in the delivery of social services. This effort included the opening of the White House Office of Faith-Based & Community Initiatives, and charging it with, among other things, increasing the private charitable giving in America, eliminating religious discrimination in federal funding programs that deliver social services through private sector organizations, and helping launch strong sacred-secular, public-private partnerships to serve high-need populations. This effort further includes the creation within the Departments of Justice, HHS, HUD, Education and Labor of Centers of Faith-Based & Community Initiatives. Each is charged with the task of reviewing statutes, regulations, internal guidelines and policies to determine whether the Departments have created barriers that discriminate against faith-based and community organizations in the delivery of social services.

In drafting the legislation noted above, Congress carefully debated assurances to its constitutionality as well as to safeguard the interests of the beneficiaries of the service, the interests of the faith-based providers and the interests of the government. Charitable choice provisions protect the rights of those Americans receiving services from faith-based providers by the following means:

—The statute generally provides that the government act "without diminishing the religious freedom of beneficiaries of assistance."

—The statute requires that beneficiaries with religious objections to receiving services from an FBO be provided with an equivalent alternative.

—For those beneficiaries who choose services from an FBO, the statute provides that the FBO cannot discriminate against them "on the basis of religion, a religious belief, or refusal to actively participate in a religious practice." Therefore, a Christian organization cannot turn away a Jew who is looking for services, or require a Muslim to pray to Jesus before receiving assistance.

—Welfare beneficiaries may enforce these rights against the government in a lawsuit for injunctive relief.

Charitable Choice protects various public interests with the following safeguards:

—FBOs must operate in accordance with the terms of their contract or grant when delivering services to the poor and needy.

—FBOs may not discriminate in employment on the basis of race, color, national origin, gender, age or disability.

—FBOs are subject to government audit of those accounts with federal funds. Where total federal awards exceed $300,000 per year, an independent audit by a CPA is also required.

—Where there is direct government funding, FBOs must ensure that no government funds are "expended for sectarian worship, instruction, or proselytization." This provision means that Charitable Choice will not work for FBOs with inherently religious practices which are wholly integrated into their program. Any religious activities, separable from government-funded aspects of the program, must be optional to beneficiaries.

Charitable choice provisions safeguard the integrity of participating FBOs in the following specific respects:

—The statute specifically provides that FBOs not be discriminated against with respect to religion, and that they must be allowed to participate "without impairing [their] religious character." The law goes on to state that a participating FBO "shall retain its independence over the definition, development, practice, and expression of its religious beliefs."

—The statute provides that a participating FBO not be required to "alter its form of internal governance" or "remove religious art, icons, scripture, or other symbols."

—FBOs have a private cause of action for injunctive relief if the foregoing statutory safeguards are not met by the participating governmental agencies.

In summary, Charitable Choice safeguards the rights of those who receive the social services, those who pay for the services, and those who provide the services.

LAW ENFORCEMENT IN MEXICO

Senator HOLLINGS. Finally, Mr. Chairman, with respect to an opportunity, we have worked with the FBI and their schools, one in particular in Budapest that I have visited. We look upon Mexico as an opportunity with a new President, and we are thinking about law enforcement rather than what you have had to put up with in regard to the Border Patrol, where the Mexican law enforcement were paid off and were part of the drug cartel and so on. If we could get a professional school in Mexico that was conducted by our FBI—we do that in Europe, in Budapest, but particularly this newly-made Russian or Soviet law enforcement—why not try to professionalize that? That would be a good investment. It would not be too much, and it would help to bring confidence on both sides.

Would you look into that, because I am determined to try to get some aid down there—not an overall big Marshall Plan—but where we can help Vicente Fox play catch-up ball and get real law enforcement. It would be to our benefit, and I think it would be a good investment. I would like to get your views on that.

Attorney General ASHCROFT. Senator, let me just say to you that I think we do have an opportunity as it relates to Mexico. President Vicente Fox and our President have a good relationship. I think there is a very serious commitment to changing the climate for law enforcement.

President Bush has asked that Secretary of State Colin Powell and I be involved in a working group with the leadership in Mexico, with Castañeda and with Aguilar Zinser. Aguilar Zinser is in charge of all their law enforcement including the military, and we have already begun to confer about things.

There is a new understanding, I believe, in Mexico that what happens at the border is—I think they are willing to call it a shared responsibility. It had been long the position of those in our neighboring country that it was all our responsibility and none of

their's. And we have conferred about inventorying the kinds of things that each of us can do to promote a better situation at the border.

I personally believe that this is a great opportunity. I believe we would be very ill-served not to view it as one, and I intend to insert myself substantially in it. My first trip outside the country will be to Mexico, probably within the next 30 days. I intend to visit the border in advance so that I will have a first-hand view of things at the border before I go to return the visit of the Mexican officials. The Mexican Attorney General has also come to see me in addition to the other officials who have discussed these responsibilities—because this is so very important to the United States, and if we can upgrade substantially the outcomes of our relationships and work together on the border, I think it will not only affect that long, important Southwest border of the United States, but I think it will have an effect into Central and South America in terms of our relationships.

So you are, I believe, right on target in identifying this as an important area of concern. It will be a matter of high priority with me in terms of the law enforcement community to cooperate with them. We would examine ways in which we could cooperate to improve both the training and integrity of the law enforcement community on both sides of the border. I think the Mexican officials are conversant with that need and understand it, and their expression of their desire to cooperate on it is right in line with the kinds of suggestions you have made.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator Hollings.

Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator HOLLINGS. I hope to get invited back. He just said no, he was not going to invite me. You are a much better chairman.

Senator GREGG. Just remember that.

Senator DOMENICI. The problem is they sent all the conferees who were against it. There were 15 Democrats for it; if they had sent some of those conferees——

Senator HOLLINGS. We could change our minds.

Senator GREGG. Let us just conference it right here. We have the votes. We are all on the committee. We can conference it right here.

Senator DOMENICI. Well, the story in New Mexico is that I kicked you out, Fritz.

Senator GREGG. I did not even make it, so you did better than I did.

Senator DOMENICI. You were not even invited.

Well, Mr. Attorney General, I am very pleased to see you.

Attorney General ASHCROFT. I am honored.

Senator DOMENICI. I have not seen you in this format since you achieved this new, high status; I have just seen you in the hall a couple of times and at a couple of events. First, I congratulate you on the good job you are doing. You went through a little bit of hard times to get there, but I am sure that you are enjoying what you are doing and that you see a great public service in what you are doing.

Attorney General ASHCROFT. It is a great honor to work for you, for the people of America, and for this committee.

Senator DOMENICI. I am just going to talk about two areas and perhaps submit some others for questioning, and I will try to be quick.

RADIATION EXPOSURE COMPENSATION PROGRAM

Mr. Attorney General, we have an area of funding for a program called the Radiation Exposure Compensation Program. That is not to be confused with a subsequent act that was passed regarding radiation exposure. This is the old act that covered uranium miners and the like. We passed it, and there are a number of people out there who are claimants, and there are a number who have claims—and I do not know if you are aware of this; this is a simple administrative process, these were not litigated claims and did not go to court; you all managed them—but there are a number of people who, believe it or not, have an I.O.U., because the Government did not put enough money in the fund even though it created the claims.

And I guess I have to share with you and to the extent that my fellow committee members are interested—it is pretty disheartening for people who have waited many years for a radiation claim to get settled, and then you create an administrative process, and you say they are entitled to it—and it is a fixed amount, so it is not $10 million, it is $100,000 or whatever the claim is—and then, they get it all finished, Mr. Attorney General, and it says the United States Government will give you a check for, let us just say $100,000 is your claim for dying of cancer or whatever, and then, this great United States says, "We do not have the money to pay your claim, so we will give you an I.O.U."

I do not think anybody wants those I.O.U.'s. I do not think they can use them in banks. Essentially, we ought to pay them, and I wonder if we have your whole-hearted support to generate the funds to pay those claimants under the Radiation Exposure Compensation Program that you are managing?

Attorney General ASHCROFT. You do. I am chagrined at the way in which people have been dealt with. There have been inadequate funds, so people have been given I.O.U. letters, or there were times when people were calling and the phone was not being answered.

We have made a request in the budget for some funds, but we also support the idea that the Congress has indicated to people that they are entitled to this amount of money, and I believe the budget is predicated on the presumption that that entitlement exists and that those funds simply ought to be available to those people.

Senator DOMENICI. Well, I thank you, and actually, we are looking for $84 million to finish that up, and there is a whole new law which you all have supported funding under that will be handled in a different way which will indeed be an entitlement instead of what we have.

PORTS OF ENTRY

Let me move for a moment to an issue that has to do with our ports of entry. First, Mr. Attorney General, I know that it is not

your precise duty, but it comes under your jurisdiction—with the new enthusiasm for Mexican-American trade and the new President of Mexico being so enthused about being a partner instead of a critic, we have to take a look at the ports of entry in the Southwest—and mine is a little one in New Mexico—but all the way from Florida, Texas, Arizona, California. The ports of entry are not in very good shape for two great countries to engage in the quantity and quality of trade that we are going to be involved in. So I would hope that you would make sure that the estimates which have been given to your Department that are saying what we ought to do to make all of the border States capable of handling the trade so it is not backed up for hours, thus negating the enthusiasm for trade, or finding other ways to do it.

I hope you will support the reports which indicate this and that you will begin to implement it in your budgets in the future. Would you tell the committee that you will look at this carefully and discuss it with the President with reference to what kind of plan we could put in to get this infrastructure done in a reasonable time?

Attorney General ASHCROFT. Yes.

PORT OF ENTRY—SANTA TERESA

Senator DOMENICI. With reference to my own State, we have a port of entry, and I just want to mention it so that you will take it back to the office with you. It is a rather new port of entry called Santa Teresa. That port is gaining trade and traffic just as predicted. It is not in the middle of a city where it is all clogged up, and as a consequence, we are building a piece at a time, and it is beginning to alleviate a lot of traffic and create its own trade area. There is a considerable personnel problem there, and I wonder if you would have your staff look at it. I will submit some questions that will detail for you what we think are some deficiencies in the number of personnel at that border crossing for it to do an efficient and forthright job.

So I will give that to you and if you would take a look or have your people take a look, I would appreciate it.

Attorney General ASHCROFT. I would be very happy to do so.

Senator DOMENICI. Thank you very much, Mr. Chairman.

Senator GREGG. Thank you, Senator.

RADIATION COMPENSATION TRANSFER TO ENERGY DEPARTMENT

I have often thought that this issue of reimbursement for the harm that was caused people as a result of radiation activity might be more appropriately in the Energy Subcommittee.

Senator DOMENICI. Well, it has been in yours, and you have more money than the Energy Subcommittee does.

Senator GREGG. I just thought we could find more in the Energy Subcommittee. Don't you think, Senator Hollings?

Senator HOLLINGS. Yes, it sounds that way to me.

Senator DOMENICI. We are trying to relieve you of it. We are trying to create an entitlement out of it so you will not have to bother with it, Senator; it will just be there.

REORGANIZATION OF THE OFFICE OF JUSTICE PROGRAMS

Senator GREGG. I was wondering, Mr. Attorney General, if you could speak to us a little bit about the Office of Justice Programs, because we asked for a reorganization of that office quite a while ago. The report was supposed to come out in December, and then it was supposed to come out at the end of March. We still have not received the report. Can you tell us what is happening with the Office of Justice Programs?

Attorney General ASHCROFT. First of all, I think the expressions of the committee are well-founded. There is a need in that office to have good management, and the fact that so many people in the office are Presidential appointments has from time to time, I think, led to the idea that they do not respond to the management of the office and to the Assistant Attorney General in the office.

We are in the process of moving forward with the new organizational structure, streamlining and consolidating authorities and centralized management, which was directed in the fiscal year 1999 Appropriations Act.

In the fall of the year 2000, OJP began an interagency outreach to prepare agency personnel for implementation of the new organizational structure. We engaged the resources to provide OJP with assistance in projecting the potential work load of individual components, and we began to develop the plan for reassigning OJP management and administration funds to support implementation of the new structure.

The OJP Assistant Attorney General nominee, Deborah Daniels, has been made aware of this reorganization effort. As I have been involved in the preliminary personnel decisions for all of those programmatic individuals to be appointed by the President, I have said eyeball-to-eyeball to them, this is not the structure that you can expect. There will be a new structure, and the structure is that you will report through the Assistant Attorney General in charge of OJP—this is not to be thought of as scattered management; this to be focused—and that there will be a new plan, and full implementation of the plan has been put on hold until the new Assistant Attorney General and her management team have an opportunity to be involved with it. But it is part and parcel of the way that we are staffing and developing the staffing needs for that area, and interviewing people with an expectation that the new organization will serve the Department and America much more effectively.

Senator GREGG. So when will we get the report?

Attorney General ASHCROFT. Senator, this sort of signals the fact that I have been there for less than 90 days. They tell me that the plan has been developed and submitted but that the implementation of the plan is yet to be fully undertaken.

I think that what we need to do is make sure that, if it is appropriate, we will resubmit what we have considered as the submission to the committee, and if you have further advice on the implementation, we would be pleased to have it.

Senator GREGG. We probably should sit down and talk about that, or our staff should.

DETENTION TRUSTEE

Are you familiar with the detention trustee issue that we have?

Attorney General ASHCROFT. I am somewhat familiar, and if you want me to describe my familiarity, I will give you my sense of where we are on that.

Senator GREGG. Well, our concern is that we basically created a position without any authority.

Attorney General ASHCROFT. Our view is that the detention, the pre-trial detention—if we can call detention things that happen while rights are being litigated and incarceration things that are the way we hold people after that—in this detention responsibility, we have a lot of different agencies, whether it is the INS Border Patrol or the USMS or the BOP or all of these multiple agencies, and we do not have the space. The Federal Government has not had the kind of resources to place all these people, so we have been renting space from communities and from private providers, and we have found ourselves bidding against each other for this space. So that by having an uncoordinated approach to detention and the various aspects of the Justice Department, we find the USMS bidding up the cost for the INS Border Patrol or other entities.

The idea of having a coordinator, someone to oversee that and to put rationality into our process is a good one. It is my understanding——

Senator GREGG. Well, we agree with that. Our concern is that because they do not have the funding control, they do not have the power to exercise coordination; that as long as the funding control stays with BOP or with Marshals, the INS, or with whomever, your detention trustee is basically an individual who may strive to create continuity and keep costs down but has no practical ability to do that because they do not control the money.

Attorney General ASHCROFT. Well, we are pursuing the hiring of the trustee, and frankly, while the funding control perhaps does exist in these other entities, as Attorney General, I would expect, to the extent that I could from the perspective of the office, to direct that the Bureau of Prisons and a variety of other entities that might be involved—you mentioned BOP—that they respond constructively to suggestions by the detention trustee.

If there is a need for—and certainly, the absence of detail of my understanding here is apparent from my remarks—but I would hope that as Attorney General, I would be able to instruct cooperation even if we did not have all of the framework in place, and obviously, I would be very pleased to work with this committee to develop, if necessary on an incremental basis, the framework that would provide real teeth or a real management capacity for the trustee.

Senator GREGG. Senator Hollings.

Senator HOLLINGS. Thank you.

REORGANIZATION OF DEA

General, as you look at the reorganization of INS, I have always thought that if I had your job, the first thing I would look at is the reorganization of the DEA, and let me tell you why.

You have a hard time keeping the FBI in-country, because they can find crime in downtown Moscow and look here, there, and yonder. The DEA—I have been on this committee for 30-some years—we burned the poppy fields in Turkey and broke up the factories in Marseilles; we went down into Paraguay, back up to Colombia, down into Paraguay again, up into Mexico. We have chased around and around, and it gets worse and worse and worse.

When Senator Domenici mentioned a port of entry, Senator Graham of Florida and I have been working on a bill for regular seaports of entry for a year and will probably get the bill passed this year. I have, for example, the fourth-largest container port in the country, and it was not until recent years that I learned that these containers come in, and they are owned by Hong Kong, London, mixed ownership, and there is no responsibility for them. And when they come across the dock, nine out of ten of them are not even looked at. In fact, I have my office at the Custom House at the Seaport of Charleston, and the DEA has to borrow the local sheriff's dog to do the sniffing.

Now jump fast forward to Amsterdam. They go through a regular screener like you and I go through at the airport; going out to St. Louis, you have got to go through a screener. They have that screening system. We have got to get that at the various ports, because if I got into the drug business down in Colombia, I would just load up ten containers knowing that nine of them would get through—I do not care about the one that gets caught.

That is how the drugs are getting into the country. In contrast, we have the DEA down the rivers in Bolivia, shooting down planes in Peru, and jumping all around the world. I have seen them jumping around the world for 30-some years up here, and it just gets worse and worse—and they do not have anybody down on 14th Street here in the District; you can go down there and get whatever you want.

So let us get that thing organized so we can get some drug enforcement at least in the country. We can find drug abuses the world around—we all know it—and we are financing it. The United States is the biggest financier of drug crime in the world. We ought to be ashamed of ourselves, but we ought to focus on drug enforcement at home before we run around shooting down planes in Bolivia and everywhere else. Where were the CIA, for goodness' sake? Come on. This country has gone amok. They are not doing a good job right at home plate.

In addition to the INS, look at the DEA and see what you think.

Attorney General ASHCROFT. Thank you, Senator.

Senator HOLLINGS. Yes, sir.

Thank you, Mr. Chairman.

Senator GREGG. Thank you.

Senator Inouye.

Senator INOUYE. I thank you very much, Mr. Chairman.

I wanted to come by to greet my former colleague. Welcome, sir.

Attorney General ASHCROFT. Thank you very much, Senator.

TOBACCO LITIGATION

Senator INOUYE. I just want to have some clarification on articles that have been occurring recently in our papers. Is there a change in policy on our Government's suit against the tobacco companies?

Attorney General ASHCROFT. There has been no change in policy. The appropriation requested this year is identical to the appropriation requested last year and is in fact identical to the appropriation submitted by my predecessor, Ms. Reno as Attorney General, for this year's operation.

Senator HOLLINGS. I think that would clear up a lot of misunderstanding that is now found in the Senate, I can assure you.

CONSULTATION ON JUDICIAL APPOINTMENTS

Secondly, on the matter of judicial appointments and the word "consultation," how do you interpret this word "consultation"?

Attorney General ASHCROFT. That question has a superficial simplicity about it that belies the fact that it is complex. But obviously, if you were to ask me what "consultation" means, it means to talk with, communicate with, about something. "To consult" means to share information.

Senator INOUYE. So it is much more than notifying you after it appears in the press.

Attorney General ASHCROFT. I would hope that consultation would include timely communication.

Senator INOUYE. I appreciate that, sir.

Thank you very much.

Thank you, Mr. Chairman.

Senator GREGG. Thank you.

Are there any further questions?

Senator HOLLINGS. No, thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. We appreciate your time, Mr. Attorney General. We look forward to working with you over the next few years and expect the relationship to be constructive not only from our committee's standpoint but from America's standpoint.

Thank you very much.

Attorney General ASHCROFT. Thank you very much. I am honored to appear before you and look forward to working with you.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

INTERAGENCY CRIME AND DRUG ENFORCEMENT (ICDE) ACCOUNT

Question. Would you please provide a justification for why the Interagency Crime and Drug Enforcement funding levels are proportioned to the agencies the way they are? Of particular interest is why the Federal Bureau of Investigation receives more funding than the Drug Enforcement Administration under this account.

Answer. The current allocation of the Organized Crime Drug Enforcement Task Force (OCDETF) funding is a function of budget history, rather than a deliberate choice to enhance the funding of one agency more than another. Moreover the OCDETF program is a partnership among all the participating agencies and each of the OCDETF agencies is fully committed to achieving the highest impact possible with their available OCDETF resources.

While the overall funding for the Federal Bureau of Investigation (FBI) is slightly larger than that of the Drug Enforcement Administration (DEA), $115 million for FBI versus $111 million for DEA, DEA receives more funding for direct drug law enforcement in the OCDETF budget than does the FBI, $108.8 million versus $102 million. That means that DEA receives a larger share of the funding for the direct investigative work of the OCDETF program than does the FBI.

The FBI, however, receives significantly more funding for drug intelligence than does the DEA, nearly $11 million more. FBI receives $13.3 million while DEA receives only $2.4 million. It is this funding which accounts for FBI's greater share of the overall OCDETF budget.

This funding disparity arose when the funding for the Regional Drug Intelligence Squads (RDIS) was moved from the individual agency budgets into the OCDETF consolidated budget, the ICDE, in fiscal year 1993. The Appropriations Committees believed "that consolidation of funding for the RDIS under this appropriation will help achieve better integration of intelligence related to organized crime drug activities." (See, Conference Committee Report (H. RPT 102–918)).

At the time of the transfer of RDIS resources into the ICDE appropriation, the FBI had significantly greater resources in its direct budget dedicated to the RDIS function than did DEA. Thus when the transfer of those resources into the OCDETF budget occurred in fiscal year 1993, FBI had $11.5 million to transfer into the OCDETF (ICDE) Intelligence appropriation and DEA only $2.2 million. That same year Congress provided an additional $2 million to the FBI for RDIS resources in the ICDE budget, making a total of $13.2 million.

This same ratio of RDIS resources between the 2 agencies continues in the ICDE appropriation. Thus, for fiscal year 2002, the President's request includes the following funding:

	Law Enforcement			Intelligence			Total		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
DEA	975	975	$108,887	25	25	$2,499	1,000	1,000	$111,386
FBI	775	775	102,039	137	137	13,397	912	912	115,436

Question. Does the Department of Justice believe the current distribution to be an optimal allocation of the resources provided?

Answer. The Anti-Drug Abuse Act of 1988, Public Law 100–690, provided the Attorney General with the ability to shift the OCDETF resources both geographically and among agencies as the shifting patterns and circumstances of drug trafficking required. Congress recognized this with specific language when returning OCDETF to a single appropriation for fiscal year 1990. Congress explained that the single appropriation and reimbursement procedure was intended to:

—Provide for the flexibility of the Task Forces which is vital to success;
—Permit federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;
—Permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and
—Ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

The OCDETF Executive Office intends to work with the Justice Management Division to develop a staffing model for the allocation of resources in future years. The OCDETF Executive Committee will be directed to study the current levels of resources allocated within the OCDETF program, and make recommendations regarding the optimum capacity for those resources.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

RADIATION EXPOSURE COMPENSATION PROGRAM

Question. Mr. Ashcroft, you are aware of my longstanding interest in the Radiation Exposure Compensation program, which I authored in 1990. We established this program more than a decade ago to compensate the uranium miners, federal workers, and downwinders who became afflicted with painful, debilitating, and often deadly radiation-related diseases as a result of their work during the Cold War era.

Despite our efforts to fully fund this program, it ran out of money last May under the prior Administration. Indeed, since last May many approved claimants have been receiving nothing more than an IOU from the Justice Department. It is simply

unconscionable that those who sacrificed so much to build are nation's nuclear arsenal would be left holding only a government promise.

Unfortunately, Mr. Ashcroft, this is a problem you inherited from your predecessor. However, we now have an excellent opportunity to remedy this terrible injustice that has affected many citizens in our western states.

I was very pleased that the Bush Administration included $710 million it its budget proposal for mandatory funding for the Radiation Exposure Compensation Trust Fund. In addition, I hope that you will support the legislation proposed by Senator Hatch and me that would provided $84 million in emergency supplemental funding for those claimants who have already been approved as well as the projected number of approved claims for fiscal year 2001.

Will the Justice Department fully support our efforts to expeditiously acquire the necessary funds to pay those IOU's that have already been issued as well as those that will be issued for the remainder of fiscal year 2001?

Answer. The Department of Justice shares your frustration that we are unable to provide timely compensation payments to deserving claimants. Following enactment of the 2000 amendments to RECA, we alerted the Appropriations Committees of the need for additional funds to implement the amendments, and the need to classify the RECA Trust Fund as mandatory, permanent indefinite so that we will always be in a position to promptly issue payments to those claimants who qualify. Additionally, the President's 2002 budget reflects this Administration's desire to ensure that adequate funds are available by seeking mandatory funding for the RECA Trust Fund. In light of the growing number of claims that have been approved, but are unfunded, we stand ready to work with you to acquire the necessary funding expeditiously.

Question. Under your predecessor's tenure, there were concerns about the Department's administration of the program. These included complaints that the Department would not return phone calls to claimants, that information about the program was difficult to obtain, and that claims were taking an exceedingly long time to process. Have you already taken steps or do you plan to take corrective action so that the program can be administered more fairly and efficiently?

Answer. The Department of Justice is committed to ensure that the Program is responsive to claimants. Accordingly, we are troubled by the fact that in recent weeks we have been unable to return some phone calls promptly. We have tried to answer each inquiry promptly, but the high volume has made it impossible to respond promptly to them all, despite our very best efforts. In March alone we received more than a thousand requests for information. Concurrently, we have received a record number of claims. In 1999, we received about 34 claims per month. Since then, receipts have increased 10-fold, averaging 340 per month in March and April 2001. We are dedicated to providing prompt, helpful responses to all inquiries, and are working hard to achieve this goal.

Question. Would you please provide the Subcommittee with updated information on the total number of claims approved for payment from the Trust Fund since the program was established, the average amount of the claims approved, the number of claims denied, and the general reason for denial of these claims.

Answer. Through May 15, 2001, a total of 3,697 claims were approved—with an average value of $74,388—and 3,584 claims were denied. Claims are denied if one or more of the following eligibility criteria are not met: disease, exposure and identification of the proper party to file a claim. Downwinder and onsite participant claims are most frequently denied for failure to establish a compensable disease. Most uranium miner claims are denied because documentation does not establish exposure to the requisite amount of radiation.

Question. For the record, would you please provide the Subcommittee with a breakdown of the types of claims approved or disapproved (childhood leukemia, other downwinder, onsite participants, or uranium miners).

Answer. Claims approved or denied through May 15, 2001, by type of claimant:

Type of Claimant	Approved	Denied
Childhood Leukemia	22	19
Other Downwinder	1,720	1,256
On-site Participant	228	745
Uranium Miner	1,727	1,564
Total	3,697	3,584

Question. Would you please note how many claims have been received, approved, and denied since the Fund went bankrupt last May, as well as how many claims are currently pending?

Answer. Fiscal year 2000 Trust Fund availability was exhausted on May 9, 2000. Since that time, 2,724 claims have been received, 366 claims have been approved, 67 claims have been denied and 2,747 claims are pending. Of the total approved, we have been able to pay 122 claims, using funds appropriated for fiscal year 2001. However, fiscal year 2001 funds have been exhausted and 244 approved claims remain unfunded.

Question. For my use, would you please provide the same information specifically for claims from Mew Mexico, including the total claims received, the total claims approved, the total claims denied, and the total claims pending?

Answer. With respect to claims for which the primary claimant resides in New Mexico, between May 9, 2000, and May 15, 2001, 232 claims have been received, 44 claims have been approved and 27 claims have been denied, while 260 claims are pending. Of the total approved, 31 are unfunded.

Question. How many claims are projected to be filed and processed under current law in the upcoming year?

Answer. In fiscal year 2002, we estimate that 2,350 claims and appeals will be filed and 1,563 will be processed under current law.

Question. The administrative expenses for this program have essentially been held to $2 million per year. With the enactment of legislation last summer, additional claims are being filed. What is a realistic estimate for the anticipated administrative costs for implementing the newly expanded program?

Answer. We have not yet formulated the anticipated administrative expenses beyond fiscal year 2002.

Question. Does the Administration have any long-range estimates as to the number of claims that might still be filed under the Radiation Exposure Compensation Act under current law?

Answer. In May 2000, the Congressional Budget Office estimated that about 15,600 claims might be filed under S. 1515, The Radiation Exposure Compensation Act Amendments of 2000. Since then, over 2,700 claims have been filed. Thus, about 12,900 claims might still be filed over the lifetime of the current law.

Question. In a March 15 letter I submitted to you, I requested a Justice Department town meeting in Grants, New Mexico so that uranium miners could have their questions and concerns addressed directly by the Administration. Do you intend to hold such a meeting?

Answer. Yes, we would be happy to hold a town meeting in Grants, New Mexico, and intend to do so.

STAFFING BY IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL AT SANTA TERESA, NEW MEXICO PORT-OF-ENTRY

Question. Attorney General Ashcroft, I am encouraged by the current Administration's interest in the Southwest border region, and look forward to working with the President on border issues.

The government needs to invest significant resources into the Southwest border. For example, in a recent study by the United States Customs Service and other federal agencies, nearly $500 million is required to improve inadequate infrastructure along the Southwest border's port-of-entry.

Sharing the border with Mexico affords my state certain opportunities, but it also creates special challenges as well.

Immigration issues are among the most important facing New Mexico. The costs associated with providing illegal aliens emergency medical and criminal justice services imposes significant hardships on the states border counties. New Mexico's 3 border counties, Dona Ana, Luna, and Hidalgo pay roughly $5 million per year to provide such services.

Five million dollars per year is a tremendous financial burden, particularly considering New Mexico's relative poverty. In 1998, New Mexico was ranked forty-eighth among the fifty states in terms of per capita income and forty-sixth in median household income. New Mexican counties should not be forced to pay for the Federal Government's responsibilities.

The Immigration and Naturalization Service (INS) is tasked with processing legal immigration and enforcing immigration laws. The agency's performance on both missions has been severely criticized the last few years. I appreciate INS' difficult missions and have consistently supported the agency, even given increasing scrutiny.

That said, I am concerned about the agency's attentiveness in meeting its goals.

In an effort to act pro-actively, I sent, then, Acting Commissioner of the INS, the Honorable Mary Ann Wyrsch, a letter urging her to add seven additional personnel at the Santa Teresa, New Mexico port-of-entry on March 26, 2001. A new bypass road is being built in Mexico that will likely triple vehicular traffic at that port. I have not received any response from the INS on this issue.

Considering that this road will be completed in May or June 2001, when can I expect the additional personnel that I requested for the Santa Teresa port-of-entry?

Answer. We share your concerns regarding the level of service provided to the traveling public at the Santa Teresa port-of-entry as described in your letter of March 26, 2001. I noted that your concern centers on the recent construction of a road that bypasses the Juarez/El Paso area and diverts traffic to Santa Teresa, New Mexico. The INS monitors workload and staffing levels at all of our ports-of-entry on an ongoing basis, and we work closely with other inspection agencies, including the United States Customs Service, at our land border ports to ensure that we can provide the highest levels of service.

The INS will monitor the vehicular traffic increases associated with the new traffic patterns at Santa Teresa and will assess what additional staffing requirement may be called for to address this change in traffic patterns. Our experience indicates the vast majority of traffic at this location is of a commercial nature; however, we are very sensitive to the need to provide adequate immigration inspector resources to allow for a full and complete federal inspection process. Once the assessment is completed and a staffing level is determined, we will provide additional staff as needed at Santa Teresa.

We appreciate your continued support and shared interest to ensure a safe and efficient Southwest border.

UNDERUTILIZATION OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER IN ARTESIA, NEW MEXICO

Question. The Federal Law Enforcement Training Center in Artesia, New Mexico, has been operational for more than a decade. Yet, the facility is woefully underutilized. In fact, INS officials have cancelled scheduled training classes. My staff has been told the reason for the cancellations are budget shortfalls, even though Congress consistently increases INS' budget. Please identify these alleged budget shortfalls.

Answer. In fiscal year 2001, INS moved money from Service-wide support funds and operating expenses to cover additional overtime to control the hot spots along the border adequately. Four million dollars was offset by deferral of advanced training class sessions.

In fiscal year 2001, 32 advanced training classes were scheduled. As a result of border priorities shortfall, only 8 of the first and second quarter class sessions were conducted and 16 were deferred to fiscal year 2002. Eight additional classes for third and fourth quarters are scheduled and will be conducted. In summary, of the 32 advanced training classes, 16 classes are scheduled and will be conducted and 16 classes are deferred to fiscal year 2002.

The breakdown of the 8 advanced training sessions to be conducted in third and fourth quarters follows:

1. One session of On-site Firearms instructor refresher training for expired or expiring Sector Firearms Instructor Certifications.
2. Two sessions of Driver Instructor Training. These are required for new detail instructors.
3. One Physical Training Workshop. These are required for new detail instructors.
4. Four sessions of Journeyman (Senior) Patrol Agent advanced training to update experienced agents in new developments in law, arrest techniques and other subjects related to field operations.

Including the 8 classes held in the first and second quarters, the total advanced training classes to be conducted in fiscal year 2001 is now 16.

Question. Please explain how something as critical as training our nation's law enforcement personnel manages to be cut due to the alleged budget shortfalls.

Answer. The only reason INS deferred this training to fiscal year 2002 was to ensure sufficient hours of actual patrol of the border. In the future, however, we will make advanced training a high priority and look to other areas, first, before making any cuts in this category.

CASELOADS IN FEDERAL COURTS

Question. Attorney General Ashcroft, I am pleased to see that the Administration continues an initiative that Congress started last year to provide additional support

for prosecution assistance to the Southwest Border states—California, Arizona, New Mexico, and Texas.

As you must be aware, our border courts are swamped—these four districts handle 30 percent of the entire federal criminal caseload pertaining to illegal drugs and illegal immigration.

I understand that the President's budget requests $50 million for Southwest Border Prosecution Assistance to assist county and municipal governments in our 4 Southwest border states with the costs associated with the handling and processing of drug cases referred from federal arrests.

Has the Department developed an overall plan to address these resource needs to be sure that the federal system can handle the increasing caseload that is generated by our investment in law enforcement personnel and equipment?

Answer. Over the last decade, investigative efforts along the Southwest border (SWB) have significantly increased the requirements of all law enforcement agencies in the region. We are mindful that increased arrests generate more court cases, and in turn, a greater need for detention space. Our recent budget requests have emphasized resources for the investigative agencies, litigating components, and detention.

Beginning in 1993, the Department of Justice embarked on a comprehensive plan to dramatically increase the number of felony immigration prosecutions and restore the rule of law along the border. One of the first steps taken was to deploy new Border Patrol and INS agents to the border under Operation Hold the Line in El Paso and Operation Gatekeeper in San Diego. The success of these two initiatives has resulted in an unprecedented number of case referrals from various investigating agencies both within the Department of Justice and from other agencies such as Treasury, Postal Service and others.

In fiscal year 1997 and 1998, the United States Attorneys' Offices located along the SWB received 58 additional attorneys to focus on illegal drug and alien smuggling. They also received an increase of 13 attorneys in the fiscal year 2001 appropriation for the illegal immigration activity in that region.

Since 1995, the United States Marshals Service (USMS) has received 150 positions from Congress for the SWB and has placed 157 new employees into these five SWB districts. The additional positions were accomplished through cost saving efforts throughout the Service, such as freezing positions and reducing spending, as well as hiring detention officers rather than criminal investigators.

There has been over a 350 percent increase in immigration cases filed since the mid-1990's when we focused on securing the Southwest border and bringing down crime in the region. We are doing everything we can to make this region safe for our citizens.

Question. For example, our federal court in Las Cruces, New Mexico, handles 65 percent of all the federal criminal cases in New Mexico, yet there is no full-time sitting judge. It is also in dire need of another Assistant U.S. Attorney, more United States Marshals, and more pre-trial and administrative personnel. What types of factors will the Department use in awarding these funds to the Southwest Border jurisdictions to address this backlog?

Answer. There are many factors which go into the decision to allocate additional resources to districts. Both the United States Attorneys and United States Marshals Service have a formal allocation process that is used to ensure each district is given the same consideration for receipt of new resources.

When an appropriation is enacted and additional resources are provided, the United States Attorneys establish a working group to begin the allocation process. The Office of Management and Budget Subcommittee to the Attorney General's Advisory Committee (AGAC), serves as the Chair of the working group. The remaining members of the working group are United States Attorneys chosen based on their desire to be involved, their expertise in the specific program area being increased, and to ensure geographic and district size diversity among working group membership.

The next step in the process is to determine the relevant objective criteria to use along with the data on each district. For example, when the fiscal year 2001 appropriation provided additional resources for immigration, that working group used the following objective criteria to augment the specific district information: caseload and time data by program from the case management system, average Assistant United States Attorney work years per 100,000 population, local/regional involvement, previous program related allocations, and border patrol increases. Consideration was also given to a variety of relevant district-specific factors, including dedicated law enforcement resources, statistical information, and the unique circumstances of the district, similar to the situation you raise about Las Cruces.

The working group that considered the allocation of additional resources for immigration received in the fiscal year 2001 appropriation adhered to the report lan-

guage that limited the resources to those districts involved with immigration cases along the Southwest Border. I am happy to say that the working group recommended the District of New Mexico receive four additional positions for its increased immigration workload, using this deliberative process.

Similarly, the USMS requests positions for the Southwest Border based upon increases in workload, new courthouse construction or renovation, and when there are position increases for federal judges, magistrates, United States Attorneys (USA), INS, FBI or DEA. Any of these factors will ultimately affect the USMS workload and its need for resources.

Since 1995, the USMS has received 150 positions from Congress for the SWB and has placed 157 new employees into these five SWB districts. The additional positions were accomplished through cost saving efforts throughout the Service, such as freezing positions and reducing spending, as well as hiring detention officers rather than criminal investigators.

While it is true that the Las Cruces caseload is growing, the General Services Administration has no construction projects planned for Las Cruces through fiscal year 2005. In the meantime, approximately 1.5 workyears are being expended in Las Cruces by "visiting judges" from outside the district. Deputy U.S. Marshals in Las Cruces are supplemented with as many as three deputies daily from Albuquerque. In addition, the USMS office in Las Cruces makes extensive use of guards, typically five per day, to meet the needs of the court. In fiscal year 2002, the USMS has requested 6 positions for Albuquerque, as a result of previous courthouse construction. If the USMS receives these positions, the Marshal from New Mexico will need to reassess the situation in Las Cruces and in all likelihood will use a portion of these positions for the staffing of Las Cruces, which is the greater priority.

While OJP funds cannot be used for these federal costs, OJP resources will be made available to the eligible local jurisdictions to enable them to process substantially more federal arrest cases referred from the federal authorities. Funds from the Southwest Border Prosecution Assistance Initiative will be awarded on a discretionary basis to county and municipal governments in Texas, Arizona, New Mexico and California for costs associated with the handling and processing of drug cases referred from federal arrests. Individual awards will be based on a number of factors, including Southwest border county caseloads for processing, detaining, and prosecuting drug cases referred from federal arrests.

Question. For what types of activities will county and municipal governments be able to do to use these funds? Last year, Congress recognized that the needs included additional prosecutors, probation officers, court officials, and detention costs. Would these be covered under the Department's proposed Southwest Border Prosecution Assistance initiative?

Answer. The Justice Department's 2002 budget proposes to continue a program created by Congress to reimburse district attorneys along the Southwest border for the costs of processing, detaining, and prosecuting drug cases referred from federal arrests. The program provides financial assistance to county and municipal governments in Texas, New Mexico, Arizona, and California for the costs associated with the handling and processing of drug cases referred from federal arrests. These funds may be used for hiring and training more prosecutors, probation officers, and court officials, court costs, detention costs, courtroom technology, administrative expenses, and indigent defense costs.

This program was created in the Fiscal Year 2000 Emergency Supplemental Appropriations Act, which provided $12 million to the USA for establishment of reimbursable agreements to the counties and municipal governments in the five districts along the Southwest border. An additional $12 million was provided the USA to reimburse Texas and Arizona in fiscal year 2001.

The budget proposes to expand funding of this local assistance program to $50 million in 2002. The funding request in fiscal year 2002 is contained in the Office of Justice Programs' appropriation consistent with its traditional role of funding grants to state and local organizations. Funds from the Southwest Border Prosecution Assistance Initiative may be used for hiring and training more local prosecutors, probation officers, and court officials, court costs, detention costs, courtroom technology, administrative expenses, and indigent expense costs.

MENTAL HEALTH COURTS

Question. Attorney General Ashcroft, as you are aware, the America's Law Enforcement and Mental Health Project Act was enacted into law last year. The Act authorizes the creation of Mental Health Courts with separate dockets to handle cases involving individuals with a mental illness.

The Act authorized $10 million for fiscal year 2001 and each of the next 4 years to implement the "Mental Health Courts" program by the Office of Justice Programs. The specific thrust of this program is simple—to provide an individual with a mental illness and charged with a misdemeanor or nonviolent offense the option of out-patient or in-patient mental health treatment as an alternative to incarceration.

Finally, the Department of Justice estimates that 16 percent of all inmates in local and state jails suffer from a mental illness and the American Jail Association estimates that as many as 700,000 persons suffering from a mental illness are jailed each year.

Do you believe Mental Health Courts can alleviate prison overcrowding and create greater judicial economy within our court systems?

Answer. Early evaluations of specialty, problem-solving courts (e.g., drug courts and mental health courts) show that these courts may be effective in diverting inmates with mental illnesses and co-occurring disorders from prison and impact the use of valuable prison bed space. However, there are a number of cautionary notes regarding the limitation of these evaluations that should be addressed in assessing the impact of mental health courts on prison crowding.

Generally, the mental health courts have several goals including: reduce the use of prisons and repeated interaction with the criminal justice system, connect or reconnect persons with mental illness with needed mental health services, protect public safety, and improve the likelihood of offender success with treatment and access to related support services (e.g., housing, etc.). The aim of mental health courts are to encourage community-based health approaches that would prevent persons with mental illness from entering the criminal justice system in the first place or reducing their length of involvement in the system.

Given that the mental health court movement is only about 4 years old, few evaluative studies have been conducted that address the impact of the courts on prison overcrowding. The few evaluations available show that mental health courts may be effective in diverting mentally ill offenders from prison. For example, the University of Washington Phase I assessment of the King County Court Mental Health Court included an analysis of detention data for 77 participants over the one-year period prior to the formation of the mental health court through its first year of operation. Offenders who chose involvement with the mental health court: increased the amount of treatment they received and showed decreased problems with the criminal justice system; increased number of treatment episodes and decreased time in detention; on average spent fewer days in detention and decreased the rate of new bookings. Some promising results also were found in the Anchorage, Alaska Mental Health Court. In the year before offenders participated in the mental health court, they spent an average of 18 days in the hospital and 85 days in prison. During the year they participated in the mental health court, the same individual averaged three days in the hospital and 16 days in prison—reductions of 83 percent and 81 percent respectively.

While a review of some limited research shows that mental health courts may be effective in diverting mentally ill offenders from prison, evaluations should assess the impact of mental health courts on prison crowding, public safety, connecting the mentally ill offender to needed community mental health services, and success of treatment.

Question. What steps are being taken by DOJ to implement "America's Law Enforcement and Mental Health Project Act?"

Answer. The "America's Law Enforcement and Mental Health Project" was newly authorized in fiscal year 2001. The legislation authorizes an appropriation of $10,000,000 for each of fiscal years 2001 through 2004 to provide grants to establish demonstration mental health courts and provide for technical assistance, evaluation, and training. In fiscal year 2002, the Department, in making difficult decisions about competing priorities, did not request funds specific to mental health courts in order to fulfill its mission of supporting core law enforcement functions.

However, the Bureau of Justice Assistance, through its Byrne Discretionary Grant Program, has provided funding to two demonstration mental health courts in the past. In fiscal year 1999, King County (WA) received $150,000 to help implement a mental health court and in fiscal year 2001, Jefferson County (AL) received $150,000 to create a mental health court. These courts are designed to respond to the problem of mentally ill offenders who repeatedly cycle through the criminal justice system without receiving needed assistance. Byrne discretionary funds will not be available under the current budget proposal for fiscal year 2002; however, states can use their Byrne formula funds for further demonstration site support and technical assistance. Additionally, states and localities involved in Offender Reentry are

permitted to use these funds for mental health courts if identified as a need in the target community.

Question. What plans does DOJ have to provide assistance to court systems seeking to develop and implement a Mental Health Court and does DOJ plan to offer continued technical assistance after the implementation of a Mental Health Court?

Answer. To increase knowledge about mental health courts, BJA funded the Crime and Justice Research Institute to complete a report about four of the nation's first mental health courts. The report, *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload*, gives an overview of the issues related to mental health courts and provides a detailed description of the featured courts. Published by BJA in May 2000, the report is currently in its second printing. This report will continue to serve as a resource to communities interested in the development and implementation of a mental health court.

In fiscal year 2000, through an Interagency Agreement with the National Institute of Corrections, BJA provided $100,000 to provide technical assistance to states and local communities interested in developing or enhancing services to persons with mental health disorders involved with the justice system. For over 5 years, BJA has provided funding to the National Judicial College to develop judicial training programs, including a course and instructional manual on the role of the judge in responding to persons with mental health issues.

States will have the ability to provide further technical assistance as well as assistance in court development and implementation through their Byrne formula grant funds.

LAW ENFORCEMENT IN INDIAN COUNTRY

Question. I am pleased to see that the Administration continues to focus on the law enforcement situation in Indian Country, and promotes cooperation between the Bureau of Indian Affairs (BIA) and the Department of Justice agencies. In fiscal year 2001, this Subcommittee provided $106.5 million through various Department of Justice programs to enhance law enforcement in Indian Country.

How much does the Administration propose in its fiscal year 2002 budget for the Department of Justice to continue these Indian law enforcement initiatives?

The tribal courts have received $18 million over the past three years. How have these funds been allocated to tribal courts?

Answer. The Department of Justice requests continued funding in fiscal year 2002 for the grant programs in Indian Country that the Congress funded in fiscal year 2001. These grant programs total $93.9 million. Since fiscal year 1999, the Congress has also provided funds for additional agents and prosecutors, which will also continue to be funded in the fiscal year 2002 request.

The Tribal Courts Program provides financial and technical assistance for federally-recognized Indian Tribal governments to develop, enhance and continue operation of tribal judicial systems; provides education and training for tribal court personnel; and promotes cooperation and coordination among tribal justice systems and federal and state judiciary systems. The Tribal Courts Program addresses a need to build and enhance tribal justice involving American Indians and Alaska Native populations; to address the increased incidences of violence and other criminal offenses occurring in Indian Country; and to support the tribes' infrastructure as dependent sovereign nations. Beginning in fiscal year 1999, in support of the Department of Justice Indian Country Law Enforcement Initiative, the Bureau of Justice Assistance (BJA) Tribal Court Program has awarded competitive grants to tribes based on the extent and urgency of need of each applicant.

The first solicitation announcement, issued in fiscal year 1999, resulted in 77 grant awards to tribal communities. Forty-four tribal communities received funding to develop single or inter-tribal court systems; thirty-three tribal communities received funding to implement enhancement initiatives. Enhancement initiatives were provided to tribes to improve case management, train court personnel, acquire equipment, enhance advocacy services, establish diversion programs, and access services. Reflecting the demand for this program, BJA received 109 more applications under the first solicitation than it was able to fund. In addition, the National Tribal Justice Resource Center, the Northern Plains Tribal Judicial Institute, and the Alaska Inter Tribal Council received funding to provide training and technical assistance to the tribal grantees.

To facilitate the administration of the program and assist recipients, BJA held a series of cluster meetings for new grant recipients in June 2000, July 2000, September 2000, October 2000 and March 2001. BJA plans to increase technical assistance to tribes in the area of judicial administration, advocacy skills, and information technology. A formal national evaluation will be initiated to assess the impact of in-

creased assistance to tribal communities to plan, implement and enhance traditional tribal and western court systems.

In April 2001, BJA issued a second competitive solicitation announcement for the development of tribal courts or the implementation, enhancement, and continuing operation of tribal courts. Under this competitive solicitation, BJA received 137 concept papers, of which 15 concept papers were for planning grants and the remainder were for either implementation or enhancement grants. Currently, all concept papers are being reviewed by peer panels. BJA anticipates that up to 100 tribes will receive awards ranging from $60,000 to $400,000 based on each tribe's service population. BJA anticipates that more tribes will apply for funding in this second round, reflecting an increased awareness of the program through conferences and marketing efforts. Technical assistance and training will be continued, emphasizing on-site consultation, collective training around common issues, and mentoring between established and emerging tribal courts.

Question. Congress approved $34 million in each of 1999, 2000, and 2001 through the State Prison Grants program to help with the addition of detention facilities in Indian Country. How is the Department expending these funds? What is the analysis of need for these facilities across the nation?

Answer. Since 1999, $102 million has been appropriated for the construction of correctional facilities on tribal lands for the incarceration of offenders under tribal jurisdiction. The following lists the awards made using funds available in 1999 and 2000:

Fiscal Year 1999 Funding:	
TIER 1: Congressional Directives:	
Three Affiliated Tribes of Fort Berthold (ND)	$2,000,000
Native Village of Barrow (AK)	6,000,000
Subtotal	8,000,000
TIER 2: BIA Designated Priorities:	
San Carlos Apache Tribe (AZ)	2,158,550
Confederated Tribes of the Colville Reservation (WA)	4,579,550
Subtotal	6,738,100
TIER 3: CIRCLE Project (correctional components):	
Pueblo of Zuni (NM)	2,334,000
Northern Cheyenne Nation (MT)	3,482,629
Oglala Sioux Tribe (SD)	1,327,659
Subtotal	7,144,288
TIER 4: Regional Approaches:	
Rosebud Sioux Tribe (SD)	6,100,770
Shoshone Paiute Tribe (NV)	2,862,132
Red Lake Band of Chippewa (MN)	574,870
Nisqually Indians (WA)	371,473
Subtotal	9,909,245
Fiscal Year 1999 Project Totals	31,791,633
Fiscal Year 2000 Funding:	
CIRCLE Project Supplements:	
Pueblo of Zuni	2,339,454
Northern Cheyenne	3,980,909
Subtotal	6,320,363
Tribal Supplemental Awards:	
Fort Peck Assiniboine Sioux	696,588
Rosebud Sioux Tribes	3,168,000
Shoshone-Paiute Tribes	1,154,536
Confederated Tribes of Colville	2,500,000
San Carlos Apache	8,628,722
Red Lake Band of Chippewa	8,841,213
Hualapai	2,000,000

Three Affiliated Tribes of Fort Berthold	1,872,909
Subtotal	28,861,968
Fiscal Year 2000 Project Totals	35,182,331

Additionally, $900,000 was used in 1999 and 2000 to provide technical assistance to each of the tribal grantees and to tribes in the discovery and planning stages of addressing their offender populations through incarceration.

In 2001, funds will be made available to: existing projects that have been funded only through the design phase and are prepared to enter the construction phase in 2001; unfunded applications that were ranked high in the competitive review process in 1999, but were not selected due to limited funding in prior years; the Gila River Indian Community, which is prepared to proceed with construction of a 104-bed facility in 2001; and per Congressional direction, the Cultural Justice Spirit Camp and Healing Center near the Village of Hoonah, Alaska.

Tribal governments have jurisdiction over misdemeanor crimes committed by Indians in Indian Country. Tribal authority to sentence offenders is limited to 1 year or less imprisonment (25 U.S.C.A. § 1302(7)) for non-felony convictions. Many American Indian communities experience significant levels of crime including: violent crime, domestic violence, child abuse, aggravated assaults, and violent crime strongly correlated with alcohol abuse. The United States Attorneys Office is responsible for felony crimes occurring on reservations. However, the authority to sentence for up to 1 year for a non-felony crime allows tribes to intervene in the early stages of an offender's behavior before the criminal activity reaches a level of a felony. The sentence of up to 1 year imprisonment for a non-felony crime is intended to act as a deterrent from more serious criminal activity. Tribal justice systems are the most appropriate institutions for maintaining order in tribal communities and are the preferred forum for delinquent offenders who commit misdemeanor crimes. As the tribal court system is the closest, both physically and culturally, to victims, offenders, and their families, tribal courts require access to adequate correctional facilities to impose a range of interventions and sanctions to impact offender behavior effectively.

According to the Office of Justice Programs' Bureau of Justice Statistics *Jails in Indian Country Survey (Survey), 1998 and 1999*, of the 69 detention facilities in Indian Country, 15 facilities were operating above 150 percent capacity on peak day in June 1999, and 11 facilities were under a court order or consent decree on June 30, 1999. Due to consistent overcrowding, restrictions on the maximum number of inmates that could be held in custody were placed on these facilities. Also according to the Survey, 43 of the 69 facilities reported that they are authorized to hold juveniles, however only two-thirds reported that juveniles are separated from adults by both sight and sound. Nine facilities separated young persons by sight only, and four facilities reported that juveniles were not separated from adults.

With the exception of the most recently constructed facilities, the majority of the existing detention facilities are over 25 years old and of linear design which makes supervision extremely difficult; they have little or no programming space to impact offender behavior; they are high security which may be unwarranted and unproductive given the characteristics of the offender population; they are in poor condition and out of compliance with building codes and Bureau of Indian Affairs jail standards; and they do not have the capacity for sight and sound separation for juveniles housed in joint adult and juvenile facilities. These structural deficiencies impact safety, security, and the effectiveness of behavior modification.

Question. This initiative also provides funding to assist Indian tribes and pueblos with the hiring of additional law enforcement officers, to purchase equipment, and to train new and existing officers. How much has the Department devoted to these activities? What is the status of obligating these funds? How has the Department implemented this portion of the initiative?

Answer. In fiscal year 2001, the Department of Justice, Office of Community Oriented Policing Services is dedicating $39.9 million to the COPS Indian Country grant program. Because these tribal departments often have limited resources, the COPS Office sets application deadlines later in the fiscal year so that they have ample time to complete and submit the grant application packets. In 2001, the application deadline for the Tribal Resources Grant Program (TRGP), the grant program that funds personnel and equipment, was set for April 16. COPS expects to have these applications reviewed and awarded by the end of August (it is estimated that these grants will account for approximately $32.3 million of the $39.9 million). An additional $500,000 is being dedicated for the same purposes as above to the Mental Health and Community Safety Initiative, which is a cooperative effort

among a number of federal agencies to address mental health and substance abuse problems of Native American youth. The application deadline for this program is June 22, and COPS hopes to be able to make awards by August.

COPS will spend approximately $2 million on the CIRCLE project grants and approximately $2 million in waivers in fiscal year 2001. An additional $1 million is set aside to be used to provide training and technical assistance to tribal law enforcement. These funds are expected to be obligated in August or September.

A portion of the total remaining funds (approximately $2.1 million) may be used for additional training and technical assistance efforts, however it is anticipated that the funds will be used to fund the new Tribal Hiring Renewal Grant Program, which will provide additional grant dollars to law enforcement agencies that are experiencing severe fiscal distress and will not be able to retain their current COPS funded officers without additional federal assistance. These grants will be awarded in August or September.

Question. A total of $35 million was approved for the Office of Juvenile Justice and Delinquency Prevention programs for programs to combat tribal youth crime. What is the status of this program?

Answer. The Tribal Youth Program (TYP) was established in 1999 with $10 million in fiscal year 1999, $12.5 million in fiscal year 2000, and $12.47 million in fiscal year 2001, appropriated to OJP as part of the Title V juvenile prevention program. The program is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which assists tribal communities and States to prevent and control delinquency and improve their juvenile justice systems. Although OJJDP has provided discretionary grant funds and training and technical assistance to American Indian Tribes in the past, TYP is the first OJJDP program dedicated exclusively to prevention, control, and juvenile justice system improvement in American Indian communities. TYP is part of the Indian Country Law Enforcement Initiative, a program of the Departments of Justice and the Interior that is designed to enhance Indian Country law enforcement standards and improve the quality of life in Indian Country.

Of the nearly $35 million appropriated to date for TYP, OJJDP has allocated $3.5 million to support program-related research, evaluation, and statistics; $700,000 to provide training and technical assistance to tribal programs; and $25.76 million to fund discretionary grants, including a separate TYP mental health grants program. The fiscal year 2001 TYP solicitation will be available in May 2001. The performance plan target for fiscal year 2001 is to fund an additional 35 tribes, which will bring the total number of federally recognized tribes and corporations representing Alaska Native villages receiving awards to 116.

Question. What types of programs does the Department plan to fund with these dollars?

Answer. The types of programs are funded as follows:

I. Discretionary Grants

The program announcement for TYP offers a flexible grant program designed to meet the unique needs of each American Indian community applicant to prevent and control delinquency and improve its juvenile justice system. All federally recognized tribes, Alaskan Native villages, corporations representing Alaskan Native villages, or coalitions of tribes or villages are eligible to apply for a 3-year grant. Grants range from $75,000 to $500,000 and are awarded on a competitive basis. To ensure a broad distribution of TYP funds, OJJDP considers the size of the tribe, geographic location, and whether the tribe is in an urban or rural area in making final funding decisions.

Grant Categories.—Applicants are required to focus on one or more of the following categories of program activity. The number of tribes with programs in these categories are listed immediately before the description.

—Category I—Reduce, control, and prevent crime and delinquency both by and against tribal youth. Elements relevant to this objective include community needs assessments, risk factor identification, family strengthening, truancy reduction, dropout prevention, parenting, anti-gang education, conflict resolution, child abuse prevention, gang reduction strategies, youth gun violence reduction, and sex offender services.

—Category II—Interventions for court-involved tribal youth. Elements relevant to this objective include graduated sanctions, restitution, diversion, home detention, foster and shelter care, community service, improved aftercare services, mental health services interventions (e.g., crisis intervention, screenings, counseling for suicidal behavior), and mentoring.

—Category III—Improvement to tribal juvenile justice systems. Elements relevant to this objective include indigenous justice; training for juvenile court personnel,

including judges and prosecutors; intake assessments; model tribal juvenile codes; advocacy programs; gender-specific programming; probation services; and aftercare programs.

—Category IV—Prevention programs focusing on alcohol and drugs. Elements relevant to this objective include case management, drug and alcohol education, drug testing, substance abuse counseling for juveniles and families, services for co-occurring substance abuse disorders, and training for treatment professionals.

II. Circle Project

Fiscal Year 1999 Phase I.—TYP provided $200,000 per grantee for the Comprehensive Indian Resources for Community and Law Enforcement (CIRCLE) project. Funding has been provided to three tribes: Oglala Sioux, SD; Northern Cheyenne, MT; and Zuni Pueblo, NM—in coordination with the Office of Tribal Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Office for Victims of Crime, Violence Against Women Grants Office, Corrections Program Office, the Office of Community Oriented Policing Services, United States Attorneys, the Bureau of Indian Affairs, and the Federal Bureau of Investigation (FBI). These agencies have provided significant financial and technical assistance support to the participating tribal governments.

Fiscal Year 2000 Phase II.—TYP provided $200,000 per CIRCLE grantee (continuation).

III. TYP Research and Evaluation Projects

OJJDP's tribal youth research activities are designed to provide empirical evidence about juvenile justice and delinquency prevention policies and practices and their impact on tribal youth.

OJJDP adheres to three principles that serve as the foundation for research and evaluation activities. These principles require that research and evaluation projects for tribal youth: 1. provide practical results that are locally relevant; 2. include local community members in the decision-making and implementation of the projects; and 3. acknowledge and respect local customs, traditions, values, and history.

OJJDP's program of research for tribal youth includes the following initiatives.

Participatory Evaluation of the Tribal Youth Program

TYP provides funds directly to tribal communities to develop programs that help prevent and control juvenile delinquency, including violent crime, and improve tribal juvenile justice systems. The Michigan Public Health Institute (MPHI) in Okemos, MI, in partnership with the Native American Institute at Michigan State University in Lansing, is helping five tribes evaluate programs developed with their TYP funds. Each site is assembling a program assessment team (PAT) that will include local stakeholders in developing and carrying out data collection, analysis activities, and evaluation reports. MPHI will provide training and technical assistance to PATs to facilitate evaluations of their tribal programs. MPHI also will analyze each site's juvenile and tribal justice systems and TYP activities within those systems, and analyze the relationships between the tribal government and county, state, and Federal Government agencies as they relate to juvenile justice responsibilities and operations.

Delinquency and Juvenile Justice in One American Indian Nation

New Mexico State University in Las Cruces is conducting a study that uses the unique historical, cultural, social, and legal aspects of one tribal nation in the Four Corners area of the southwestern United States to look at delinquency and the legal processing of juveniles over the past 11 years, taking into account changes in tribal resources, such as the opening of a casino on the reservation. The project will work with tribal members to develop a model for ongoing delinquency research in this and other tribes of the Southwest.

Culturally Appropriate Juvenile Justice and Delinquency Prevention

The College of Menominee Nation in Keshena, WI, is working with Menominee organizations to develop, demonstrate, and evaluate a culturally appropriate, community-based, family-centered approach to juvenile justice and delinquency prevention. Researchers are developing a needs assessment, an evaluation design, and a delinquency prevention and juvenile justice improvement guide for other tribal groups. The project focuses on integrating health and social services and helping the Menominee Nation and other tribal organizations institutionalize this integration process. Service providers will be trained to design, implement, and evaluate delinquency prevention programs for tribal youth.

Assessing Gang Activity in the Navajo Nation

The Navajo Nation Judicial Branch in Window Rock, AZ, is conducting the first comprehensive assessment of gang activity by a tribal government. The study is using a mixed research design of quantitative and qualitative assessments, with close community involvement at all stages. Official court data, follow-up surveys, and gang member interview protocols have been reviewed for an initial assessment and community members are helping researchers understand the nature, extent, and causes of Navajo Nation gang violence. Researchers hope to discover approaches to dealing with gangs that can be adapted by other tribes.

Youth Gangs in Indian Country: Profiling the Problem and Seeking Solutions

Building on the Navajo Nation's youth gang study, researchers at California State University in Sacramento are using ethnographic observation and interviews with community members and gang members to document and profile the youth gang experience in up to six rural and urban tribal sites across the country. Researchers are interviewing professionals who work with gang-involved youth to learn about external influences on tribal youth gangs, such as the involvement of off-reservation gangs. The project will produce an inventory of policies and practices used at the sites to prevent and intervene with youth gangs and will examine recommendations made by community members to improve present procedures.

Tribal Youth Field-Initiated Research and Evaluation

Field-initiated research allows researchers in the field to identify the areas and topics they believe need to be examined. The tribal youth field-initiated research and evaluation program supports projects that address alcohol and substance abuse, child abuse or neglect, and indigenous approaches to juvenile justice. OJJDP will award 2 grants in September 2001.

Indian Country Youth Gang Survey

In 2001, OJJDP's National Youth Gang Center in Tallahassee, FL, added an Indian Country supplement to its ongoing annual National Youth Gang Survey of law enforcement officials. This component is assessing the prevalence, composition, and activities of youth gangs in federally recognized tribes that are not traditionally included in the national survey. Preliminary results are expected at the end of 2001.

Longitudinal Study of Tribal Youth Risk and Resiliency

OJJDP also has developed a research project that will include a specific cultural focus to assess the complex relationships among culture, community, family, individual youth, and the development of delinquency. This study will enhance understanding of risk and protective factors that influence delinquency and resiliency within the cultural and historical context of tribal youth. The findings will have direct implications for prevention activities with at-risk tribal youth and intervention activities with juvenile offenders. In addition, the study will contribute to the development of effective and culturally appropriate research approaches with tribal populations. OJJDP will competitively select a grantee in 2001.

IV. TYP Training and Technical Assistance

Beginning in fiscal year 1999, OJJDP has awarded a total of $700,000 to the American Indian Development Associates (AIDA) to provide training and technical assistance (TTA) to tribal grantees to facilitate strategic planning, improved tribal juvenile justice systems, and implementation of TYP.

AIDA has successfully completed assessments for policy, program, and overall system change which have helped grantees to identify needs, problems, gaps, strengths, and solutions. Many tribes have developed comprehensive juvenile justice planning and implementation strategies. Data collection instruments have been designed using a culturally relevant TTA design, which is developed in collaboration with the TYP grantees. The provision of services is accomplished through program reviews, onsite visits, and telephone consultation and interviews with representatives from the tribal administration and key program managers.

Question. What indication is the Department getting as to the nature of this problem in Indian Country and the need for resources?

Answer. Research indicates that American Indians and Alaska Natives are at a significantly greater risk of violence than other Americans. In addition, American Indians and Alaska Natives experience disproportionately high levels of violent victimization, intimate partner violence, child abuse and neglect, youth gang involvement, and offending while using alcohol. These difficulties are compounded by a lack of available resources for families, youth services, and law enforcement. Youth growing up under these circumstances are exposed to a variety of risk factors that increase their chance of becoming involved in delinquency and violent offending.

The following are examples of some of the latest research reporting the extent of crimes against American Indians and Alaska Natives.

—Estimates from the National Crime Victimization Survey indicate that, from 1993 to 1998, American Indians sustained violent victimization at the highest per capita rate, a rate higher than that of any other race surveyed. (Rennison, Callie, *Violent Victimization and Race, 1993–1998*, Bureau of Justice Statistics Special Report, March 2001, NCJ 176354, pg. 1)

—From 1993 to 1998, the average annual rate of rape or sexual assault was higher for American Indian women than that of any other race surveyed. (Rennison, Callie, *Violent Victimization and Race, 1993–1998*, Bureau of Justice Statistics Special Report, March 2001, NCJ 176354, pg. 2)

—American Indian women are particularly vulnerable to violent crime, reporting a victimization rate nearly twice that of other racial groups. (Tjaden, Particia, and Nancy Thoennes, *Extent, Nature, and Consequences of Intimate Partner Violence*, Findings from the National Violence Against Women Survey, Washington, D.C.: National Institute of Justice, July 2000, NCJ 181867, p. 25)

—Seventeen percent of all Native women will be stalked during their lifetimes (Tjaden, Patricia, and Nancy Thoennes, *Prevalence, Stalking in America: Findings From the National Violence Against Women Survey*, Research in Brief, Washington, D.C.: National Institute of Justice, April 1998, NCJ 169592, p. 5)

—Alcohol and drug use was a factor in more than half of violent crimes against American Indians. Overall, in 55 percent of American Indian violent victimizations, the victim reported that the offender was under the influence of alcohol, drugs or both. (Greenfeld, Lawrence, and Steven Smith, *American Indians and Crime*, Washington, D.C., Bureau of Justice Statistics, February 1999, NCJ 173386, p. 9)

—In the United States from 1992 to 1995, American Indians experienced an increase in the rate of abuse or neglect of children under age 15. (Greenfeld, Lawrence, and Steven Smith, *American Indians and Crime*, Washington, D.C., Bureau of Justice Statistics, February 1999, NCJ 173386, p. 15)

—Arrests of American Indians under age 18 for alcohol-related violations are twice the national average. (Greenfeld, Lawrence, and Steven Smith, *American Indians and Crime*, Washington, D.C., Bureau of Justice Statistics, February 1999, NCJ 173386, p. 25)

—From 1996 to 1998, the number of Indian inmates in the custody of the Bureau of Prisons (BOP) has increased by 21 percent (from 1,276 to 1,549 inmates). During that same period, the number of Indian juveniles in BOP custody has increased 47.5 percent (from 103 to 152 juveniles). Furthermore, the number of Indian offenders under BOP supervision has increased by 28 percent (from 1,347 to 1,732 offenders).

These statistics reveal the urgent need for additional resources to be provided to Indian Tribes in order to improve responses to crime and crime-related problems in Indian Country. The Department of Justice administers a variety of funding programs that provide such resources to Indian Tribes. For fiscal year 2002, the President's budget request is designed to help carry out the Federal Government's responsibilities to Indian Tribes, including the following resources: $35,191,000 to build correctional facilities in Indian Country; $31,315,000 for the COPS Tribal Resources Grants Program; $7,982,000 for Tribal courts; $4,989,000 for Tribal demonstration projects on alcohol and crime; and $1,996,000 for Tribal criminal justice statistics collection. Generally, these figures represent a continuation of existing funding levels for the programs. The COPS Tribal Resources Grants Program, however, is maintained at a higher level than COPS programs generally, which reflects a continuing need for these resources and the special role of the Federal Government in Indian Country law enforcement.

Question. Finally, would the Department please provide the Subcommittee with a summary of the total funding proposed to be allocated under the Indian Law Enforcement initiative in fiscal year 2002 with the programmatic detail also provided?

Answer.

DEPARTMENT OF JUSTICE FISCAL YEAR 2002 PRESIDENT'S BUDGET INDIAN COUNTRY LAW ENFORCEMENT INITIATIVE

Component	Item	Request
Office of Justice Programs	Tribal Courts Program—to assist tribal government in the development, enhancement, and continuing operation of tribal judicial systems.	$7,982,000

DEPARTMENT OF JUSTICE FISCAL YEAR 2002 PRESIDENT'S BUDGET INDIAN COUNTRY LAW ENFORCEMENT INITIATIVE—Continued

Component	Item	Request
	Title V Incentive Grants for Local Delinquency Prevention—to serve Indian youth by developing, enhancing, and supporting tribal juvenile justice systems.	12,473,000
	Indian Alcohol and Substance Abuse Program—for demonstration grants on alcohol abuse and crime in Indian Country. This will fund law enforcement activities.	4,989,000
	State Correctional Grant Program—for the construction of detention facilities in Indian country.	35,191,000
	Tribal criminal justice statistics collection	1,996,000
Community Oriented Policing Services.	Grants to Tribes for additional law enforcement officers, equipment, and training.	31,315,000
TOTAL		93,946,000

FIRST RESPONDER TRAINING

Question. Attorney General Ashcroft, I continue to believe that our federal law enforcement agencies must push to train as many first responders as we can. These are our local law enforcement, fire, and emergency medical personnel who are likely to be first on the scene of a terrorist attack.

As the lead agency for counter-terrorism efforts by the Federal Government, you are critical to the coordination of our federal efforts in this regard. I am most familiar with the Nunn-Lugar-Domenici program which is training state and local responders in 120 major cities, and the National Domestic Preparedness Consortium headquartered at Fort McClellan, Alabama, which is working with training partners to expand this effort to other cities and towns.

The Nunn-Lugar-Domenici program has now been transferred to the Department of Justice to complete the training program for 120 major cities. Have all 120 cities been put through the Nunn-Lugar-Domenici training program?

If there are a few cities remaining to undergo this training, how does the Department propose to complete the Nunn-Lugar-Domenici program?

Answer. On April 6, 2000, President Clinton signed a Decision Memorandum transferring authority for the administration of the Nunn-Lugar-Domenici (NLD) Domestic Preparedness (DP) Program from the Department of Defense (DOD) to the Department of Justice (DOJ), effective October 1, 2000. Funding and authority to support this transfer was provided in DOJ's fiscal year 2001 appropriation, enacted on December 21, 2001. As of September 30, 2000, DOD had completed delivery of the entire program to 68 of the 120 targeted cities, and initiated, but not completed, delivery to 37 additional cities (cities 69–105). These cities did not receive their final two program exercises, or funding for the procurement of training equipment. Cities 106–120 had yet to begin the program.

Following receipt of funding to implement program activities, the Office of State and Local Domestic Preparedness Support (OSLDPS) secured the services of the previous program management support and exercise contractors, and on February 2, 2001, initiated contact with those cities for which DOD had started but not completed program activities (cities 69–105). A Program Information and Technical Assistance Meeting for these cities was held on March 7–8, 2001 to formally commence completion of the program. At this meeting cities were provided with the grant application for their training equipment, initiated the grant application process, and scheduled their exercise planning and execution cycle. The first program exercise was held on May 15, 2001 in Baton Rouge, Louisiana.

Additionally, on February 16, 2001, OSLDPS made initial contact with the final 15 cities (cities 106–120), which did not begin program activities prior to the program's transfer. OSLDPS has received Mayor-appointed City Points of Contact from these cities, and is in the process of scheduling formal initial meetings with these cities. The first such meeting was held on June 6, 2001, in Warren, Michigan. All 15 initial meetings will be held, and training activities initiated, during fiscal year 2001. Under OSLDPS administration, the NLD DP Program will combine specialized training assets available only through OSLDPS training partners with jurisdiction-specific assessments, allowing each of the remaining cities to tailor the program to meet its own individual training, exercise, and equipment needs. OJP has requested $9.15 million in the fiscal year 2002 President's Budget to complete delivery of the program to all 120 cities.

OSLDPS is actively coordinating the execution of the NLD DP Program with the Department of Health and Human Service's (HHS) Metropolitan Medical Response System (MMRS) program. OSLDPS and HHS representatives will jointly present both program efforts at the initial meetings for cities 106–120, and are working to integrate program activities effectively along a logical time-line.

Question. Could you provide the Subcommittee with the Department's current assessment of federal efforts to prepare state and local law enforcement and emergency personnel to respond to potential terrorist attacks?

Answer. The Office of State and Local Domestic Preparedness Support provides federal leadership to the local first responder community in counterterrorism training, equipment purchase, technology research and development, and technical assistance and evaluation. OSLDPS believes that in order to enhance most effectively the capacity of state and local agencies to respond to incidents of domestic terrorism, its programs should be information-driven, based on specific identified requirements at the state and local level, and responsive to state and local needs.

In keeping with this philosophy, OSLDPS has, working with the Congress, implemented a program in all 50 states, the District of Columbia, and the 5 United States territories to develop comprehensive Three-Year Domestic Preparedness Strategies. These strategies are based on an integrated suite of threat, risk, and public health assessments, conducted at the local level, which identify the specific level of response capability necessary for a jurisdiction to respond effectively to a WMD terrorist incident. Once these plans are assembled and analyzed, they will present a complete picture of equipment, training, exercise and technical assistance needs across the nation.

OSLDPS anticipates receiving the majority of these Strategies by December 31, 2001. Following their submission, OSLDPS will work directly with each state and territory to develop and implement tailored, individual training, exercise, equipment, and technical assistance programs to meet the requirements laid out in the Three-Year Domestic Preparedness Strategies. This approach represents the most aggressive effort to date to tailor federal domestic preparedness assistance to the specific needs of state and local jurisdictions.

In order to coordinate effectively the execution of its programs with the preparedness efforts of other federal agencies, OSLDPS has established regular and recurring meetings with representatives from the United States Fire Administration's (USFA's) National Fire Academy (NFA), the Federal Bureau of Investigation (FBI), the Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), the Department of Energy (DOE), the Department of Health and Human Services (DHHS), the Centers for Disease Control and Prevention (CDC), and the National Domestic Preparedness Office (NDPO). The purpose of these meetings is to capitalize on the diverse expertise and specialized assistance delivered by these agencies through a formal process to ensure a unified and coordinated federal training preparedness effort. OSLDPS also has on-site representation from the National Guard Bureau to coordinate program efforts and provide technical assistance and guidance.

Additionally, in May 2000, at the direction of the Congress, OSLDPS conducted the TOPOFF (Top Officials) exercise, the largest federal, state and local exercise of its kind, involving three separate locations and a multitude of federal, state and local agencies. TOPOFF simulated simultaneous chemical, biological and radiological attacks around the country and provided valuable lessons for the nation's federal, state and local emergency response communities. Currently, OSLDPS has begun planning for the Congressionally mandated TOPOFF II exercise, to be conducted in fiscal year 2002. TOPOFF II will build upon the success of the May 2000 TOPOFF exercise by incorporating lessons learned into TOPOFF II planning and design. TOPOFF II will be preceded by a series of preparatory WMD seminars and table top exercises crafted to explore issues relevant to the exercise.

Question. How many local law enforcement and fire and medical personnel have been trained?

Answer. As of May 1, 2001, OSLDPS has provided direct training to 22,113 emergency response personnel in 1,126 jurisdictions throughout the country. Of this total, 2,314 received trained via the Metropolitan Fire and Emergency Medical Services course to enable them, in turn, to provide training to other first responders. OSLDPS estimates that an additional 48,970 first responders have been trained by trainers who received instruction through the Firefighter/EMS Training Program.

Of the total of 22,113 emergency response personnel, 17,976 have received training via the National Domestic Preparedness Consortium; and 1,823 have received training via other OSLDPS training partners Pine Bluff Arsenal, National Sheriffs' Association, and International Association of Fire Fighters.

The following table summarizes this information.

Institution	*No. Trained*
Students trained at the Center for Domestic Preparedness (CDP) (Fort Mcclellan)	4,653
Students trained by the Consortium (excluding CDP)	13,323
Subtotal: Students trained by Consortium	17,976
Trainers trained by Firefighter/EMS Training Program (estimate)	2,314
Students trained by other OSLDPS training partners	1,823
Total	22,113

Question. An important part of readiness is not only the training but the equipping of these forces. What has the Federal Government achieved with regard to equipping these teams with what they need to respond to a variety of potential attacks?

Answer. The Office for State and Local Domestic Preparedness Support (OSLDPS) recognizes the importance of specialized response equipment to the state and local first responders who would bear the lion's share of the burden in mitigating any terrorist event involving a weapon of mass destruction (WMD). The OSLDPS Equipment Grant Program was initiated in 1998 to provide funding directly to states and local governments to help enable the purchase of the specialized equipment necessary for WMD incident response.

OSLDPS is currently providing funds to all 50 states, the District of Columbia, the Commonwealth of Puerto Rico and the United States territories for this purpose. With these funds, OSLDPS grantees have been able to purchase badly needed personal protective equipment, detection, decontamination and interoperable communications equipment for their first responders. In addition, these funds allow states to do critical assessments of current threats, vulnerabilities, risks, capabilities and needs and to develop strategic plans to more effectively guide the use of scarce domestic preparedness resources. Evidence from the field suggests that the equipment funding OSLDPS has provided to date has helped many state and local jurisdictions increase their WMD response capabilities significantly. OSLDPS also believes that the impact of the assessment and strategy development process will be equally profound when completed.

The following table summarizes funding amounts provided by OSLDPS to state and local first responder agencies from the inception of the program in 1998 to the present.

OSLDPS GRANT FUNDING TO STATE AND LOCAL FIRST RESPONDERS: FISCAL YEAR 1998-FISCAL YEAR 2001

[In millions of dollars]

Program	Fiscal Year—			
	1998	1999	2000	2001
Local Grants	12	31.7	0	0
NLD Grants	0	0	0	15
State Grants	0	53.8	72.5	75.7
Total	12	85.5	72.5	90.7

Question. What is the Department doing to fully utilize existing facilities and expertise in First Responder Training for Weapons of Mass Destruction?

Answer. OSLDPS has specifically designed its first responder training program to take full advantage of existing facilities and expertise to deliver a robust, comprehensive program of instruction to the nation's emergency response community. OSLDPS utilizes the capabilities of a number of specialized institutions in the design and delivery of its training programs. These include private contractors, other federal and state agencies, the National Domestic Preparedness Consortium, the National Terrorism Preparedness Institute at St. Petersburg Junior College, the United States Army's Pine Bluff Arsenal, and the National Sheriffs' Association.

The National Domestic Preparedness Consortium

The National Domestic Preparedness Consortium (NDPC) is the principal vehicle through which OSLDPS identifies, develops, tests and delivers training to state and

local emergency responders. The NDPC membership includes OSLDPS's Center for Domestic Preparedness in Anniston, Alabama, the New Mexico Institute of Mining and Technology, Louisiana State University, Texas A&M University, and the Department of Energy's Nevada Test Site; each member brings a unique set of assets to the domestic preparedness program. The following is brief description of each member and their expertise:

—*Center for Domestic Preparedness (CDP) (Fort McClellan)*.—The CDP provides hands-on specialized training to state and local emergency responders in the management and remediation of WMD incidents. Located at the former home of the United States Army Chemical School, Fort McClellan, the CDP conducts live chemical agent training for the nation's civilian emergency response community. The training emergency responders receive at the CDP provides a valid method for ensuring high levels of confidence in equipment, procedures, and individual capabilities.

—*New Mexico Institute of Mining and Technology (National Energetic Materials Research and Testing Center) (NMIMT)*.—NMIMT offers live explosive training including the use of field exercises and classroom instruction. NMIMT is the lead NDPC partner for explosives and firearms, live explosives, and incendiary devices training.

—*Louisiana State University (LSU) (Academy of Counter-Terrorist Education)*.—LSU provides training to law enforcement agencies and focuses its efforts on the delivery of the Emergency Response to Terrorism: Basic Concepts for Law Enforcement Course, and the development and delivery of the Emergency Response To Domestic Biological Incidents Course.

—*Texas A&M University (National Emergency Response and Rescue Training Center)*.—Texas A&M delivers a set of courses to prepare public officials, emergency medical services, law enforcement, fire protection, and public works for the threat posed by WMD. Courses are developed and designed to provide each specific segment of the emergency response community with the tools needed to accomplish its role in the event of a WMD incident. Additionally, Texas A&M has developed an Interactive Internet WMD Awareness Course for emergency responders. Texas A&M also provides technical assistance to state and local jurisdictions in the development of WMD assessment plans.

—*United States Department of Energy's Nevada Test Site (National Exercise, Test, and Training Center) (NTS)*.—NTS conducts large scale field exercises using a wide range of live agent stimulants as well as explosives. NTS develops and delivers a Radiological/Nuclear Agents Course. NTS, in coordination with OSLDPS, is establishing the Center for Exercise Excellence. The Center will allow NTS to train jurisdictions in the planning and conduct of exercises, tailored to the unique threats faced by participating jurisdictions. The Center will provide a critically needed new component of the overall exercise training program, meeting those special exercise needs as the state and local jurisdictions define their exercise priorities.

Other Training Partners

The National Terrorism Preparedness Institute (NTPI).—NTPI, an arm of the Southeastern Public Safety Institute at St. Petersburg Junior College, delivers a satellite-based training program titled CoMNET (Consequence Management News, Equipment, and Training) to the nation's civilian and military emergency response communities. CoMNET is a news magazine style show providing WMD-related awareness information. This program is a joint effort between OSLDPS, the Combating Terrorism Technology Support Office Technical Support Working Group, and the Consequence Management Program Integration Office within DOD.

Pine Bluff Arsenal (PBA).—PBA provides mobile training teams that deliver on-site technical assistance and training to state and local jurisdictions on the calibration, use, and maintenance of their radiological, chemical, and biological detection and response equipment.

The National Sheriffs' Association (NSA).—NSA delivers an executive level introductory training program for sheriffs on domestic preparedness for WMD incidents. This course introduces and discusses the issues that a sheriff will confront in responding to a WMD incident, and provides training on pre-incident collaborations/preparations that can be implemented to improve incident response.

In addition, OSLDPS provides training through its work with the Metropolitan Fire Fighters and Emergency Medical Services Program, and other public and private organizations such as the National Governors Association, International Association of Fire Fighters, and the National Emergency Management Association.

Question. What more should the Federal Government be doing to prepare for potential terrorist incidents?

Answer. The Department's 5-Year Interagency Counterterrorism and Technology Crime Plan outlines the Federal Government's comprehensive plan to prepare for and address terrorist threats. The 5-Year Plan contains concrete steps necessary to advance targeted research and development efforts; prevent, deter, and reduce vulnerabilities to terrorism and improve the capabilities of law enforcement agencies to respond cooperatively to terrorist acts; integrate crisis and consequence management; protect our national information infrastructure; and improve state and local capabilities for responding to terrorist acts, including acts involving weapons of mass destruction (WMD). This Administration is currently reviewing the counterterrorism program to determine what changes, if any, would be beneficial.

To prepare for potential terrorist incidents, the Federal Government must strive to reduce our vulnerability to terrorist threats, including the threat of weapons of mass destruction (WMD) and cyber attack on the nation's critical infrastructures. In addition to preventive measures, we must also have in place the capability to respond to and deal effectively with the consequences of the use of such weapons.

One facet of our national strategy is federal assistance to state and local agencies in the area of terrorism preparedness. The Department of Justice, through the Office of Justice Programs, provides significant assistance to state and local authorities by funding training, purchase of equipment, participation in exercises, and research and development to augment state and local capabilities.

On May 8, 2001, the Administration announced its intention to create a new Office of National Preparedness within the Federal Emergency Management Agency (FEMA). Currently, a task force headed by Vice President Cheney has been asked to develop a coordinated national effort to bolster our national preparedness to address terrorist events. The Task Force's recommendations are expected in October 2001.

Assistance to state and local agencies is but one facet of a national strategy; another is the federal operational response, which is structured for crisis and consequence management. Federal interagency cooperative efforts have culminated in the "Guidelines for the Mobilization, Deployment, and Employment of United States Government Agencies in Response to a Domestic Threat or Incident of Terrorism in Accordance with Presidential Decision Directive (PDD)–39" and the "United States Government Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN)." The CONPLAN, ratified in January 2001, is designed to provide overall guidance to federal, state, and local agencies concerning how the Federal Government would respond to a potential or actual terrorist threat or incident that occurs in the United States, particularly one involving WMD.

Question. Does the Administration's cybercrime initiative address this issue?

Answer. With regard to cyberterrorism, it is important to recognize that the Department prepares for cyberterrorism by enhancing its abilities to investigate cybercrime. In brief, when a cyber-attack first occurs, it is not immediately clear whether the attack is state-sponsored cyber-warfare, cyberterrorism by a transnational organization, or non-terrorist criminal activity, either domestic or foreign. Calling an event "terrorism" connotes a political or philosophical motive that is rarely ascertainable at the start of a cyber event. Therefore, DOJ thinks of "computer crime" as a larger set of cases that include "cyber-terrorism." The personnel and legal tools used, at least initially and most often on a continuing basis, to investigate the crime are the same, although additional tools can be brought into play when appropriate predicates are met. Thus, the Department's cybercrime initiative, which involves enhancing the government's ability to investigate and prosecute cybercrime, directly addresses preparing for potential terrorist incidents.

When cyber-based attacks on critical infrastructures do occur, DOJ is prepared through its efforts on both the cybercrime initiative and the National Plan for Information Systems Protection to respond quickly. First, DOJ's roles and responsibilities for initial response to such attacks are primarily borne by the National Infrastructure Protection Center (NIPC) in the FBI, which provides investigative support for all types of criminal and terrorist attacks on computer systems. Second, attorneys from the Computer Crime and Intellectual Property Section of DOJ's Criminal Division and Assistant United States Attorneys around the country work closely with the FBI and NIPC to conduct timely investigations, as little or no domestic investigation into such attacks can be undertaken without the use of subpoenas, or court orders to provide information, or wiretap requests. Accordingly, DOJ has, through the Computer and Telecommunications Coordinator (CTC) program, ensured that at least one prosecutor with expertise in online investigations (and who receive regular training and support by the Criminal Division's Computer Crimes and Intellectual Property Section (CCIPS)) are located in each of the 94 United States Attorneys Offices throughout the United States. These CTCs work closely with CCIPS, FBI, and

NIPC specialists to respond to and investigate computer crime and computer terrorist attacks.

With regard to response by state and local law enforcement, both NIPC and CCIPS consider participating in the training of state and local law to be a critical part of their missions. Both participate in the National Cybercrime Training Partnership, for example, an effort funded by the Bureau of Justice Assistance to develop modular cybercrime training usable by state, local and federal entities.

The Department's counterterrorism efforts also include coordination with other agencies, private industry, and other governments and international organizations to protect our critical information infrastructure. The National Security Council (NSC) has established a Policy Coordinating Committee on Counter-Terrorism and National Preparedness, which, besides the Counter-Terrorism and Security Group, also has a subgroup specifically devoted to Information Infrastructure Protection and Assurance. DOJ coordinates with these groups and their subgroups on both prevention and incident response, as appropriate. In addition, DOJ works in close cooperation with other centers of expertise within the private sector and the Federal Government, including both the NSC's National Coordinator for Security, Critical Infrastructure and Counter-Terrorism and the Critical Infrastructure Assurance Office. DOJ is involved in counterterrorism coordination at the international level, under the leadership of the State Department, including representation of United States law enforcement and prosecutorial interests in multilateral groups such as the G–8 Counterterrorism Experts Group and in bilateral meetings with counterterrorism officials of other nations. The FBI's Legal Attachés assigned to United States embassies throughout the world, also play a key role in counterterrorism issues that arise in the nation or region they cover.

Moreover, under PDD–63, the FBI was given the role of coordinating the provision of emergency law enforcement services, or ELES, in the event of an attack on critical infrastructures. The FBI and NIPC have worked closely with a group of state and local law enforcement personnel to develop a response plan for that sector. A draft sector plan was issued in March 2001, and was held up as a model for other sector plans at the Partnership for Critical Infrastructure Security conference held March 20–21, 2001. Similarly, other agencies are working with industry in their designated sectors to develop plans for protecting infrastructures from cyber attacks and responding to them. These sectoral plans also provide input into the National Plan for Information Systems Protection, version 1.0 of which was released on January 15, 2000, and which the United States Government intends to update periodically with additional information and programs to respond to the changing technology and threats in this area.

BLACK TAR HEROIN DRUG TRAFFICKING IN NORTHERN NEW MEXICO

Question. This Subcommittee has been very helpful over the past 2 years in tackling an issue of great concern to me. That issue is the serious "black tar" heroin problem that has plagued several northern New Mexico counties.

Both the FBI and DEA have cooperated with the state and local law enforcement officials in New Mexico to try to break the serious cycle of Black Tar Heroin Trafficking and use. Several major drug busts have been implemented in this area of New Mexico.

Would you please give the Subcommittee the Department's assessment of the progress these joint law enforcement operations in breaking the Black Tar Heroin ring in Northern New Mexico?

Answer. In December 1999, the Special Operations Division initiated "Operation Tar Pit", a multi-jurisdictional investigation targeting a Mexican heroin trafficking organization. The FBI's Albuquerque Division, the Drug Enforcement Administration (DEA) and the New Mexico State Police (NMSP) with other local law enforcement agencies (LEAs) in northern New Mexico have focused this investigation on a well entrenched heroin distribution organization controlled by individuals from Tepic, Nayarit, Mexico. Primarily, this organization smuggles multi-kilogram quantities of high purity Mexican black tar heroin from Mexico into the United States along the California and Arizona borders. However, one of the organization's primary distribution cells was located in northern New Mexico. The organization routinely sent couriers and distributors from Nayarit to the United States to transship and sell heroin. After approximately 6 months, the leaders of the organization would order the distributors back to Mexico and other individuals would be sent as replacements.

On June 15, 2000, a nationwide takedown of Operation Tar Pit targets occurred in several cities throughout the United States. In New Mexico, 34 subjects were arrested and prosecuted, with all of these subjects convicted of drug-related offenses.

To date, Operation Tar Pit has resulted in the seizure of approximately 64 pounds of high purity black tar heroin, $300,000, numerous vehicles, 10 weapons, one residence, and the arrest of 249 individuals.

In fiscal year 2001, the FBI allocated 21 agents to the Albuquerque Division and local resident agencies to address the drug problem. The Albuquerque Division has two agents assigned to the DEA task force. This task force relationship maximizes both the FBI's and the DEA's investigative efforts in the Northern New Mexico area. Additionally, the Albuquerque Division's Assistant Special Agent in Charge is the Chairman of the New Mexico High Intensity Drug Trafficking Area (HIDTA) Executive Board.

Together with DEA and other LEAs, the FBI has been working closely to address the full scope of the Northern New Mexico drug problem. Traditionally, northern New Mexico's primary illegal drug threat has been the transshipment and distribution of cocaine and black tar heroin. In recent years, however, the manufacture, transshipment and distribution of methamphetamine has developed into a significant, if not epidemic, problem in New Mexico. Mexican drug trafficking organizations smuggle bulk quantities of methamphetamine into the state from labs in Mexico and California. Law enforcement agencies have also discovered an increased number of methamphetamine laboratories being operated in the state. Two laboratories seized in 2000 were "super labs," capable of producing over ten pounds of the drug per production run.

In February 2001, the Albuquerque Division of the FBI, in conjunction with the DEA and local law enforcement agencies, culminated the first phase of a 16-month drug investigation with the arrests of 25 federal subjects and 35 state subjects. The subjects were members of a drug trafficking organization described as the primary source of cocaine in northern New Mexico. The organization was transshipping cocaine from Mexico and California to distribution organizations in northern New Mexico and other areas of California. The organization was also associated with two drug trafficking organizations on the FBI's National Priority Target List.

The FBI, DEA, NMSP and the various state and local law enforcement agencies continue to work closely together to target heroin distribution organizations operating in northern New Mexico. These investigations, in conjunction with "Operation Tar Pit," have greatly reduced the availability of black tar heroin and its associated crime problems. Also, multi-agency efforts targeting multiple organized criminal enterprises involved in drug trafficking show considerable result and only through a sustained multi-agency effort will LEAs be able to eliminate the distribution and use of heroin as a major drug problem in northern New Mexico.

INS RESTRUCTURING

Question. The Immigration and Naturalization Service's (INS) mission involves carrying out two primary functions. One is an enforcement function that involves preventing aliens from entering the United States illegally and removing aliens who succeed in doing so. The other is a service function that involves providing services or benefits to facilitate entry, residence, employment, and naturalization of legal immigrants.

Several critics have concluded that mission overload has impeded INS from succeeding at either of its primary functions and that INS' service and enforcement functions should be separated in order to better administer immigration law. Consequently, there have been several proposals to fundamentally restructure INS.

What is your view of how the federal immigration function should be organized in order to effectively and efficiently administer the Immigration laws?

Can you give this committee any idea of what kind of financial obligation the federal government might have to undertake in order to achieve the goal?

Answer. Recognizing that the Nation's immigration system must be significantly strengthened and with the support of Congress, in 1998 and 1999, the INS engaged in a comprehensive review of the way it does business with the purpose of developing proposals for the restructuring of the agency in such a manner as to ensure a balance between its dual critical missions of preventing illegal migration on one hand and providing services to those who wish to enter the country legally on the other. President Bush, in his "Blueprint for New Beginnings" which was issued in February recognized the challenges faced by the INS and proposed a splitting of the agency into separate enforcement and immigration services entities each reporting to a single policy leader in the Department of Justice. The costs related to implementing this restructuring have not been determined.

I am prepared to work closely with the Congress to ensure that those structural changes that are necessary for the INS to fulfill its vital enforcement and service

responsibilities more effectively are implemented in the most reasonable and cost effective manner possible.

Question. Although Congress has more than doubled INS' budget and staffing levels since 1993, INS has had ongoing problems both managing its programs and achieving results. For example, INS has clamped down in certain locations, such as San Diego and El Paso, but instead of deterring illegal immigration, these efforts seem to have simply shifted the illegal traffic to areas such as El Centro, California and Yuma, Arizona, as well as some significant trouble spots in my home state of New Mexico.

I am pleased to see that the new Administration will continue to support the Southwest Border Initiative in fiscal year 2002. One of the primary goals of this initiative is to respond quickly to the continuously changing locale of significant border problems. Whether it be funding for a new Border Patrol station or a new service processing center, the Southwest Border Initiative is a valued program that effectively deals with the complex world of immigration law.

I would be curious to know your views on the Southwest Border Initiative, both good and bad, and whether or not the Justice Department will continue to support this vital program in the future.

Answer. The Justice Department supports the Southwest Border Initiative as summarized in the President's blueprint for the fiscal year 2002 budget. The President's plan provides for 570 Border Patrol agents in each of fiscal year 2002 and fiscal year 2003, along with needed technology. The 1,140 new agents would complete staffing of the 5,000 new agents Congress authorized INS to hire beginning in fiscal year 1997 as part of the Southwest Border Initiative.

INS has been bringing the major corridors of illegal migrations under control, and is currently in Phase II (Tucson, Laredo, Del Rio, McAllen Sectors) of the Border Patrol National Strategy. The success of border control rests greatly on the combination of appropriate levels of Border Patrol agents, technology, and enforcement infrastructure. In fiscal year 2001, we are seeing indications that deterrence is working.

Unfortunately we are continuing to experience attempts to cross the most dangerous and remote areas of the border. These attempts have resulted in significant border safety issues. We have been working with many Mexican government officials to educate and discourage migrants from making these dangerous entries. The Border Patrol is being trained, and when needed, deployed to sites in order to act as rescue teams, to save lives when migrants don't heed these warnings or are lead into danger by smugglers that have no regard for human life.

COMBATING TERRORISM

Question. The Bush Administration has indicated that it intends to continue a plan based on a Clinton presidential directive from 1995 that outlines how the Federal Government intends to respond to terrorism, particularly acts that involve chemical or biological warfare. This plan also provides guidance for federal, state, and local agencies on preparing for and dealing with potential threats and incidents. The Federal Bureau of Investigation (FBI) and the Federal Emergency Management Agency (FEMA) will take the lead in handling domestic threats and acts.

Clearly, this is a very important issue and I certainly support the idea of funding efforts to protect all Americans from deadly acts of domestic terrorism.

Simply from a funding viewpoint, my question is this Mr. Attorney General—how will the Justice Department calculate its request for this initiative each fiscal year and, specifically, would the terrorist threat levels discussed in the strategic plan play a part in any one year's funding request? Put more simply, do you think funding for combating terrorism should be threat-driven?

Answer. The 5-Year Interagency Counterterrorism and Technology Crime Plan encompasses a program for national readiness to address a broad range of terrorist threats. To be effective, this program needs to be maintained consistently over time, rather than be a function of the variations in annual funding. While flexibility to respond to specific, emerging threats is necessary, consistent baseline funding for the broad range of potential threats is imperative.

LINKING DOJ'S BUDGET TO PERFORMANCE

Question. According to the 2002 budget, the Administration has mandated that agencies use performance-based budgeting on selected programs in the fiscal year 2003 budget cycle.

Under this mandate, agencies will be required to submit performance-based budgets for selected programs in the fiscal year 2003 budget process, the first time agencies have been required to tie their spending decisions to performance goals.

As you have discovered in your new position, the Department of Justice was among the poorest performers under the criteria by which performance plans were reviewed by the GAO as well as in the Mercatus evaluation.

Please tell me what specific steps you see necessary to improve the Department's performance plan and how this will be coupled to the new mandate.

Answer. Each year, the Department of Justice has worked to improve its performance plans and reports. Although last year's report was not favorably reviewed by GAO and the Mercatus Center, we are confident that our ratings will improve this year. In fact, on May 16 we received our score from the Mercatus Center on its review of the fiscal year 2000 Performance Report. The Department of Justice rose from 21st place to 5th place governmentwide; our score improved by 15 points. Notwithstanding this positive feedback, we will continue to work diligently to improve our performance plan for fiscal year 2003.

To improve the overall performance management process at the Department, I have established the Strategic Management Council. This Council will serve as the formal board within the Department to provide direction and leadership on long-range planning and initiatives. The Council will formulate and oversee the planning, programming and budgeting process for the Department. The Council will reinforce the linkages among the Department's Strategic Plan, Performance Plan, and budget process. Development of this Council marks the renewal of an integrated management system for the Department, and will ensure that the Administration's policies and priorities are successfully implemented.

Question. Do you have preliminary thoughts on which programs will be chosen for performance-based budgeting?

Answer. We are working with the Office of Management and Budget to determine which programs will be chosen for performance-based pilots. Preliminarily, we are considering the INS—benefits services, Bureau of Prisons—prison capacity, and counterterrorism as potential candidates for performance-based budgeting pilots.

CONTINUED OPERATING AND MANAGEMENT PROBLEMS FOR INS

Question. The U.S. Immigration and Naturalization Service has long been the target of inquiries concerning its operation and management.

Last week, the DOJ Inspector General (IG) released the results of a review which gathered information over the past 3 years concerning the INS' ability to account for weapons and computers. The DOJ IG noted that the agency could not account for 61,000 items worth about $70 million. These items included 539 weapons and 12,000 laptop, desktop, and notebook computers. The IG criticized the agency for its failure to require inventories of agency equipment and the failure of INS officials to "adequately safeguard property." It concluded, "without immediate corrective action, property will remain at substantial risk."

A number of these computer-related operating deficiencies were supposed to improve following the March 2000 IG report that also found serious deficiencies. Subsequently, extensive computer-training programs and an updated record-keeping procedure were implemented within the agency.

However, based on this IG finding and as you have discovered in this new position, these operating problems continue to persist.

Please tell me what specific steps you see necessary to improve the agency's performance in this regard.

Answer. The Office of the Inspector General (OIG) audit report finding is based on 1998 data. The Service has already taken steps to address the problems it identified in that report.

INS re-engineered the inventory process in 1998, reducing the administrative burden while focusing limited resources on high-risk, high-dollar property, including computers and firearms.

Since 1998, all personal property with an original cost of more than $5,000 and all firearms are inventoried annually. The accuracy of those inventories are certified by senior managers (i.e., Management Team members, District Directors, Chief Patrol Agents, etc.). The inventories are then independently reconciled and audited.

Of the 539 firearms the OIG identified as lost, stolen or missing, 43 weapons were found, 131 were confirmed as lost or stolen, and 87 were determined to be typographical or database entry errors. The remaining 278 cases are under investigation.

Other selected property, including all computer and related equipment with memory acquired for less than $5,000, is inventoried biennially. Those inventories are also certified as accurate by the Service's senior management. The first cycle of biennial inventories ended on September 30, 2000. Their accuracy will be evaluated through the INSpect program and property management reviews.

The INS has passed the Chief Financial Officers' Act audit for capitalized personal property each of the last 3 years.

The INS is implementing all recommendations from the OIG audit report.

Question. Do you consider these weaknesses as candidates for performance-based budgeting?

Answer. Contained within the INS Strategic Plan, under Strategic Objective 4.6, Immigration Infrastructure, is Program Strategy 4.6.4, "Maximize use of available and potential financial resources through improved controls over assets, payables and receivables". "Improved controls over assets", include all INS inventories and serve as the performance motivator driving the changes and improvements discussed above under question number one.

QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

OXYCONTIN

Question. As you may know, in recent months several states in the South and Midwest, including Kentucky, have witnessed an epidemic of illegal distribution and use of the prescription painkiller, OxyContin. Recently, there have been hundreds of arrests of OxyContin drug dealers in my home state of Kentucky. And the abuse of this controlled substance has already led to hundreds of deaths around the country and scores of fatalities in Kentucky alone. The illegal use and distribution of OxyContin is a serious problem for our country. Do you see the need for a federal role in the efforts to prevent the illicit prescription, sale, and use of this drug? If so, what is that role? More specifically, do you have any programs already established, or are you beginning to develop initiatives, to help deal with this problem? If so, what are they? What would you need from Congress to expand those programs or implement those initiatives?

Answer. The purpose of the Drug Enforcement Administration's Diversion Control Program is to prevent, detect and investigate the diversion of controlled substances from legitimate channels, while at the same time, ensuring an adequate and uninterrupted supply of controlled substances required to meet legitimate needs. The Chemical Diversion and Trafficking Act of 1988 extended this control to include those chemicals most often used for the manufacture and synthesis of drugs of abuse.

The Office of Diversion consists of diversion investigators, special agents, chemists, pharmacologists, program analysts and others. The office's activities include: program priorities and field management oversight; coordination of major investigations; drafting and promulgating of regulations; establishment of national drug production quotas; design and execution of diplomatic missions; United States obligations under drug control treaties; design and proposal of national legislation; advice and leadership on state legislation/regulation; legal control of drugs and chemicals not previously under federal control; control of imports and exports of drugs and chemicals; computerized monitoring and tracking the distribution of certain controlled drugs; providing distribution intelligence to the states; industry liaison and program resource planning and allocation.

Many of the narcotics, depressants and stimulants manufactured for legitimate medical use are subject to abuse, and have therefore been brought under legal control. Under federal law, all businesses which manufacture or distribute controlled substances, all health professionals entitled to dispense, administer or prescribe them and all pharmacies entitled to fill prescriptions must register with the DEA. Registrants must comply with a series of regulatory requirements relating to drug security, record accountability and adherence to standards.

The DEA is obligated under international treaties to monitor the movement of licit controlled substances across United States borders and for issuing import and export permits for that movement. The DEA also devises ways to deal with problems of international drug diversion. Diversion cases involve, but are not limited to, physicians who sell prescriptions to drug dealers or abusers; pharmacists who falsify records and subsequently sell the drugs; employees who steal from inventory; executives who falsify orders to cover illicit sales; prescription forgers and individuals who commit armed robbery of pharmacies and drug distributors. At present, the largest problem results from the criminal activity of physicians and pharmacy personnel.

OxyContin is manufactured exclusively by Purdue Pharma headquartered in Norwalk, Connecticut. It was introduced in 1996 and had total sales of $26 million in the first eight months. Sales now total $1 billion. OxyContin, which is manufactured in 10 milligram, 20 milligram, 40 milligram, 80 milligram, and 160 milligram tablets, is a 12-hour controlled-release form of the Schedule II drug, oxycodone. It is

legitimately prescribed for people with chronic moderate to severe pain, such as arthritis, back conditions, cancer, etc. It is also used post-operatively for pain relief. OxyContin has become the drug of choice in many pain management clinics. The controlled release formulation of OxyContin has become popular among drug abusers because (a) it contains larger and reliable doses of active ingredient; (b) the tablet formulation is easily compromised; and (c) prescriptions are often covered by the abuser's health insurance. It is referred to by abusers as "pharmaceutical heroin." Street names are "C", "Oxycotton" and "OC". OxyContin in toxic amounts causes respiratory depression and arrest.

The abuse of OxyContin in Kentucky has set off a wave of pharmacy break-ins, employee pilferage, emergency room visits and arrests of physicians and other health care workers. The Kentucky State Health Department Records show that the amount of OxyContin dispensed in the state almost doubled from 1999 to 2000. Kentucky now ranks 13th nationally in per capita consumption of oxycodone. The Kentucky State Division of Substance Abuse reports that up to 90 percent of the 1,100 people enrolled in the state's methadone program got there by using prescription drugs, particularly OxyContin. One Kentucky Police Department reports that OxyContin abuse has become so prevalent that 85 to 90 percent of their field work is OxyContin-related. The illegal selling price of OxyContin in southeast Kentucky is $1 per milligram plus $5 added to the total amount. Thus a 40 milligram tablet costs $45; an 80 milligram tablet costs $85. OxyContin 80 milligram tablets are being split in half and sold as two 40 milligram tablets. Law enforcement personnel in the state are now seeing some evidence of OxyContin coming from Mexico.

Initiatives have been taken in the state of Kentucky to deal with the OxyContin problem.

—The Governor of Kentucky appointed a task force consisting of several state law enforcement agencies to combat the illegal trafficking of OxyContin. Residents in 3 counties, Bell, Knox and Perry, have conducted meetings to discuss strategy in fighting the abuse. Bell County had such a large turnout that the meeting was held at a baseball field. One woman has spearheaded a grass root committee and formalized a petition to commit individuals to unite against this problem. Additionally, businessmen in Perry County have raised $20,000 to help in this fight and to educate people regarding the dangers of OxyContin abuse.

—Federally, the DEA has a district office located in Louisville, KY, 2 resident offices, (one in Lexington and the other in London, KY), and a Post of Duty in Madisonville, KY. These offices are staffed with 19 special agents, 7 diversion investigators, 2 intelligence specialists, 5 clerical assistants and 1 contract data analyst. DEA participates in a High Intensity Drug Trafficking Area (HIDTA) Intelligence Group and a Provisional Task Force operating out of the Appalachian HIDTA Headquarters in London. The DEA has played a prominent role in attempting to curb the OxyContin trafficking in Kentucky as shown in the following 3 cases:

  —A single physician responsible for the dispensing of over 79,000 dosage units of Schedule 2 drugs (primarily OxyContin) and over 1.7 million dosage units of Schedule 3 hydrocodone products was indicted in January, 2001. The doctor and his wife have pled guilty to charges of conspiracy and illegal distribution of controlled substances in federal court. Sentencing of the pair and additional indictments are pending.

  —A long standing "pill house" where pharmaceutical drugs were illegally bought and sold was investigated and the owners successfully arrested and prosecuted. The investigation resulted in 12 guilty pleas in federal court to conspiracy to distribute drugs or possession with intent to distribute. Property and cash with a value of over $1.5 million was forfeited last year.

  —A forgery ring involved in passing stolen hospital prescriptions for OxyContin has been identified and immobilized. Members of the organization, which included a registered nurse, were responsible for obtaining approximately 5,000 OxyContin tablets illegally. Indictments are pending.

The Assistant United States Attorney in Kentucky has established a 50 dosage unit criteria as the basis for prosecuting an OxyContin case. HIDTA has given money to local enforcement authorities to support their OxyContin investigations. DEA continues to work with federal, state and local law enforcement to identify doctors who are prescribing OxyContin excessively and has requested that the Kentucky Pharmacy Board notify all pharmacies to scrutinize OxyContin prescriptions before filling. They are also being reminded to report pharmacy thefts to DEA.

DEA is concerned over field reports of Purdue Pharma's aggressive marketing practices. It is reported that Purdue recruits doctors by giving them paid trips and speaking engagements at seminars sponsored by the company. These seminars are

designed to encourage the prescribing of OxyContin for pain treatment. In recognition of this nation-wide problem and in a show of support for DEA's endeavors, Purdue Pharma has voluntarily suspended further distribution of OxyContin 160 milligram tablets. Still, DEA has developed a four part OxyContin action plan on a national level. The elements of this plan are as follows:

—*Enforcement and Intelligence*.—Coordinated operations have been initiated in field offices to target individuals and organizations involved in the diversion and abuse of OxyContin. This includes coordination with federal, state and local agencies.

—*Regulatory and Administrative*.—DEA is utilizing the full range of its regulatory and administrative authority in pursuing action that will make it more difficult for abusers to obtain OxyContin. DEA will work closely with the Food and Drug Administration (FDA) to strongly urge the rapid reformulation of OxyContin by Purdue Pharma, to the extent that it is technically possible, in order to reduce the abuse of the product, particularly by injection.

—*Industry Cooperation*.—DEA continues to stress the importance of voluntary cooperation from industry in adhering to the spirit and substance of existing law and regulation. The agency is increasing its cooperative efforts with all levels of industry in order to stem the abuse and diversion of OxyContin. As the sole manufacturer of OxyContin, the cooperation of Purdue Pharma is integral to the success of DEA's action plan.

—*Awareness/Education/Outreach Initiatives*.—An aggressive, national outreach effort will be made to educate the general public, schools, the healthcare industry and state and local governments on the dangers related to the abuse of OxyContin.

The diversion and abuse of legitimate controlled substances continues to be a threat to the health and safety of the citizens of the United States. This type of diversion occurs mainly at the pharmacy/physician level of the pharmaceutical distribution chain. Numerous individuals and groups divert legitimate controlled substances using various fraudulent prescription schemes. Additionally, certain health care professionals become involved in this diversion and abuse through theft, overprescribing, prescription schemes and illegal sale.

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

DEPARTMENT OF JUSTICE RESPONSE TO INTERNATIONAL CRIME

Question. What types of international crime are of principal concern to the Department of Justice (DOJ), and what is the basis for this concern? In overall terms, given that there are likely to be competing demands among the different types of international crime that are of concern, how do you propose to set priorities in addressing these crimes?

Answer. The Department is particularly concerned about international organized crime and terrorist groups that engage in criminal conduct with direct effects on the United States and its citizens, including drug trafficking, terrorism, money laundering, and other traditional criminal activity. Emerging criminal areas such as cybercrime, including hacking, theft of intellectual property, child pornography, the infiltration of brokerages to manipulate stock markets, internet gambling, and the increasing infiltration of legitimate businesses are also areas of great concern.

The December 2000 inter-agency International Crime Threat Assessment is one of many resources relied upon by the Department in order to set priorities in addressing international crime. The Federal Bureau of Investigation, the Drug Enforcement Administration, and the Criminal Division also conduct more specific threat assessments, survey domestic and international field offices, review intelligence reporting, and liaison with foreign law enforcement organizations, in order to identify international criminal enterprises which pose the greatest threats to the nation.

The Department's priorities also emerge out of our on-going experience in addressing international crime, the principal dimensions of which can be summarized as follows:

—*Domestic Prosecution of International Crime*.—The United States Attorneys Offices and the litigating sections of the Criminal Division prosecute international criminal activity that violates our federal laws, including international organized criminal activity, narcotics offenses, money-laundering, cross-border fraud, transnational computer crime, alien smuggling, terrorist financing, and transborder trafficking in humans. The Criminal Division also provides critical technical assistance, oversight, and coordination for prosecutors in cases involv-

ing fugitives, money-laundering and forfeiture, and evidence located abroad as well as in multi-district investigations against international criminal organizations. The knowledge, experience, and lessons learned from these cases play a major role in helping define Departmental priorities.

—*International Prosecutorial Cooperation*.—DOJ's Criminal Division leads the development of international cooperation in prosecuting international crime. The Division negotiates all law enforcement treaties and agreements, including bilateral extradition and mutual legal assistance treaties, and multilateral treaties, such as the recently completed Transnational Organized Crime Convention and the United Nations International Convention for the Suppression of Terrorist Financing. In negotiating these treaties, the Criminal Division works in tandem with the Department of State and, where appropriate, other Departments. The Criminal Division is also responsible for the implementation of these treaties and agreements. In this latter capacity, the Criminal Division processes all outgoing and incoming requests for extradition and formal mutual legal assistance, on both the federal and state level; thus, the Criminal Division is the channel for law enforcement assistance beyond what can be rendered through informal police-to-police channels. In addition, in the areas of narcotics and money laundering, the Criminal Division conducts a rigorous bilateral case development program with several countries—primarily those within this hemisphere. In connection with terrorism matters, the Department conducts ongoing, bilateral case development efforts with numerous countries in Europe, Asia, North America and the Middle East. The Criminal Division also participates in numerous international fora, through which we work with our law enforcement partners to develop coordinated strategies to address particular problems in transnational crime enforcement and to bring collective pressure to bear on other nations to comply with important standards in combating international crime. More generally, the Criminal Division reviews, and provides advice on, sensitive international law enforcement issues. The Department's cooperative relationships with international counterparts provide valuable insights into the nature and extent of international crime threats and the effectiveness of measures to address them.

—*Responsibility for International Law Enforcement Training And Assistance*.—The Criminal Division provides technical legal and legislative drafting assistance, leadership and administrative support for rule of law development as it relates to training of foreign prosecutors and (together with federal law enforcement agencies) training and institutional development of foreign police and prosecutorial forces. This assistance includes not only developing and strengthening police, criminal investigative and prosecutorial institutions, and training of police, criminal investigators and prosecutors; but also advice in drafting modern criminal legislation that gives foreign police and prosecutorial agencies the statutory powers necessary for effective response to transnational organized crime. Much of this assistance is funded through the State Department, but also involves technical review from legal experts in the Criminal Division, funding from such sources as the Assets Forfeiture Fund, and participation in training sponsored by other law enforcement agencies. Through its prosecutorial and police institution building and training, the Criminal Division helps create more stable and effective foreign counterparts—counterparts that can fight crime within their own countries before it becomes an international threat, and that also can cooperate with the United States in fighting crime that already has crossed national boundaries. The exchange of information that occurs in the course of the Department's international training programs helps identify long-range law enforcement training and institutional development priorities.

—*International Efforts To Combat Public Corruption*.—As part of the 1998 International Crime Control Strategy, the Department has been actively involved in bilateral and multilateral efforts to address public corruption, including anti-corruption efforts of the Council of Europe (COE), including the COE's Criminal Law Convention on Corruption—signed by the United States in the Fall of 2000 and currently pending Senate ratification; the COE's Group of States Against Corruption (GRECO)—established in 1999 to monitor compliance with the COE's anti-corruption commitments and joined by the United States in the Fall of 2000; the Inter-American Convention Against Corruption—ratified by the Senate in the Summer of 2000; the South Eastern Europe Stability Pact's Anti-corruption Initiative, and the Global Forum on Fighting Corruption and Safeguarding Integrity. The Department's ongoing work includes negotiating international anti-corruption agreements and providing assistance relating to the implementation of these agreements, including significant participation in the development and implementation of effective monitoring mechanisms. The Depart-

ment's participation in international anti-corruption activities, in particular its role in anti-corruption mutual evaluation mechanisms, provides important information about the reliability and integrity of law enforcement counterparts, which can be used to identify enforcement priorities, target technical assistance and guide decisions about the appropriate extent of coordination and cooperation in particular cases.

Question. In specific terms, how does the Department of Justice intend to ensure that its response to international crime is fully coordinated and integrated among the Department's various components?

Answer. The Assistant Attorney General for the Criminal Division, directly and through his Deputy Assistant Attorneys General, will continue to play a leading role in ensuring that international criminal matters are fully coordinated within the Criminal Division and the Department as a whole. On high profile or particularly sensitive matters, the Office of the Deputy Attorney General and the Office of the Attorney General will continue, as appropriate, to have a direct role in coordinating the input from various internal components. In addition, internal coordination of specific international crime cases or issues is an integral and important responsibility of many Department components. For example:

—The Office of International Affairs (OIA) supports the litigating components of the Criminal Division, the United States Attorneys Offices, and state and local prosecutors in their investigation and prosecution of crimes with an international dimension. The OIA negotiates, brings into force, and utilizes extradition treaties, mutual legal assistance treaties, and other international agreements designed to facilitate the investigation and prosecution of international crime.

—The Special Operations Division (SOD) is a multi-agency body designed to identify and dismantle significant international and domestic drug trafficking and money laundering organizations. The Narcotic and Dangerous Drug Section (NDDS) directs and coordinates SOD investigations with Assistant United States Attorneys across the country to ensure that each district involved in a nationwide investigation is informed as to the actions taking place in the other districts and the interrelationship of each district in the overall criminal conspiracy.

—The Asset Forfeiture and Money Laundering Section (AFMLS) provides litigative support to the United States Attorneys Offices and investigative agencies in cases where the predicate crime for money laundering has concomitant money laundering offenses as well as providing legal support and assistance in forfeiture cases with international aspects.

—The Terrorism and Violent Crime Section (TVCS) coordinates multi-district terrorism financing investigations; provides advice, guidance and litigation support to United States Attorneys Offices pursuing terrorism financing investigations and prosecutions; and facilitates access to foreign evidence in support of these investigations.

—The Organized Crime and Racketeering Section (OCRS) supervises and coordinates organized crime prosecutions brought by its 23 Strike Forces in United States Attorneys Offices around the country, provides litigation support to the Strike Forces, and acts as a clearing house for the collection and dissemination of information vital to the investigation and prosecution of international organized crime groups violating federal law.

—For the last 3 years, the Computer Crime and Intellectual Property Section (CCIPS) has held meetings about every 6 weeks with a large interagency group (now with about 110 invitees) to inform other Departmental components and other agencies about CCIPS' international work. The existence of this group, and the many other meetings and communications that take place as necessary, ensure that there is effective coordination in the cybercrime area. In addition, CCIPS provides very frequent training and litigation advice to other components in order to disseminate current policy views and to keep them consistent.

—The Public Integrity Section plays a significant role in coordinating the views of the Department regarding international corruption matters. For example, the Section headed an interagency working group, which also included representatives from the Fraud Section, AFMLS, and OIA, charged with coordinating the Department's participation in the development and implementation of the Council of Europe's anti-corruption program. In addition, the Section heads an intra-agency working group of United States experts designated to conduct on-site mutual evaluations of GRECO member states. The Section is also coordinating preparation of the United States response to GRECO's evaluation of United States anti-corruption efforts.

Question. How does the Department of Justice propose to coordinate its response to international crime with the efforts of other federal agencies—such as the Departments of State and Treasury—to ensure, to the extent possible, that the response is focused, results-oriented, and sustained, and that the potential for bureaucratic overlap reduced?

Answer. The Assistant Attorney General for the Criminal Division, directly and through his Deputy Assistant Attorneys General, will continue to play a leading role in ensuring that international criminal matters are appropriately coordinated with other federal agencies. On high-profile or particularly sensitive matters, the Office of the Deputy Attorney General and the Office of the Attorney General, when appropriate, will continue to play a direct role in guiding inter-agency coordination. Most inter-agency coordination, however, will continue to occur routinely at lower levels. In this regard, the Department has developed a number of programs and mechanisms for the coordination of international criminal investigations and prosecutions, as well as working groups and other coordinating mechanisms to deal with specific international crime policy and program issues. For example:

Criminal Division

The Office of International Affairs (OIA) handles all international extradition and mutual legal assistance cases made by or to the United States. In concert with the State Department, OIA also negotiates, brings into force, and implements new extradition and mutual legal assistance treaties. In addition, OIA participates in the negotiation of other law enforcement treaties, conventions and agreements related to international criminal law. It also provides advice on international law enforcement issues. OIA also provides technical assistance in the form of training to federal, state, and local law enforcement authorities in the United States. Such training is primarily on international extradition and mutual legal assistance, but sometimes covers additional subjects related to international criminal law.

The Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), the International Criminal Investigative Training Assistance Program (ICITAP), NDDS, and AFMLS work with the interagency community to ensure appropriate United States support for Plan Colombia, including strengthening Colombian law enforcement and judicial institutions.

The Fraud Section is directing interagency feasibility studies to determine whether international coordinating bodies should be established for bank fraud and securities fraud.

The Fraud Section maintains close contact with the State and Commerce Departments, which regularly refer allegations of Foreign Corrupt Practices Act (FCPA) violations. In addition, the Section routinely consults with the State Department regarding potential enforcement proceedings.

The Fraud Section participates jointly with the State and Commerce Departments in the Working Group on Bribery in the Organization for Economic Cooperation and Development (OECD), which is responsible for the monitoring procedure under the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Negotiation of the Convention was the result of close coordination of the Justice, State and Commerce Departments, with additional coordination with the Department of Treasury and the United States Securities and Exchange Commission (SEC) on issues relating to taxation and securities law. The Justice, State and Commerce Departments work closely in the preparation of the annual reports to the House and Senate on the implementation of the OECD Convention.

The Organized Crime and Racketeering Section (OCRS) is responsible for coordinating enforcement programs involving traditional organized crime (La Cosa Nostra), Russian, Asian and Italian/Sicilian organized crime in this country with international ties and works closely with the Federal Bureau of Investigation (FBI) in various initiatives. In addition, OCRS coordinates with the following entities to combat international crime: Strike Force units in the United States Attorneys Office (USAO), FBI Organized Crime Unit, Drug Enforcement Administration (DEA), Customs, United States Secret Service, International Law Enforcement Academy (ILEA), ICITAP, OPDAT, State Department, SEC, Department of Treasury's Financial Crimes Enforcement Network (FinCen), United States National Central Bureau (InterPol), Federal Reserve, Central Intelligence Agency (CIA), National Security Council (NSC), Defense Intelligence Agency (DIA), President's Working Group on Trafficking in Women and Children, Italian American Working Group, Council of Europe/Working Group, Group of States Against Corruption (GRECO), and others.

The AFMLS coordinates with all federal law enforcement agencies responsible for implementing the National Money Laundering (ML) Strategy and participates in inter-agency working groups designed to address money laundering problems and

strengthen effective international forfeiture efforts, such as the inter-agency working group addressing the Black Market Peso Exchange and inter-agency efforts to trace, seize, and forfeit criminal proceeds of corrupt foreign officials. In furtherance of the ML Strategy, during recent years AFMLS, together with the Treasury Department, has coordinated and hosted three National Money Laundering Conferences, which provide an important forum for United States prosecutors and agents from around the country to exchange information and coordinate efforts for attacking international, as well as domestic, money laundering.

AFMLS leads inter-agency efforts with the Departments of State and Treasury to develop international sharing agreements with other nations and coordinates with them and appropriate law enforcement agencies in implementing our international sharing program. AFMLS also coordinates with agencies such as DEA on curricula and location for international training seminars on asset forfeiture for foreign law enforcement and provides instructors to United States law enforcement agency training sessions in order to develop sound international anti-money laundering and forfeiture techniques.

The Public Integrity Section has been called upon to represent the United States in international fora, including proceedings of the European Union, the Council of Europe, the Stability Pact for South Eastern Europe, and Global Forum II on Safeguarding the Integrity of Justice and Security Officials; issues addressed at these proceedings related to transnational crime, election campaign financing, codes of conduct for public officials, and other public corruption issues. The Section's expertise in developing and implementing international mutual evaluation mechanisms is further reflected in its key role in assisting State Department analysis and negotiations relating to the development of a peer review mechanism by members of the Organization of American States and in its coordination of the United States response to the on-going evaluation of United States anti-corruption practices being conducted by GRECO, the mutual evaluation mechanism associated with the Council of Europe's Criminal Law Convention on Corruption.

The Alien Smuggling Task Force coordinates regularly with the Department of State (most notably the Bureau of International Narcotics and Law Enforcement), the Department of the Treasury, the Department of Commerce, the Office of Government Ethics, and the United States Information Agency.

The TVCS, in cooperation with OPDAT and the Department of State, has developed a terrorism fundraising training curriculum for presentation to foreign government officials and responds to specific investigative requests via Mutual Legal Assistance Treaties (MLATS).

TVCS is assisting in the formulation of Treasury's new Foreign Terrorist Assets Tracking Center (FTAT) and, once FTAT is established, will coordinate closely with FTAT on behalf of federal prosecutors involved in investigating and prosecuting terrorist financing cases.

OPDAT develops and administers technical and developmental assistance designed to enhance the capabilities of foreign justice-sector institutions. In executing its mission, OPDAT coordinates with other federal agencies in the development of the inter-agency program development process and in ensuring that its activities are consistent with those of United States government entities responsible for responding to international crime.

Federal Bureau of Investigation and Drug Enforcement Administration

FBI executive management provides leadership to international crime working groups, and will continue its liaison with other federal agencies in an effort to coordinate efforts. With regard to its response to international crime, the FBI maintains effective communication with the State Department, the CIA, DEA, United States Customs Service (USCS), and the United States Secret Service.

The FBI details supervisors to the CIA and DEA in order to maintain its close relationship with these federal agencies. Further, the FBI will continue to expand its partnership with the DEA in the Special Operations Division (SOD), looking to increase coverage beyond the traditional drug trafficking arena into those areas of the world currently being dominated by organized crime groups.

Question. Also, recognizing that considerable law enforcement activity to counter international crime occurs in foreign countries, how does the Department of Justice propose to coordinate its efforts with its foreign counterparts?

Answer. The Department will continue to seek every appropriate opportunity to gain cooperation from other nations in its efforts to target international criminals, through a variety of agreements and treaties, as well as through face-to-face relationships with its foreign law enforcement counterparts. The Assistant Attorney General for the Criminal Division, his Deputy Assistant Attorneys General and Section Chiefs will continue to meet routinely with foreign law enforcement counter-

parts at home and abroad, in both bilateral and multilateral settings. These meetings not only address particular law enforcement issues, but also establish and promote personal relationships that facilitate future law enforcement cooperation and coordination.

Many components within the Department routinely work closely with foreign law enforcement officials in a variety of continuing contexts. For example:

Criminal Division

OIA handles all international extradition and mutual legal assistance cases made by or to the United States. OIA also negotiates, brings into force, and implements new extradition and mutual legal assistance treaties. In addition, OIA participates in the negotiation of other law enforcement treaties, conventions and agreements related to international criminal law. In addition, OIA provides technical assistance in the form of training to foreign law enforcement authorities. Such training is primarily on international extradition and mutual legal assistance, but sometimes covers additional subjects related to international criminal law. Office attorneys also participate on a number of committees established under the auspices of the United Nations and other international organizations that are directed at resolving a variety of international law enforcement problems such as narcotics trafficking and money laundering. The Office maintains a permanent field office in Rome.

Attorneys from OIA and other Criminal Division components routinely address visiting foreign officials in the United States in connection with such issues as the detection and prosecution of public corruption offenses, the investigation and prosecution of election crimes, the detection and prosecution of money laundering offenses, and the implementing of effective forfeiture procedures. For example, during the last few years the Criminal Division has made presentations to public officials from Egypt, Japan, Mongolia, the People's Republic of China, the Republic of Haiti, the Republic of Latvia, Turkey, Ukraine, Vietnam, El Salvador, France, Mexico, Mongolia, the Philippines, Poland, the Republic of Fiji, the Republic of Kyrgyz, Pakistan, the Czech Republic, Panama, Nigeria, Colombia, Italy, Germany, Australia, Canada, Bolivia, South Africa, Northern Ireland, Burkina Faso, Bangladesh, the Democratic Republic of Congo, Hungary, Russian Federation, Spain, Sri Lanka, and Tanzania.

NDDS focuses its litigating resources on dismantling and disrupting the drug trafficking organizations and their members that import and distribute wholesale quantities of drugs in the United States. The Bilateral Case Initiative (BCI), which began as a mechanism through which the DOJ and Colombian law enforcement conducted an unprecedented effort to investigate and prosecute the most significant traffickers in Colombia, has now been expanded to other countries in the region.

With the assistance of the United States Coast Guard and Department of State, NDDS is working with select foreign prosecutors and law enforcement to ensure that evidence derived from United States maritime enforcement activity is transferred in accordance with the host country's law to ensure effective host country prosecutions of transnational traffickers. In addition, we also provide technical assistance to trusted law enforcement organizations in selected host countries.

NDDS represents the Department at international organizations, such as the Organization of American States' Inter-American Drug Abuse Control Commission and the United Nations' Commission on Narcotic Drugs, which address drug trafficking at the international and regional levels. These organizations provide for multilateral consultation on important issues related to drug trafficking.

To assist foreign governments and United States officials stationed abroad, NDDS also prepares and distributes guidance on international law related to drug trafficking. Most notably, NDDS has recently updated the Manual for Compliance With The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

As if May 2001, 28 of the 34 signatories to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions have enacted implementing criminal laws, like the FCPA, prohibiting such bribery. The Fraud Section, which negotiated the Convention on behalf of the Department, has established relationships with prosecutors from the other OECD nations which will facilitate cooperation and mutual assistance in this area. The Fraud Section has also focused on the area of cross-border telemarketing fraud, and, since 1997, DOJ has co-chaired the United States-Canada Working Group on Telemarketing Fraud. The Working Group, of which the Fraud Section's Special Counsel for Fraud Prevention is the co-chair, meets annually. At the time of the Cross-Border Crime Forum conducted by both countries' law enforcement authorities, we met to review progress in relation to the Working Group's 1997 Report, share information on developments

relating to cross-border telemarketing fraud, and explore possible additional cooperative measures.

The Child Exploitation and Obscenity Section (CEOS) works toward obtaining the ratification and implementation of the United Nations Protocol to Combat Trafficking, and implementation of the October 2000 Trafficking legislation. The Section places a high priority on coordinating symposia with foreign officials because they develop personal commitments and necessary contacts that result in concrete advances and pave the way for joint investigations.

CCIPS coordinates international requests for emergency assistance in cases involving electronic evidence because of its subject matter expertise. It also receives a steady stream of foreign visitors and provides training for foreign officials in both the computer crime and intellectual property areas. Finally, CCIPS is a long-time and important participant in numerous international processes that deal with cybercrime or electronic evidence, such as the G8 High-Tech Crime Subgroup, the negotiations at the Council of Europe on a draft cybercrime convention, the Organization of American States, the United Nations, and so on.

ICITAP's efforts are focused on increasing the capacity of the recipient country to respond to these and other crimes and coordinates these efforts through the countries in which the training sessions are being held.

AFMLS coordinates anti-money laundering initiatives with foreign countries through the participation in multi-lateral anti-money laundering organizations: G–7 Financial Action Task Force (FATF); Asia Pacific Group (APG) on money laundering; Eastern and Southern Africa Anti-Money Laundering Group; Western and Central African FATF; South Africa; Organization of American States/Inter-American Drug Abuse Control Commission (CICAD); Council of Europe, Money Laundering Experts Group. AFMLS also participates with other foreign governments in anti-money laundering cooperative efforts with the banking industry, including: Offshore Group of Banking Supervisors; Bank Secrecy Act Advisory Group, and Law enforcement working groups, such as: CUORC—an FBI undercover Working Group, White Collar Crime Investigative Team (WCCIT)—a cooperative effort with New Scotland Yard; Black Market Peso Exchange (BMPE) Working Group and BMPE Multilateral Working Group.

Each year, AFMLS also sponsors and organizes a regional international conference on Forfeiting the Proceeds of Crime through which it brings prosecutors and police officials together to discuss practical techniques, legislation, and mechanisms to improve international cooperation in forfeiture cases. AFMLS participates in multilateral negotiations on forfeiture provisions of international conventions and on the Forfeiture Sub-Group of the G8 Senior Experts Group on Organized Crime (Lyon Group). In addition, AFMLS coordinates forfeiture and money laundering initiatives to strengthen our bilateral law enforcement relationships, through such efforts as the negotiation of forfeiture sharing agreements and the implementation of the Bilateral Mexican/United States Drug Control Strategy.

The Alien Smuggling Task Force works on the United Nations Protocol regarding Migrant Smuggling, PDD–9, as it relates to alien smuggling and on bilateral or regional agreements.

The Public Integrity Section (PI) worked closely with the State Department to organize the First Global Forum on Fighting Corruption and Safeguarding Integrity Among Justice and Security Officials, which was held in Washington D.C. in February 1999. The Section organized a plenary issue session on law enforcement issues and took the lead in preparing a statement of "Guiding Principles" in the fight against corruption, which were endorsed by the Forum and since have become an important component of international efforts to fight corruption.

PI also participates in ongoing anti-corruption efforts of the Council of Europe; the South East Europe Stability Pact; the Organization for Security and Cooperation in Europe; the Organization of American States; the Foreign Official Corruption Working Group (Kleptocracy); and the corruption subgroup of the State Department's International Initiative Against Corruption. This subgroup assisted in the preparation for the Second Global Forum on Fighting Corruption, which was held in the Netherlands in May 2001. Preparations for Global Forum III, to be held in Korea in 2003, are currently in the planning stages.

PI provides its international assistance at a number of international events, both to assist with the international initiatives cited above and to provide training and expertise. The Section's Election Crimes Branch also provides international assistance, participating in a Department-wide effort to provide enhanced training and law enforcement assistance to other nations. For example, during the past 2 years Section attorneys have represented the Department at international proceedings and training programs in the following countries: Turkey, Bosnia, France, Thailand,

Hungary, Argentina, Czech Republic, Cyprus, Venezuela, Ukraine, Bangladesh, Russia, and Kenya.

TVCS works multilaterally with the G8, the Organization of American States (OAS) and the United Nations in the development of coordinated international counterterrorism enforcement strategies and drafting of international counterterrorism conventions. TVCS also works bilaterally with numerous governments, including the United Kingdom, Canada, Australia, India, Israel and others, in developing and implementing effective bilateral counterterrorism enforcement strategies.

OCRS works with its Strike Forces, the FBI and OIA to reach out to foreign law enforcement structures to exchange information and obtain evidence with OCRS involving international organized crime. OCRS has been involved with international working groups seeking to combat international organized crime and has been active in working to effect laws and international guidelines for dealing with international organized crime. OCRS has also provided training and expertise to law enforcement groups in other nations.

Federal Bureau of Investigation

In an effort to improve the Federal Government's response to international crime, the FBI will continue to implement international crime control initiatives, such as:

—*Budapest Project*.—The FBI/Hungarian National Police Task Force has been established in Budapest, Hungary to identify emerging Eurasian criminal enterprise threats to the United States and to disrupt those enterprises before they can become entrenched in the United States.

—*Linchpin Initiative*.—In May 1999, Operation Linchpin was established to facilitate the sharing of information and operational leads, both domestic and foreign, between the law enforcement and intelligence community. Linchpin focuses on significant international criminal groups (e.g., Eurasian, Italian, and Asian organized crime). Several law enforcement and intelligence agencies, including the FBI, are involved in sharing intelligence at regularly scheduled Linchpin meetings.

—*Project Millennium*.—The FBI, along with law enforcement agencies from 23 other countries, have provided Interpol with the names and profiles of thousands of Eurasian organized crime subjects in order to establish a worldwide database that would allow participating countries to cross-reference and coordinate leads involving Russian and Eastern European organized crime members.

—*United States-Mexico Fugitive Initiative*.—An initiative with the Department of Justice and the Mexican Government, designed to improve procedures for obtaining provisional arrest warrants for fugitives that have fled to the United States from Mexico.

—*United States-Canada International Fugitive Initiative*.—DOJ, including FBI, USMS, and INS, the Royal Canadian Mounted Police and the Toronto Police Service, and INS exchange intelligence to improve efficiency in locating/apprehending fugitives who flee between the United States and Canada.

—The International Securities and Commodities Working Group was established to bring together individuals dealing in international markets, primarily through FBI Legal Attachés and their counterparts, to discuss ways to coordinate investigations effectively relative to United States and international financial markets.

—*Plan Colombia*.—DOJ is assisting Colombia in developing a comprehensive program to investigate kidnaping. This program will include the establishment of a Colombian law enforcement task force consisting of specially trained investigators. Where appropriate, the task force will work closely with the FBI, particularly in cases involving United States nationals. DOJ has also tasked the FBI with implementing a comprehensive training initiative designed to train law enforcement and military personnel from Colombia in anti-kidnaping investigative methods and procedures.

—Canadian Eagle is a joint initiative between the Canadian law enforcement agencies and the FBI targeting unscrupulous Canadian telephone marketers victimizing citizens of the United States, particularly the elderly. The FBI is working with the Royal Canadian Mounted Police and other police agencies to identify, investigate, and prosecute these individuals.

—The High Intensity Financial Crimes Area (HIFCA) Task Force is a Congressionally-mandated approach to addressing complex and egregious money laundering conspiracies in a task force environment. HIFCAs have been established in the New York/Newark, Los Angeles, San Juan, Phoenix, El Paso, and San Antonio Divisions. Applications for similar designations have been made by the San Francisco and Chicago Divisions.

—*Interpol Project Rockers*.—With respect to Outlaw Motorcycle Gangs, the FBI participates in the Interpol Project Rockers annual conference and take part in the Project Rockers Steering Committee. Representatives from Europe, Australia, and Canada also participate. The goal of the meetings center on efforts to evaluate and strengthen the international cooperation between the countries that are affected by criminal activities engaged in by Outlaw Motorcycle Gangs and its members.

—Project Stocar is a joint FBI/Interpol initiative to share and exchange data regarding international vehicle theft.

—Additionally, the FBI is working with seven European nations to develop an automated system to connect existing art theft databases.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

JUDICIAL NOMINEES

Question. Since the 1960s, American Presidents have used the American Bar Association (ABA) to "vet" judicial nominees. Some critics have long-criticized this practice, alleging that the ABA has become "too liberal" and that the ABA only "approves" liberal-leaning candidates. However, the Bush administration announced that it will no longer include the ABA in the nominee review, and has not released the judicial nomination process, which prior Presidents have done.

Further, during the Clinton Administration, some Republican Senators said that there was no need to fill the vacancies, despite overwhelming evidence of backlogged federal court dockets.

Do you think there is a need to fill all existing federal judicial vacancies?

Answer. The work of federal judges and the federal courts is vitally important to the efficient and fair administration of justice. There are currently 110 vacancies in the 862-member federal judiciary and the Administrative Office has received an additional 54 judgeships. I think it is initially important to fill existing vacancies in order to improve the administration of justice.

Question. Can you describe the process that the Bush Administration is using? Particularly, what is the role of the Justice Department in the judicial evaluation and selection process? What is the role of the White House in the judicial evaluation and selection process? Who is the "point person" at the Department of Justice and the White House for judicial nominations?

Answer. President Bush has announced his intention to fill over a hundred vacancies on the federal courts, vacancies which cause backlogs, frustration and delay of justice. I have also said that I will enthusiastically support the effort to fill quickly the current vacancies in the Article III courts with qualified men and women of integrity, who are committed to the rule of law, and who reflect the diversity of our country. Consistent with historical practice, I and other members of the Justice Department will provide assistance to the White House in evaluating potential nominees to the federal bench, to the extent requested to do so by the President. The Office of Legal Policy, headed by Assistant Attorney General, Viet Dinh, coordinates the Departments activities with respect to judicial activism.

Question. As a Senator, you were aware of the "blue slip" process in the judicial nominations process. Do you favor the blue slip process, as it is currently implemented?

Answer. As a former Senator, I have a deep respect for the Senate's constitutional obligation to "advise and consent" on judicial nominations, as well as for its prerogative to determine how to conduct its internal operating procedures. At the President's request, I will respect whatever procedure is agreed to by the Senators.

Question. Did you, or anyone at the Department of Justice, play a role in the White House's decision to exclude the American Bar Association from its traditional role in evaluating judicial nominees? Were you asked to give an opinion on this decision by the White House? What is your opinion of that decision? Do you think that any bar groups should play a role in evaluating potential nominees to the federal bench?

Answer. My understanding is that the Administration would no longer afford the ABA a preferential place in the judicial nomination process. The views of the American Bar Association, like those of any other interested group or person, will be considered as part of the judicial nomination process. I think it is entirely appropriate and valuable to the process for the views of any interested bar association, other legal organization or other interested group or person to be considered.

Question. The ABA Model Rules of Professional Conduct provide that attorneys should voluntarily provide 50 hours of pro bono legal services annually to those of

limited means. Do you think that this should be a criteria for the evaluation of judicial nominees? What groups or categories of citizens do you consider as "those of limited means?"

Answer. The provision of pro bono services by attorneys is a valuable and important responsibility. Candidates for judicial office should be evaluated on their experience and skills as an attorney, their demonstrated commitment to the rule of law, and their temperament.

COMMUNITY-ORIENTED POLICING SERVICES—"COPS"

Question. COPS was begun by President Clinton in 1994 to put 100,000 new officers on America's streets, and has provided municipal police departments with more than $9 billion in federal funds to help put an estimated 85,000 new officers on the streets in six years, COPS funds cover 75 percent of police salaries for three years, then the local departments pick up the costs. According to several government sources, it has made a significant reduction in crime, especially in Baltimore City.

The Bush Administration has severely cut funding for hiring more police officers, cut the $408,323,000 dedicated to hiring community police officers to $180 million, but all of that must be used for school "resource" (security) officers.

Do you have statistics showing that, on average across the nation, the crime rate on school campuses is higher than on the streets?

Answer. The Bureau of Justice Statistics' (BJS) National Crime Victimization Survey (NCVS) provides a uniform measure of school crime victimization nationwide through the self-reports of a nationally representative sample of persons aged 12 or older who indicate that they are attending a public or private school. Periodically, BJS together with funding support from the National Center for Education Statistics (NCES) in the Department of Education, supplements the standard NCVS screener and incident forms with supplementary questions for those respondents attending school. Supplements on school crime have been conducted in 1989, 1995, 1999, and 2001 with inter-supplemental years utilizing the standard NCVS instruments to provide annual estimates. The most recent BJS data on school victimization indicate that:

—Approximately 14 percent of crime victimizations nationwide occurred at a public or private school or on a college campus. This is based on an estimated 24,493,550 criminal victimizations nationwide in 1999 (excluding residential burglaries and all homicides), of which 3,322,775 were estimated to have occurred at school (see following table).

SCHOOL CRIME VICTIMIZATIONS—1999 ESTIMATES

Type of crime	Number of incidents	Percent at school	Est. No. school incidents
Selected personal and property crimes, total	24,493,550	0.136	3,322,775
Violent, total	6,723,930	0.151	1,015,313
Rape/sexual assault	381,400	0.052	19,833
Robbery	740,890	0.072	53,344
Aggravated assault	1,290,360	0.088	113,552
Simple assault	4,311,270	0.192	827,764
Property and other, total	17,769,620	0.130	2,307,461
Purse snatch/pocket-picking	206,090	0.148	30,501
Motor vehicle theft	1,068,130	0.016	17,090
Theft	16,495,400	0.137	2,259,870

—BJS estimates, for 1998, indicate that there were 43 violent victimizations and 58 theft victimizations occurring at school per 1,000 students aged 12 to 18. Of these, there were an estimated 9 incidents per 1,000 students of serious violent crime-rape, sexual assault, robbery, and aggravated assault. Per capita estimates of victimization incident rates in 1998 among students for victimizations which occurred away from school grounds were 48 violent, 46 theft and 21 serious violent incidents per 1,000 students aged 12 to 18. These data indicate that two-thirds of the serious violence experienced by students in 1998 occurred away from school grounds. However, over the period from 1992 to 1998, per capita rates of violent victimization and serious violent victimization of students

while at school have remained largely stable while the same rates for incidents occurring outside of school have declined.

—NCES reports, based upon data from 1993 through 1997, that teachers were the victims of thefts and violent crimes at school at a rate equal to 84 incidents per 1,000 teachers.

—In the 1997–98 school year, the Centers for Disease Control (CDC) reported 35 student homicides in public and private schools through high school—this would translate into about two-tenths of 1 percent of homicides and would obviously not alter the aggregate estimates on the attached spreadsheet. Data on school homicides are recorded by CDC in partnership with the Department of Education.

—Violent crime victimizations represent 27 percent of total crime victimizations nationwide, while property and other crimes comprise the remaining 73 percent. For school-related crime incidents, about 30 percent are classified as violent. While simple assaults comprise about 64 percent of all violent victimizations, in schools, simple assault accounts for 82 percent of violent victimizations.

—Though simple assault is the least serious violent crime, it is not a trivial matter. Such crimes encompass a broad range of behaviors from verbal threats, to bullying, to physical attacks that result in cuts, bruises, black eyes, chipped teeth, etc. The likelihood of injury in simple assault is greater than in aggravated assault.

This BJS analysis is based on data collected through the NCVS, which is the nation's primary source of information on criminal victimization. Each year since 1973, estimates of crime victimization are obtained from nearly 200,000 interviews with a nationally representative sample of residents aged 12 or older on the frequency, characteristics and consequences of criminal victimization in the United States. The survey enables BJS to estimate the likelihood of victimization by rape, sexual assault, robbery, assault, theft, household burglary, and motor vehicle theft for the population as a whole, as well as for specific segments. In contrast to other crime statistical programs, like the summary Uniform Crime Reporting Program administered by the Federal Bureau of Investigation, which collects data on crimes reported to law enforcement agencies, the NCVS includes information on crime not reported to the police. This question cannot be answered with the FBI's Summary Uniform Crime Report data because it does not include sufficient detail on where crimes reported to police take place.

Question. Although the Administration has characterized hiring law enforcement personnel as a "local issue," the Federal Government provides significant funding for other critical "local" issues such as domestic violence or community renewal/drug prevention programs such as "Weed and Seed."

How do you explain making an exception for the hiring of local police officers who are supposed to enforce those other programs?

Answer. With local expenditures on police and law enforcement totaling a projected $52 billion in 2001, it is clear that COPS and other DOJ grants play a relatively small role in the overall funding picture. However, in light of public concerns about crime in and around the nation's primary and secondary schools, the COPS Office will focus its hiring efforts on increasing the number of school resource officers (SROs) serving in our nation's schools. COPS, through the continuation of the COPS in Schools (CIS) program, will provide state and local law enforcement agencies an average of $116,000, and a maximum of $125,000, per officer over 3 years, to assist in hiring officers who become assigned to a school.

SROs are not required to enforce federal initiatives. Depending on the needs of the local jurisdiction, the SROs, funded through the CIS program, teach crime prevention and substance abuse classes, monitor and assist troubled students, and build respect and understanding between law enforcement and students. These officers also assist in the identification of physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies, which address criminal activity.

To date, through this highly successful program, the COPS Office has funded the addition of over 3,700 SROs who serve in their assigned schools, and it is estimated that by the end of 2001, the number of SROs funded will have grown to approximately 4,600. The $180 million in hiring funds requested in 2002 will allow for the funding and training of 1,500 SROs. If CIS applications fail to total $180 million, the COPS Office will continue to fund up to the amount available, within the $180 million, the hiring of general community policing officers by providing up to $75,000 per officer over 3 years.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

BOYS AND GIRLS CLUB

Question. In fiscal year 2001, Congress appropriated $60 million to the Boys and Girls Clubs of America for grants to Boys and Girls Clubs across the nation within the Department of Justice's programs for state and local law enforcement assistance. In Vermont and around the country, Boys and Girls Clubs are a proven and growing success in preventing crime and supporting our children. What was the rationale behind the Administration's decision to not request funding for Boys and Girls Clubs within the Department of Justice budget submission.

Answer. Since 1996, funds appropriated for the Local Law Enforcement Block Grant (LLEBG) program have included an earmark specifically for B&GCA. To date, the LLEBG program has provided over $200 million in resources directly to B&GCA. The $60 million earmarked in fiscal year 2001 was 11 percent of the total—slightly larger than the combined estimated LLEBG allocations for New York, North Carolina, and Georgia. Only California received a larger amount of funding.

In 2002, the Department made difficult funding decisions, which included redirecting existing resources to address basic law enforcement operational needs, such as increasing detention and incarceration capacity. As a result, some programs, such as LLEBG, were reduced. To help maximize the funding available for state and local law enforcement agencies, the Department's budget request does not earmark any LLEBG funds for specific grant projects or non-federal organizations such as the Boys and Girls Clubs, no matter how worthy. This same principle was applied to the other Office of Justice Program (OJP) grant programs, both competitive and formula-based.

Question. In 1997, I was proud to join with Senator Hatch, Senator Gregg and others to pass bipartisan legislation to authorize grants by the Department of Justice (DOJ) to fund 2,500 Boys and Girls Clubs across the nation from fiscal year 1998 to fiscal year 2001. Would you recommend that Congress authorize grants by the Department of Justice for fiscal year 2002 to fund additional Boys and Girls Clubs around the country?

Answer. While the Department of Justice has taken no forward position on this bill, it recognizes the importance of the B&GCA, which provide millions of at-risk boys and girls with a full and fair opportunity to lead productive and meaningful lives.

Since the enactment of Title IV of the Economic Espionage Act of 1996, intended to provide $100 million to the B&GCA for establishing 1,000 additional local Boys and Girls Clubs, Congress has earmarked more than $200 million of LLEBG, including $11 million the year before the law was enacted. Through 2001, 875 new clubs have been established.

In addition to the LLEBG funds, nearly $37 million has been awarded by OJP from fiscal year 1992 through fiscal year 2001 to B&GCA and individual Boys and Girls Clubs through various grants from the Bureau of Justice Assistance, the Executive Office for Weed and Seed, the Violence Against Women Office and the Office for Juvenile Justice and Delinquency Prevention.

In fiscal year 2002, DOJ has made many difficult internal decisions on the use of limited, valuable resources. The LLEBG was reduced so that law enforcement operations and federal prisons could be more strongly supported, and with that reduction, the B&GCA earmark was eliminated. In making these decisions, also considered were DOJ's long-standing policy not to re-request Congressional earmarks as part of the President's annual budget and the desire to provide maximum flexibility to state and local law enforcement agencies in their use of the remaining funds.

BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM

Question. Last year, Senator Campbell and I authored and Congress passed the Bulletproof Vest Partnership Grant Act of 2000 (Public Law 106–517) to authorize $50,000,000 for the Bulletproof Vest Partnership Program for fiscal year 2002 within the Department of Justice programs for state and local enforcement assistance. In its first 2 years of operation, this program funded more than 325,000 new bulletproof vests for our nation's police officers, including more than 536 vests for Vermont law enforcement officers. The demand for bulletproof vests under this program has far exceeded the program's resources. For example, last year, state and local law enforcement agencies requested more than $80 million in grants under the program's $25 million budget. But President Bush's budget requests only level funding for this program in fiscal year 2002. What was the rationale behind the Administration's decision to request only half of the authorized funding level for the Bul-

letproof Best Partnership Grant Program within the Department of Justice budget submission?

Answer. The Bulletproof Vest Partnership Program is designed to protect the lives of law enforcement officers by helping state, local, and tribal law enforcement agencies provide officers with armor vests that comply with the National Institute of Justice's ballistic or stab-resistant standards. The program pays up to 50 percent of the total cost of each vest. Participating jurisdictions have 4 years beyond the year of the approved application to request reimbursement for authorized purchases. At the end of fiscal year 2000 (the second year of the Bulletproof Vest Partnership Program), approximately 94,000 vests had actually been purchased. In 1999, 3,510 jurisdictions participated in the program, and 3,586 jurisdictions participated in 2000.

Because of the overall funding constraints, not every Justice grant program can be funded at its fully authorized level. Most funding increases in the 2002 DOJ budget for state and local law enforcement assistance are for implementing the President's crime prevention and public safety initiatives.

The 2002 request of $25.4 million is consistent with amounts appropriated for the first 2 years of the program. In 2000, $25 million was appropriated for the Bulletproof Vest Partnership Program, and in 2001, $25.4 million was appropriated. Regardless of the funding level, the acquisition of body armor is primarily a state and local responsibility. By continuing funding at the current level, the Department of Justice can continue to assist jurisdictions in the greatest need.

COMPUTER CRIME ENFORCEMENT ACT

Question. In 2000, Senator DeWine and I authored and Congress passed the Computer Crime Enforcement Act (Public Law 106–572) to authorize $25,000,000 for fiscal year 2002 within the Department of Justice programs for state and local law enforcement assistance. But President Bush's budget fails to request any funding for this program. What was the rationale behind the Administration's decision to not request any funding for the Computer Crime Enforcement Act within the Department of Justice budget submission?

Answer. The Computer Crime Enforcement Act was passed on December 28, 2000, which was too late in the 2002 budget process to be considered in the formulation of the 2002 President's budget. However, existing programs assist state and local law enforcement activities in deterring, investigating, and prosecuting computer crimes. These include:

—Funding for the National White Collar Crime Center, which provides training and support for investigations of computer crimes, and operates the Internet Fraud Complaint Center in conjunction with the FBI.

—The Missing Children's Program includes the Internet Crimes Against Children Task Force program, which helps participating state and local law enforcement agencies prevent, interdict or investigate online enticement and child pornography cases.

—The Bureau of Justice Statistics administers the Cybercrime Statistics Program, intended to measure changes in the incidence, magnitude and consequences of electronic or cybercrime.

—Byrne Formula Grant funds may be used to support computer crime investigation and enforcement activities.

—The Regional Information Sharing System provides information and intelligence services to state and local criminal justice agencies, enhancing their ability to identify, target and remove criminal conspiracies and activities spanning jurisdictional borders.

—The National Institute of Justice provides onsite and other technical assistance to state and local officials on investigation and enforcement of cybercrimes.

—The Computer Crime and Intellectual Property Section (CCIPS) works closely with state and local law enforcement agencies to help them develop their own abilities to investigate and prosecute cybercrime. Moreover, CCIPS has attorneys on duty daily to respond to questions from state and local law enforcement agencies.

—The United States Attorneys' Offices are provided resources for their Computer Crime and Intellectual Property Initiative to prosecute hackers and computer criminals. Each U.S. Attorney's Office (USAO) has at least one Computer and Telecommunications Coordinator (CTC) investigating and prosecuting high-tech crimes. CTCs also provide training to local law enforcement.

VIOLENT OFFENDER INCARCERATION PRISON GRANT PROGRAM

Question. In fiscal year 2001, Congress appropriated $225 million for the Violent Offender Incarceration Prison Grant Program within the Department of Justice's programs for state and local law enforcement assistance. But President Bush's budget fails to request any funding for the Violent Offender Incarceration Prison Grant Program. What was the rationale behind the Administration's decision to not request any funding for the Violent Offender Incarceration Prison Grant Program within the Department of Justice budget submission?

Answer. The Violent Offender Incarceration Prison Grant Program was established in 1996 to encourage states to enact truth-in-sentencing laws that require violent criminals to serve at least 85 percent of the sentence imposed by the court. Federal grant resources were provided to build or expand correctional facilities to increase bed capacity for the confinement of violent offenders.

Since 1996, the Violent Offender Incarceration Prison Grant Program provided more than $2.3 billion to the 50 states, the United States territories and the District of Columbia. In 2000, nearly 24,800 new beds were constructed, exceeding the target of 15,000 new beds. At the same time, the state prison population is beginning to stabilize.

To date, 30 states have enacted the required truth-in-sentencing legislation. Five years have elapsed since the inception of the program, giving states ample time to consider the costs and benefits of this legislation, and no state has enacted such legislation since 1999. Recent data from BJS also shows that the state prison population has begun to stabilize, growing by just 1.5 percent last year. Consequently, OJP believes the program has accomplished its mission, and no funding is requested for this purpose in 2002.

However, funds are requested for Indian tribes to construct jails on tribal lands ($35.191 million) and for the United States Marshals Service Cooperative Agreement program ($35 million) as stand-alone independent programs. These had been funded previously under the Violent Offender Incarceration Prison Grant Program.

ENFORCING UNDERAGE DRINKING LAWS PROGRAM

Question. In fiscal year 2001, Congress appropriated $25 million for the Enforcing Underage Drinking Laws Program (EUDL) within the Department of Justice's programs for state and local law enforcement assistance. But President Bush's budget fails to request any funding for this program. What was the rationale behind the Administration's decision to not request any funding for the Enforcing Underage Drinking Laws Program within the Department of Justice budget submission?

Answer. Since 1998, $25 million has been earmarked out of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Title V funding for this program. In 2002, the Department was faced with internal funding decisions in trying to address basic law enforcement needs and other Administration priorities. As a result, entire programs or portions of programs were redirected. Within OJJDP Title V, the budget process proposes to allocate $37 million to help carry out the President's Project ChildSafe pledge, which will make child safety locks available for every handgun in America by 2006. When combined with funding in the Juvenile Accountability Block Grant program, a total of $75 million will be available for this effort in 2002.

States may choose to direct resources from other OJP programs to continue efforts initiated under EUDL. Funds available under OJJDP's Part B Formula grants, Part E State Challenge grants, Title V Incentive grants, and the Juvenile Accountability Incentive Block Grant (JAIBG) program may be targeted for the same or like purposes as EUDL.

DNA ANALYSIS BACKLOG ELIMINATION ACT

Question. In 2000, Congress passed the DNA Analysis Backlog Elimination Act of 2000 (Public Law 106–546) to authorize $65,000,000 for fiscal year 2002 within the Department of Justice programs for state and local law enforcement assistance. But President Bush's budget requests only $35 million for this program. What was the rationale behind the Administration's decision to request $30 million less than the authorized funding level for the DNA Analysis Backlog Elimination Act within the Department of Justice budget submission?

Answer. In 2002, the President's budget includes a total of $70 million in resources to support DNA backlog activities and crime lab improvements:

—A total of $35 million is requested for activities authorized under sections 2(a)(1) and 2(a)(2) of the DNA Analysis Backlog Reduction Act of 2000. Of this amount, $10 million is for the reduction of the DNA convicted offender backlog and $25 million is for the reduction of the DNA backlog in cases that have no

known suspects. These are sufficient amounts to address the population of the national DNA database as private DNA labs are not yet able to process a higher level of sample analyses.

—An additional $35 million is requested for the Crime Lab Improvement Program (CLIP), which is an existing program authorized under the Omnibus Crime Control and Safe Streets Act of 1968. CLIP provides discretionary grant resources to improve the general forensic capability and capacity of state and local crime laboratories to conduct DNA and forensic analyses. Although not specifically authorized under the DNA Analysis Backlog Reduction Act of 2000, CLIP resources are available for purposes included under Section 2(a)(3) the Act.

—The fiscal year 2002 budget reflects a decision to provide significant funding increases for the existing Crime Lab Improvement (CLIP) and DNA Backlog Reduction Programs. Total funding for these 2 programs goes from $30 million in fiscal year 2001 to $70 million ($35 million each) in the fiscal year 2002 budget. This represents a 230 percent rate of growth, far exceeding that of most other OJP and DOJ programs.

PAUL COVERDELL NATIONAL FORENSIC SCIENCE IMPROVEMENT ACT OF 2000

Question. In 2000, Congress passed the Paul Coverdell National Forensic Science Improvement Act of 2000 (Public Law 106–561) to authorize $85,400,000 for fiscal year 2002 within the Department of Justice programs for state and local law enforcement assistance. But President Bush's budget fails to request any funding for this program. What was the rationale behind the Administration's decision to not request any funding for the Paul Coverdell National Forensic Science Improvement Act within the Department of Justice budget submission?

Answer. The Paul Coverdell National Forensic Science Improvement Act was enacted on December 21, 2000, late in the budget formulation process for fiscal year 2002. Although the President's fiscal year 2002 does not request funding for the grant programs authorized by the Coverdell Act, it does request more than $70 million to expand OJP's initiatives in support of state and local crime laboratories, including:

—$35 million for the Crime Lab Improvement Program (CLIP), which provides grants to state and local forensic science agencies to improve the quality and timeliness of forensic science services offered by state and local laboratories. CLIP funds are available for improving all analytical and technological resources of public crime laboratories; increasing crime laboratory access to specialized forensic services; and establishing a network for the allocation of forensic capabilities to critical investigations.

—Another $35 million to address the backlog of state convicted DNA and crime scene DNA samples that exist nationwide. The DNA data will then be added to the FBI Combined DNA Index System (CODIS) database, which provides information that help to solve crimes and convict individuals who threaten the safety of our citizens.

DATA COLLECTION PRACTICES

Question. In compliance with section 646 of the fiscal year 2001 Treasury-Postal Appropriations law, the Inspectors General of all federal agencies were required to submit reports to Congress on each agency's data collection practices. A third of the agencies have completed their reports and the results are quite disturbing. It seems that there are numerous government websites using these tracking "persistent cookies." In fact, the Department of Transportation announced that it has deleted these cookies after being identified as one of the worst offenders. The Department of Justice has not yet submitted a report on its data collection practices. Therefore, please provide details on the Department of Justice's use of "persistent cookies" in its data collection practices?

Answer. In January, the Department of Justice, Office of Inspector General (OIG), tested 56 Department internet sites and determined for all 56 sites tested, that no Department or third party "cookies" had been recorded. Based upon this review, OIG issued Audit Report #01–05, Review of Department of Justice Internet Sites, dated February 2001 (attached).

REVIEW OF DEPARTMENT OF JUSTICE INTERNET SITES

REPORT NO. 01–05, MARCH 13, 2001, OFFICE OF THE INSPECTOR GENERAL

Introduction

Internet sites can be powerful tools to inform the public about federal government activities and programs. These sites raise privacy concerns when they use "cookies", a primary method of compiling information and data about Internet users, to track the activities of users over time and across different sites.[1]

As a result of recently passed legislation, we are required to determine whether Department of Justice (DOJ) Internet sites or third parties working for the DOJ collect personally identifiable information from users that access DOJ Internet sites. Our review consisted of reviewing information provided by DOJ officials and limited testing of cookies for the DOJ Internet sites. We did not perform detailed tests to verify the information contained in the documentation. Thus, this report and the associated work was not performed in accordance with Government Auditing Standards (GAS), but was performed as an "other activity of an audit organization" pursuant to GAS 2.10.

Criteria

Office of Management and Budget (OMB) Memorandum M–00–13 (June 22, 2000), *Privacy Policies and Data Collection on Federal Web Sites*, stated that "cookies" should not be used at federal Internet sites, or by contractors operating the sites on behalf of agencies, unless there was clear and conspicuous notice; a compelling need to gather the data; and appropriate, publicly disclosed safeguards for handling "cookie"-derived information. In addition, the memorandum stated that the agency head must personally approve the use of "cookies."

The recently enacted Treasury and General Government Appropriations Act, 2001 (H.R. 5658, Section 646) (The Act) requires the Inspector General of each department or agency to report to Congress:

> any activity of the appropriate department or agency relating to—
>
> (1) the collection or review of singular data, or the creation of aggregate lists that include personally identifiable information, about individuals who access any Internet site of the department or agency; and
>
> (2) entering into agreements with third parties, including other government agencies, to collect, review, or obtain aggregate lists or singular data containing personally identifiable information relating to any individual's access or viewing habits for governmental and non-governmental Internet sites.

Methodology

In response to the OMB memorandum and The Act, we assessed DOJ written guidance related to web development and privacy policies, and prohibitions pertaining to collecting, reviewing, or obtaining data regarding individuals using DOJ Internet sites. In addition, on January 4, 2001, we tested the 56 DOJ Internet sites listed on the DOJ's Alphabetical List of Components with Internet Sites (see attachment) to determine whether the DOJ or third parties were collecting personally identifiable information related to any individual's access or viewing habits on the sites. To conduct our testing, we:

(1) Set the Internet browser to warn us if "cookies" were being sent, and we cleared the "cookie" log to ensure that the only entries were those from our test.

(2) Entered two sites known to set "cookies," msn.com and cnet.com, to ensure that the browser warning worked properly and the log recorded the "cookies." In both cases the browser warned us that cookies were being sent to our computer and asked whether we wanted to accept them. We accepted them.

(3) Examined the "cookies" log and, in both cases, the "cookies" were logged.

(4) Entered the 56 DOJ Internet sites to determine whether they would send "cookies" to our computer.

Results

DOJ Internet sites tested were not collecting, reviewing, or obtaining personally identifiable information relating to any individual's access or viewing habits at the

[1] "Cookies" are small software files placed on computers without a person's knowledge that can track their movement on an Internet site. Essentially, cookies make use of user-specific information transmitted by the Internet server onto the user's computer so that the information might be available for later access by itself or other servers. Internet servers automatically gain access to relevant cookies whenever the user establishes a connection to them, usually in the form of Internet requests.

time we tested the sites for "cookies." For all 56 DOJ Internet sites tested, we were neither warned nor asked to accept DOJ or third party "cookies," and, upon examining the browser's "cookies" log, found that no DOJ or third party "cookies" had been recorded.

Currently, DOJ organizations with Internet sites certify quarterly in writing to the Assistant Attorney General for Administration that they comply with OMB Memorandum M–00–13. This policy, as stated earlier, restricts but does not prohibit the use of "cookies."

However, we found no DOJ written guidance related to The Act's prohibition on collecting, reviewing, or obtaining personally identifiable information relating to any individual's access or viewing habits on DOJ Internet sites. While The Act did not specifically cite "cookies" as the prohibited method, many commercial Internet sites use "cookies" to do just that when a user accesses their site. Currently, DOJ organizations with Internet sites are not certifying to The Act's prohibitions on collecting, reviewing, or obtaining personally identifiable information relating to any individual's access or viewing habits on DOJ Internet sites. Rather, they are merely certifying to OMB Memorandum M–00–13's restricted use of "cookies." In our judgment, the current DOJ certification process should be expanded to include The Act's prohibition on collecting, reviewing, or obtaining personally identifiable information relating to any individual's access or viewing habits on DOJ Internet sites.

APPENDIX

ALPHABETICAL LIST OF DOJ COMPONENTS WITH INTERNET SITES REVIEWED FOR "COOKIES"

1. American Indian and Alaska Native Affairs Desk (OJP)
2. Antitrust Division
3. Attorney General
4. Bureau of Justice Assistance (OJP)
5. Bureau of Justice Statistics (OJP)
6. Civil Division
7. Civil Rights Division
8. Community Oriented Policing Services—COPS
9. Community Relations Service
10. Corrections Program Office (OJP)
11. Criminal Division
12. Diversion Control Program (DEA)
13. Drug Courts Program Office (OJP)
14. Drug Enforcement Administration
15. Environment and Natural Resources Division
16. Executive Office for Immigration Review
17. Executive Office for U.S. Attorneys
18. Executive Office for U.S. Trustees
19. Executive Office for Weed and Seed (OJP)
20. Federal Bureau of Investigation
21. Federal Bureau of Prisons
22. Foreign Claims Settlement Commission of the United States
23. Immigration and Naturalization Service
24. INTERPOL—U.S. National Central Bureau
25. Justice Management Division
26. National Criminal Justice Reference Service (OJP)
27. National Drug Intelligence Center
28. National Institute of Corrections (FBOP)
29. National Institute of Justice (OJP)
30. Office of the Associate Attorney General
31. Office of the Attorney General
32. Office of Attorney Personnel Management
33. Office of Community Dispute Resolution
34. Office of the Deputy Attorney General
35. Office of Dispute Resolution
36. Office of Information and Privacy
37. Office of the Inspector General
38. Office of Intelligence Policy and Review
39. Office of Justice Programs
40. Office of Juvenile Justice and Delinquency Prevention (OJP)
41. Office of Legal Counsel
42. Office of Legislative Affairs
43. Office of the Pardon Attorney

44. Office of Policy Development
45. Office of Professional Responsibility
46. Office of Public Affairs
47. Office of the Solicitor General
48. Office for State and Local Domestic Preparedness Support (OJP)
49. Office of Tribal Justice
50. Office for Victims of Crime (OJP)
51. Tax Division
52. U.S. Attorneys
53. U.S. Marshals Service
54. U.S. Parole Commission
55. U.S. Trustee Program
56. Violence Against Women Office (OJP)

RESOURCES FOR THE DEBT MANAGEMENT CENTER AND LAW ENFORCEMENT SUPPORT CENTER

Question. The detailed Department of Justice budget does not provide a breakdown for the Immigration and Naturalization Service (INS) Debt Management Center nor the Law Enforcement Support Center (LESC). The Debt Management Center, located in Vermont, processes all of the debt collections and bond audits for the INS providing increasing revenue for the Service.

The LESC, also known as the National Criminal Alien Tracking Center, provides local, state, and federal enforcement agencies with 24-hour access to data on criminal aliens. By identifying these aliens, the LESC alerts local INS offices to initiate expedited deportation proceedings. Since its inception in 1994, the Center has received more than 120,000 inquiries from law enforcement agencies and identified more than 72,000 aliens of which more than 30,000 were identified as having criminal records.

What is the Administration's budget request for the INS Debt Management Center and the LESC for fiscal year 2002?

Answer. The charts below reflect the base level fiscal year 2002 budget request for the INS Debt Management Center and the LESC. The data does not include inflation adjustments requested in the 2002 request.

Debt Management Center:	
Payroll	$3,976,203
Non-payroll	529,770
Total	4,505,973
LESC:	
Payroll	7,183,574
Non-payroll	6,816,426
Total	14,000,000

QUESTIONS SUBMITTED BY SENATOR HERB KOHL

PROJECT CHILDSAFE

Question. In the President's budget for the Department of Justice, $75 million is allocated to Projected ChildSafe—a program designed to give away child safety locks around the country. As you know, I've offered a bill to make child safety locks mandatory with every new handgun sold. At your confirmation hearing, we discussed this issue and you reaffirmed to Administration's support for such a measure should the Congress pass it.

I applaud the Administration's interest in child safety locks, yet I do have two significant concerns with the program.

We've recently learned from studies conducted by the Consumer Product Safety Commission (CPSC) that most child safety locks fail even the most basic tests. For example, the locks are easily picked, or the device as a whole falls off if the gun is dropped. Of 32 models tested by the CPSC, only two could not be opened with paperclips, tweezers or just by dropping them. In addition, in February more than 400,000 safety locks distributed nationwide by Project Homesafe were recalled when tests revealed they were defective. While I strongly advocate the mandatory sale of the locks, they won't do any good if they don't work.

Will Project ChildSafe include standards to ensure that locks being given away actually work?

Answer. The Department is committed to ensuring that any firearm safety device distributed under Project ChildSafe meets an adequate performance standard. We expect to only provide funds for safety devices that meet such a standard. The Department shares your belief, and the belief of others in Congress, that the reliability and effectiveness of firearm safety devices purchased with public resources must be ensured. We look forward to working with you further on this important matter.

Question. Of the $75 million being allocated to this program, half is earmarked from Title V crime prevention funds. When Senator Hank Brown of Colorado and I created the Title V program almost 10 years ago, we intended it to be a crime prevention program that gives localities significant flexibility to design ways to prevent juvenile crime. We did not intend for the money to be substantially earmarked by the Administration. In fairness, the Clinton Administration earmarked a much smaller amount of the money, but they made up for it by increasing Title V funding generally.

Please explain why Project ChildSafe should be funded by Title V and what you intend to do to make up for the shortfall in prevention funding that will result from this earmark.

Answer. Under the Title V Incentive Grants for Local Delinquency Prevention Program, the Department of Justice (DOJ) supports a broad range of prevention programs providing a variety of services to children, youth and their families, including recreation, tutoring and remedial education, work skills, health and mental health, alcohol and substance abuse prevention and leadership development. One of these prevention programs is Project ChildSafe, a key component of the Administration's initiative to reduce gun violence. Project ChildSafe will mitigate the risk of death and injury to children by making available safety locks for current gun owners.

The Department believes that this is a very important prevention program that does not create a shortfall in prevention funding, but instead fills an important need at the state and local level to prevent gun-related crimes and accidents among children.

PREVENTION PROGRAMS

Question. One way to ensure that Project ChildSafe is fully funded, yet Title V is still used for prevention programs, as it was intended, is to increase allocations to Title V. Studies show that every dollar spent on prevention funding yields direct savings of $1.4 to the law enforcement and juvenile justice system. Prevention funding should be at least equal to the amount spent on enforcement through the Juvenile Accountability Incentive Block Grant Program, in other words, $250 million.

Please tell me why prevention programs do not receive more funding. Please detail what percentage of the Department's overall budget is allocated for prevention programs.

Recently, my office surveyed all of the sheriffs and police chiefs in Wisconsin on a variety of law enforcement issues. The survey yielded some very helpful insights into what the officers on the font lines need from the Federal Government. Local authorities were almost unanimous in their belief that the Federal Government needs to increase its support for crime prevention programs. On average, the police in my state support spending at least one-third of federal money specifically on prevention.

Can you detail your plan for crime prevention programs and pledge to increase the resources required to be used for crime prevention programs for local police chiefs?

Answer. The Department of Justice will continue to support the efforts of state and local jurisdictions to prevent crime by providing national leadership, coordination and resources. The success of crime prevention efforts rest in large part on the efforts of state and local officials, particularly law enforcement agencies. To this end, the Department supports a range of programs and activities and has requested increases in several key prevention programs.

The Department's 2002 budget includes a $25 million increase for the Weed and Seed program (for a total of $58.925 million). This program assists communities in the development and implementation of comprehensive strategies to "weed out" violent crime, illegal drug and gun trafficking, and illegal gang activity and to "seed" their communities with crime prevention programs. To achieve this mission, the Weed and Seed program provides assistance to sites in designing comprehensive strategies to prevent and control crime, coordinates federal participation in cooperation with the United States Attorneys Offices and federal law enforcement agencies and other federal departments, and provides grant funding to communities to fur-

ther their strategies. The additional funding would be available to fund new sites as well as special emphasis programs at existing sites.

The budget also includes an $11 million increase (for a total of $73.861 million) for the Residential Substance Abuse Treatment (RSAT) Program, which assists states and units of local government in developing and implementing residential substance abuse treatment programs within state and local correctional and detention facilities in which prisoners are incarcerated for a period of time sufficient to permit substance abuse treatment. RSAT provides formula grant funding to states to assist them in implementing and enhancing substance abuse programs that provide individual and group treatment activities for offenders in residential facilities operated by state and local correctional agencies.

The Department's 2002 budget also continues to support the Drug Courts Program (for which $50 million is requested), which provides financial and technical assistance for states, state courts, units of local government, local courts, and Indian Tribal governments to develop and implement treatment drug courts that employ the coercive power of the courts to subject non-violent offenders to an integrated mix of treatment, drug testing, incentives and sanctions to break the cycle of substance abuse and crime. The drug court movement began as a grass roots, community-level response to reduce crime and substance abuse among criminal justice offenders.

Through Project Reentry, a collaborative effort with the Departments of Labor and Health and Human Services, DOJ will provide grants to assist communities in planning and implementing comprehensive reentry programs to address the full range of challenges involved in helping young offenders released from incarceration make a successful transition back to the community. In order to participate in this program, which is in its first year, prospective grantees must demonstrate a collaborative effort involving a variety of local government and community officials, as well as broad-based community support. In fiscal year 2002, $14.9 million is requested to continue Project Reentry.

The Office of Justice Programs (OJP), through its Office of Juvenile Justice and Delinquency Prevention (OJJDP), is responsible for administering Title V funding, which is dedicated to delinquency prevention efforts initiated by a community based planning process focused on reducing risks and enhancing protective factors to prevent youth from entering the juvenile justice system. The Title V Program encourages communities to develop community-wide, collaborative plans to prevent delinquency. Each community that participates in the program appoints a prevention policy board (PPB) made up of local representatives from social services; child welfare, health and mental health agencies; law enforcement, private industry; religious institutions; and civic organizations. The board assesses the risk factors that are putting children at risk and the protective factors that are helping keep them safe, then develops a comprehensive system of strategies that meets the needs of both children and the community. In fiscal year 2002, The Department has requested a total of $94.79 million for Title V programs, including $12.472 million for the Tribal Youth Program, $14.967 million for the Safe Schools Initiative, $5 million for Project Sentry; $37 million for Project ChildSafe; and $30.352 million for Title V Delinquency Prevention Program incentive grants.

The programs discussed above total $292.476 million. The President's budget includes $3,639.722 million in domestic discretionary funding for state and local law enforcement, and funding for the above-mentioned programs represents 8 percent of that amount. In addition to these targeted programs, states and units of local government may elect to use funding provided through Local Law Enforcement Block Grant, the Byrne Formula Grant, and the Juvenile Accountability Incentive Block Grant to fund a variety of prevention programs.

VIDEO GAMES

Question. Violence in the media returned to the spotlight this week with the release of the Federal Trade Commission's first follow-up report to its blockbuster findings released last fall concerning the marketing of violence to children. This week, Senator Lieberman and I also introduced legislation to bar deceptive advertising to children of adult-rated movies, music and video games. Since you took office as Attorney General, you have been vocal on a number of occasions about the need to curb children's access to violent video games.

As you may know, Senator Lieberman and I have closely monitored the video game industry for nearly a decade and have been pleased with the progress that we have encouraged. For example, there was no rating system at all in 1993. But now, in large part because of Congressional pressure, the video game industry has developed and adopted a rating system hailed by the Federal Trade Commission as the best in the entertainment industry. I hope to see further, significant progress

in the near tern, and would welcome the opportunity to work with you to promote meaningful change.

What pro-active, cooperative steps do you anticipate taking as Attorney General to reduce children's exposure to media violence?

Answer. The Department of Justice will continue its efforts to reduce the exposure of children to media violence by promoting programs that help parents control their children's access to such materials, that teach children to become more discriminating consumers, and that increase the involvement and assistance from professional groups such as the medical community who are concerned about the effects of media violence.

Specifically, the Office of Juvenile Justice and Delinquency Prevention is continuing to collaborate with the Federal Trade Commission (FTC) to help parents understand the media rating systems and the importance of monitoring their children's exposure to media violence. During the next few months, OJJDP will participate in the development, publication, and dissemination of materials based on the Federal Trade Commission's study, *Marketing Violent Entertainment to Children*. These materials are specifically geared to parents and the general public.

Another strategy of the Department of Justice is to limit the harmful effects of exposure to media violence by focusing on children themselves and programs that increase their "media literacy." Media literacy refers to critical thinking skills that enable youth to evaluate potentially harmful media messages and make better decisions on issues of violence and substance abuse in their own lives. Important work in this area is being supported by the Office of Juvenile Justice and Delinquency Prevention through its "Delinquency Prevention through Media Literacy" program. This research program is evaluating the effectiveness of the "Flashpoint" media literacy program, currently being offered by the District Attorney for the Eastern District of Massachusetts. As Attorney General, I wholeheartedly support an approach that directly enhances young peoples' capacity to reject violent media messages.

The Department will continue to expand its partnerships with professional associations who are dedicated to improving the safety and well being of our children. Plans are currently under way to support the work of the American Academy of Pediatrics to develop protocols to help pediatricians screen children for exposure to all forms of violence, including media violence.

Question. Last Fall's Federal Trade Commission report regarding the marketing of violence to children included a "Mystery Shopper Survey," which was funded in part by the Department of Justice. This survey gauges the degree to which retailers allow children to purchase violent products at their stores. The September report revealed that children ages 13 through 16 were able to buy violent, "Mature"-rated video games 85 percent of the time.

As the Commission prepares to release a follow-up report in September, will you commit to continue to fund these important Federal Trade Commission' s (FTC) efforts?

Answer. In the past 2 years, the Department of Justice and the FTC have built a strong partnership. The Department's support of the FTC study of Marketing Violent Entertainment to Children enabled the FTC to broaden its scope of inquiry and for the Department to provide critical information to parents and families. We anticipate that this collaboration will continue for as long as the need exists and funds are available.

ECONOMIC ESPIONAGE

Question. Almost 5 years ago, Senator Arlen Specter and I wrote the Economic Espionage Act. It created criminal penalties for the theft of proprietary economic information. As I am certain you are aware, there is a growing market for illicitly obtained company trade secrets. I am concerned based on reports that the Department of Justice is not placing enough emphasis on the enforcement of this act.

Please tell me how many prosecutions, indictments, and investigations have been launched under the Act and what type of resources are being allocated to its enforcement in your budget.

Answer. The Federal Bureau of Investigation, United States Attorneys, and Criminal Division are all actively involved in enforcement of copyright laws. Since the enactment of the Economic Espionage Act (EEA) of 1996, the FBI has increased the number of theft of trade secrets cases it has opened for investigation:

—On September 30, 1997, approximately 1 year after enactment of the EEA, the FBI had 702 pending and preliminary economic espionage cases;

—As of September 30, 2000, the FBI had 751 pending and preliminary economic espionage cases—an increase of 7 percent in 3 years.

—In 2001, the FBI has 626 ongoing pending and preliminary theft of trade secrets investigations. On average, over the past 3 years, the FBI has dedicated approximately 42 field agent workyears to address these issues.

As the number of theft of trade secrets investigations has increased, excluding foreign government involvement, there has been a corresponding increase in the number of indictments. The Computer Crime and Intellectual Property Section (CCIPS) of the Justice Department's Criminal Division is a leading proponent of the enforcement of the criminal copyright laws against software and Internet piracy. CCIPS has an active prosecution caseload of its own and regularly provides case support to United States Attorneys Offices nationwide.

—From 1997 to 1999, 26 of the FBI's theft of trade secrets investigations resulted in indictment.

—In 2000 alone, 27 theft of trade secrets investigations resulted in indictment. In other words, more theft of trade secrets investigations resulted in indictments in 2000 than in the previous 3 years combined.

—As of May 16, 2001, 14 theft of trade secrets investigations have ended with an indictment.

It should be noted that most defendants indicted as a result of a theft of trade secrets investigation are not indicted under Title 18, Section 1832, Theft of Trade Secrets. For a number of reasons, prosecutors often opt to indict these cases under other federal statutes, such as the wire fraud, mail fraud, interstate transportation of stolen property and fraud and related activity in connection with computer statutes and, in one instance, the federal extortion statute.

As the number of indictments have increased, so have the number of convictions. In every theft of trade secrets investigation that has resulted in an indictment, the defendant has either pled guilty or was found guilty following a trial.

—In 1998, 11 of the criminal theft of trade secrets investigations resulted in a conviction.

—In 2000, 18 theft of trade secrets investigations resulted in a conviction.

—Through May 2001, 21 cases have resulted in guilty pleas or guilty verdicts and eight are currently pretrial. One case was dismissed without prejudice at the request of the government.

As envisioned, the EEA has served to protect our national security and continued economic well-being by protecting trade secrets vital to virtually every sector of our economy. Noteworthy EEA prosecutions include:

—One of the first indictments filed under the EEA involved the conspiracy and attempt to steal the proprietary information about the anti-cancer drug Taxol developed by Bristol-Meyers. A district court opinion obligating the government to disclose certain trade secret information was reversed by the Third Circuit Court of Appeals, ensuring the protection of the trade secret. Defendant Kai-Lo Hsu pled guilty in July 1999.

—CCIPS attorneys brought the first EEA case to trial in the Eastern District of Ohio. A Taiwanese company, Four Pillars Enterprises, and 2 senior executives secretly hired a research scientist employed by the Avery-Dennison Corporation to provide Four Pillars with formulas and other proprietary information concerning the development of adhesive products. The defendants were found guilty of attempt and conspiracy to steal trade secrets. Four Pillars was sentenced to a fine of $5 million, the maximum fine permitted under the statute.

—Intel Corporation was the victim of trade secret theft when a prototype computer processing unit (CPU) was stolen from one of Intel's business partners. It was estimated that the chip manufacturer would lose up to $10 million if a rival corporation had obtained the prototype CPU before its introduction into the retail market. Two men attempted to sell the stolen chips, were arrested and pled guilty to conspiracy to steal trade secrets. One was sentenced to 60 months imprisonment and the other was sentenced to 77 months imprisonment, the longest sentence to date in an EEA case.

—Several weeks ago, two Japanese scientists were arrested and charged with stealing cell and genetic materials from a top medical laboratory in Cleveland conducting research into the cause and potential treatment of Alzheimer's Disease. The defendants conspired to transfer these materials to the Institute of Physical and Chemical Research, a quasi-public corporation in Japan operating under the jurisdiction and funding of the Japanese government. Charges alleging conspiracy and theft of trade secrets to benefit a foreign government and foreign instrumentality are still pending.

In these and other cases, the Department has acted aggressively to enforce the EEA and protect against economic espionage and the theft of proprietary information. This statute has been an important tool to address computer crime, protect company trade secrets, enforce intellectual property rights of businesses and private

citizens, and protect the economic vitality of the nation. For more information about Economic Espionage cases prosecuted by the Department, see the CCIPS website at www.cybercrime.gov.

COMMUNITY-ORIENTED POLICING SERVICE (COPS) FUNDING

Question. To be sure, there is much to like in this budget: for example, $35 million is set aside to reduce the DNA sample backlog—something I supported for years. However, this same budget trims a little too close in other areas.

Specifically, $247 million is cut from COPS Public Safety and Community Policing Grants Program. Of that, more than $228 million will be eliminated from the COPS Hiring Program. Your budget justification states that: "Overall, funding in this area will be reduced and redirected to other priority areas, notably technology grant programs."

Although the broader category of Crime-Fighting Technologies Program enjoys a $78 million increase—largely directed at programs for eliminating the DNA backlog or upgrading crime labs—but, the actual COPS Technology Grants program that goes to the local level is cut by nearly $47 million.

This just doesn't add up. A cut is a cut and that's exactly what's happening to COPS programs in your budget—both to hiring initiatives and technology grants programs.

The core principle of the COPS program was that a cop on the beat is the best way to catch criminals, prevent crime, improve the community and enhance the public trust and sense of safety. This principle was proven correct given the annual and dramatic drop in the crime rate since the passage of the 1994 Crime Act. Academic studies also bear this out. While I appreciate the role technology has to play in effective crime fighting, a computer is no substitute for a police officer.

How can you be sure that this is the right time to cut the budget for hiring more police officers, especially given the growing need for them, especially in small towns and rural areas?

Answer. In 2002, the Department of Justice will target limited federal resources to the most pressing needs of state and local law enforcement. Because the COPS hiring program has achieved one of its primary goals by providing funding for over 100,000 officers "on the beat," the fiscal year 2002 request proposes a lower level of funding for the direct hiring of state and local law enforcement officers. Other COPS programs encouraging the advancement of community policing practices, now used by departments serving 86 percent of nation's population, will continue at their fiscal year 2001 level.

In light of public concerns about crime in and around the nation's primary and secondary schools, the COPS office will focus its hiring efforts on increasing the number of school resource officers. COPS, through the continuation of the COPS in Schools (CIS) program, will provide state and local law enforcement agencies an average of $116,000, and a maximum of $125,000, per officer over 3 years, to assist in hiring officers who become assigned to a school.

Depending on the needs of the local jurisdiction, the SROs funded through the CIS program teach crime prevention and substance abuse classes, monitor and assist troubled students, and build respect and understanding between law enforcement and students. These officers also assist in the identification of physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies, which address criminal activity.

To date, through this highly successful program, the COPS Office has funded the addition of over 3,700 SROs who serve in their assigned schools, and it is estimated that by the end of 2001, the number of SROs funded will have grown to approximately 4,600. The $180 million in hiring funds requested in 2002 will allow for the funding and training of 1,500 SROs.

If CIS applications fail to total $180 million, the COPS Office will continue to fund up to the amount available, within the $180 million, the hiring of general community policing officers by providing up to $75,000 per officer over 3 years.

While the COPS Office has partnered with the nation's largest cities, more than 82 percent of our grants have gone to departments serving populations of 50,000 or less. Based on its authorizing statute (the 1994 Crime Act), the COPS Office in 2002 will continue to be required to spend 50 percent of its available hiring funds on law enforcement jurisdictions serving populations less than 150,000. Therefore, small towns and rural areas will continue to benefit from the hiring funds made available through the CIS program.

Question. What studies and analyses were prepared to lead you to the conclusion that cutting this program and emphasizing technology over people is the most efficient way to spend the remaining COPS dollars?

Answer. Through the COPS Office's interactions with over 30,000 grantees, encompassing 12,000 of the nation's 18,000 law enforcement agencies, several pressing and urgent concerns surrounding law enforcement communities have been identified. The Department, as well as the COPS Office, has consistently heard that given the reality of limited federal resources, what local law enforcement needs most is crime fighting technology. Technology, whether new or enhancements, will allow officers to work more efficiently, effectively, and safely in protecting our nation's streets and neighborhoods. In addition, as part of its "National Evaluation of the COPS Program," the National Institute of Justice found that COPS grantees expressed more interest in reapplying for the MORE technology grants than the Universal Hiring Program grants. The same survey also confirmed that on a dollar-for-dollar basis, MORE grants put more officers on the street.

The Department has responded directly to this need by developing the COPS InfoTech program. The COPS InfoTech program, a comprehensive technology program, has been designed to provide law enforcement agencies with the ability and the capacity to access time-sensitive information that is vital to analysis and expeditious investigation, apprehension of suspected offenders, sophisticated crime prevention, and recidivism reduction. However, unlike previous COPS MORE grants, agencies will not be required to track and show redeployment through timesavings. This change will make InfoTech grants easier to use and administer.

The COPS Office has a rich history of funding information technology systems. Since 1994, the COPS Office has funded several thousand state and local law enforcement agencies for information technology acquisition and implementation under the COPS MORE program, and the fiscal years 1998 through 2001 COPS Technology Programs. These projects range from the nation's very largest departments to the smallest, and include over 50 multi-jurisdictional or consortia projects. The COPS Office's proven track record and success in providing information technology funds and its knowledge of the history of these systems will provide new opportunities for innovation at the urban, suburban, and rural community levels.

Question. The budget seems to be emphasizing school resource officers. What are the criteria for selecting school resource officers as opposed to COPS on the beat?

Answer. In 2002, the COPS Office will continue to provide funds to state and local jurisdictions for the direct hiring of law enforcement officers. However, in light of the growing concern of crime in and around the nation's primary and secondary schools, the COPS Office will focus its hiring efforts on increasing the number of school resource officers (SROs) serving in our nation's schools. COPS, through the continuation of the COPS in Schools program, will provide state and local law enforcement agencies an average of $116,000, and a maximum of $125,000, per officer over 3 years, to assist in hiring officers who become assigned to a school.

If CIS applications fail to total $180 million, the COPS Office will continue to fund up to the amount available, within the $180 million, the hiring of general community policing officers by providing up to $75,000 per officer over 3 years through the Universal Hiring Program.

LAW ENFORCEMENT RESOURCES

Question. Wisconsin is under served in terms of federal law enforcement resources. From DEA, ATF, and FBI agents to federal prosecutors, Wisconsin significantly trails other states with similar populations. Yet, Wisconsin increasingly shares the same law enforcement concerns of other states. Over the past year, we added eight new DEA agents to Wisconsin—a 50 percent increase over the previous allocation. But that's still far less than other states with the same population.

In terms of FBI agents, cities with significantly smaller populations than Milwaukee have as many or more agents. Albuquerque has half the Milwaukee area's population, yet 28 more agents. Louisville has half Milwaukee's urban population, but almost the exact number of agents. Buffalo has several hundred thousand fewer residents, but 23 more agents.

Similarly, Wisconsin has less federal prosecutors than states of similar size. Missouri and Tennessee are about the same size as Wisconsin, but enjoy 80 to 90 percent more federal prosecutors.

Will you review the situation and work with me to address these disparities during this budget cycle?

Answer. There are many factors that influence the decision to allocate additional resources. An area's population may be one factor, but there are many more factors that weigh into resource allocation process at the Federal Bureau of Investigation (FBI), United States Attorneys (USA), and Drug Enforcement Administration (DEA).

Documented crime incidents is the primary factor considered by the FBI in determining the allocation of investigative resources. Other factors considered are regional characteristics, size of territory, number of resident agencies, the office's use of sophisticated investigative techniques, historical resource usage, and the presence of other law enforcement entities, as well as the region's population.

The state of Wisconsin's overall onboard FBI agent and support personnel complements have increased as follows from fiscal year 1996 to the current fiscal year 2001, as of May 15, 2001:

Fiscal Year	Agent	Support	Total
1996	66	58	124
1997	76	66	142
1998	75	70	145
1999	76	70	146
2000	78	68	146
2001	81	69	150

From fiscal year 1996 to the current fiscal year 2001: +15 agents, 22.7 percent increase.
From fiscal year 1996 to the current fiscal year 2001: +26 Total Personnel, 21.0 percent increase.

In addition, the United States Attorneys have a formal allocation process that is used to ensure each district is given the same consideration for receipt of new resources. Population and size are two criteria used in the allocation process.

The Executive Office for United States Attorneys establishes a working group composed of select United States Attorneys who examine relevant objective criteria and data prior to recommending additional resources for their districts. For example, before allocating the fiscal year 2001 positions for cybercrime, the working group examined statistical information regarding case activity and district-specific information for that program area. The district-specific information included: caseload and time data by program from the case management system, district size, average attorney work week, Assistant United States Attorneys workyears per 100,000 population, local/regional involvement, previous program related allocations, and law enforcement resources in the district which are dedicated to the program area at issue.

In examining the attorney caseload and time data for Eastern District of Wisconsin, the cases handled per attorney workyear are well within the national average for all districts. Using similar objective criteria, the working group recommended an additional attorney for both the Eastern and Western Districts of Wisconsin for firearms prosecutions.

The Drug Enforcement Administration (DEA) continues to implement additional steps to increase its presence in Wisconsin. The DEA will continue to conduct operational assessments to determine areas in the country that require the upgrade of existing DEA offices or the creation of new offices. These assessments are based on resource requests from senior DEA managers, input from state and local law enforcement officials, and budget allocations. Currently, DEA maintains offices in Milwaukee, Green Bay and Madison, Wisconsin.

In an effort to address the growing drug trafficking threat in the state of Wisconsin, DEA has taken the following actions:

—*Milwaukee Resident Office*.—In March of 2000, the Milwaukee resident office was upgraded to a district office. The office is currently staffed with 12 special agents, and 3 supervisory special agents. Of the 12 special agents assigned to the Milwaukee Resident Office, three agents are assigned to a High Intensity Drug Trafficking Area Task Force (HIDTA). These HIDTA agents participate in three separate drug enforcement initiatives. One agent is assigned to the Heroin Initiative managed by the Wisconsin Department of Narcotic Enforcement. A second agent is assigned to the South Side Gang Initiative, which is managed by the Milwaukee Police Department. In addition, the third special agent is assigned to the Common Thread Initiative, which is managed by the Federal Bureau of Investigation.

—*Green Bay Post of Duty*.—In June 2000, the Green Bay Post of Duty was upgraded to a Resident Office. The office is currently staffed with 2 special agents and 1 supervisory special agent.

These changes have resulted in the increase of special agent positions in Wisconsin from 15 in 1998 to the current level of 20 special agent positions.

In addition to the special agent positions, 19 positions were allocated for deputized DEA Task Force Officers in the state of Wisconsin. DEA has 6 diversion investigators assigned to offices in Wisconsin, who investigate methamphetamine crimes

and track the precursor chemicals necessary to produce methamphetamine. In an effort to address more efficiently the growing drug trafficking activities occurring in the northern part of Wisconsin, as well as the cities of Minneapolis-St. Paul, Minnesota, the Minneapolis-St. Paul Resident Office was upgraded to a District Office on June 21, 2000, resulting in the posting of 16 special agents and 21 DEA Deputized Task Force Officers. The DEA Minneapolis-St. Paul District Office has responsibility for conducting methamphetamine investigations and provides support to law enforcement agencies in eight counties in northern Wisconsin: Bayfield, Burnett, Douglas, Pierce, Polk, Sawyer, St. Croix, and Washburn.

DEA is in the process of conducting an assessment for deployment in Milwaukee, Wisconsin. DEA anticipates the Mobile Enforcement Team (MET) deployment for Milwaukee will commence in mid October 2001. The Operations Division in DEA Headquarters is expediting the process of upgrading the Madison Post of Duty to a Resident Office. A Resident Agent in Charge and 2 additional agents will be assigned to this office to supplement the 2 agents currently assigned in Madison. This will result in a total of 5 agents assigned to the Madison Resident Office, which would subsequently allocate more staffing and resources to pursue methamphetamine investigations.

I share your concern that every office be treated equitably in terms of the allocation of resources. It is precisely this concern that has led to establishing objective review procedures within the Department of Justice.

ANTITRUST ENFORCEMENT

Question. As a ranking member of the Judiciary Committee's Antitrust Subcommittee, I was pleased to see that the Antitrust Division is scheduled to receive an increase of funding of over $20 million, to nearly $141 million, for fiscal year 2002. I believe that it is vitally important that the Antitrust Division receive sufficient resources in order that it be able to carry out its mission to preserve competition in today's era of increasing corporate consolidation.

For what purposes do you propose to use this additional funding?

Answer. Additional funding is earmarked in the President's budget to bolster the Antitrust Division's merger enforcement program which has seen a dramatic rise in workload in recent years. The Division has worked hard to maintain its effectiveness in the face of a daunting number of filings, many of which involve global competitors and complex, competitive issues. Although the recent economic downturn has slowed merger momentum in 2001, most private sector analysts remain optimistic about the long-term health of the merger market.

Question. Which components and programs of the Antitrust Division will receive these funds?

Answer. The Division will direct additional resources to its Preservation of Competitive Market Structure program of which merger enforcement is a component part.

Question. Are there new types of investigations or sectors of the economy about which the Division plans to become more active?

Answer. There are several trends—globalization, deregulation, technological advancement, among others—which, taken together, are fundamentally altering the United States economic landscape and giving rise to new economic sectors, industries, and business practices. Keeping up with these changes has been and continues to be a significant challenge for the Antitrust Division.

Increasingly, economic activity, whether initiated in the United States or abroad, is global in scope. In fiscal year 2000, 32 percent of the preliminary investigations opened in the Division's merger enforcement program were international. The size and complexity of these deals demand the application of additional resources, not only in staff time but also in foreign travel, litigation support, and translation expenses.

Beyond the internationalization of merger activity, many recent mergers involve commodities, industries, or competitive issues, which are particularly complex and difficult to analyze. In recently deregulated industries (e.g., energy, utilities, airlines), there are typically significant antitrust issues associated with merger enforcement. In others (e.g., information technology, electronic commerce, telecommunications), the economic paradigm is shifting so rapidly that the Division must employ new analytical tools that allow it to respond quickly and appropriately. The Division must be vigilant against anticompetitive behavior in the new economy where the Internet and cutting-edge information technology are reshaping the way companies do business.

Question. Do you plan to hire additional attorneys, economists, paralegals, or other staff, and, if so, how many?

Answer. The $20 million program increase would cover base adjustments and fund an additional 113 positions, including 38 attorneys and 75 paralegals.

Question. More generally, how do you see this funding increase as improving the Antitrust Division's ability to better perform its mission?

Answer. The Division takes very seriously its mission to promote competition in the United States economy through enforcement of, improvements to, and education about antitrust laws and principles. The funding requested in our fiscal year 2002 budget will enable the Division to handle its merger workload faster and more efficiently while also maintaining a vigilant stance against anticompetitive behavior and practices. The ultimate beneficiaries of the Division's efforts are the American consumer and American businesses. We estimate that, since fiscal year 1998 when data was first available, the Division has saved consumers roughly $13.6 billion through its efforts in all three enforcement areas—merger, criminal, and civil nonmerger. By protecting competition across industries and geographic borders, the Division's work serves as a catalyst for economic efficiency and growth. Additional funding is needed to enable the Division to meet the challenges presented by an increasingly global and technologically advanced society and continue to safeguard competition and innovation.

BALLISTICS FUNDING

Question. Last year, I requested that the FBI receive $1.36 million to integrate the best features of the FBI's DRUGFIRE system and the Bureau of Alcohol, Tobacco, and Firearms Integrated Bullet Identification System (IBIS) into one national ballistics imaging system, NIBIN. The Conference Report passed last year stated that "the FBI may spend up to $1,364,000 for National Ballistics Integrated Ballistics Network (NIBIN) Connectivity." The President's budget makes no mention of these efforts continuing in fiscal year 2002. Is the FBI expending resources to integrate the two different ballistics testing systems in the one NIBIN network?

Answer. The FBI decided in 1998 that it would use Criminal Justice Information Services-Wide Area Network (CJIS–WAN) as the national telecommunications network for NIBIN connectivity. In December 1999, the FBI entered into a Memorandum of Understanding (MOU) with the Bureau of Alcohol, Tobacco and Firearms (ATF) to work together to implement the new unified NIBIN. Under that MOU, the FBI is responsible for installing and maintaining CJIS–WAN connections in all NIBIN locations, including approximately 59 ATF-sponsored sites which will require CJIS–WAN connections.

The success of NIBIN depends on the continued installation, operation, and support of the CJIS–WAN as the telecommunications network over which law enforcement agencies across the country exchange evidentiary information in violent crime cases.

During fiscal year 2001, the FBI is providing for the upgrade of existing telecommunications lines, racks, and routers for 130 NIBIN sites, fully utilizing the enhancement of $1.4 million received through the fiscal year 2001 Justice Appropriations Act. Additionally, the FBI is providing for the maintenance of all existing DRUGFIRE systems through base funding of $4.1 million, as none of the systems have been converted yet to the new unified system.

Question. Assuming that further resources will be necessary to complete this work, will you support further funding to accomplish a unified NIBIN network?

Answer. During fiscal year 2002, the FBI will provide for new installations and upgrades of telecommunications lines, racks, and routers for the remaining 77 sites and maintenance of all existing DRUGFIRE systems. The FBI anticipates spending all of the $1.4 million for NIBIN connectivity in fiscal year 2002.

For fiscal year 2003, it is anticipated that ATF will complete the replacement of DRUGFIRE systems. The NIBIN Board has decided that in order to provide remote diagnostics and maintenance on legacy DRUGFIRE regional databases, certain current DRUGFIRE units should remain networked via CJIS–WAN, even after the transition to NIBIN is completed. This means that maintenance and user support costs and CJIS–WAN communications costs must be paid by the FBI after the transition to NIBIN for a select number of DRUGFIRE units.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

BORDER PATROL AGENTS FOR THE NORTHERN BORDER

Question. Mr. Attorney General, I want to thank you for coming here to explain your proposed budget for the Justice Department.

I was happy to see you include increases for the enforcement of Violence Against Women Act (VAWA) and the United States Attorneys in your budget. However, I am concerned about decreases in many critical programs, such as Juvenile Justice Programs, the COPS program and funding for Indian Country.

I want to highlight one area of the Department of Justice (DOJ) budget that is very important to me and many of my colleagues.

The Border Patrol protects our nation from the influx of illegal aliens, identifies and apprehend criminals, and stops dangerous narcotics from crossing our borders.

Your budget proposes $75 million to fund 570 new Border Patrol agents in both 2002 and 2003, and includes further resources for technological improvements and intelligence units. I intend on helping you secure that funding.

Mr. Attorney General, I want to call your attention to a serious threat—both in terms of our national security and our efforts to stop the flow of illegal drugs into our country.

In recent years, we have neglected the real and growing needs of the Northern border.

Many of us would be shocked to know that our Northern border with Canada has only 280 Border Patrol agents for approximately 4,000 miles of border. In contrast, the Southwest border has nearly 8,000 agents for 2,000 miles. That is 4 agents for every mile in the South compared to 1 agent for every 14 miles in the north. The Southwest border has a need for Border Patrol agents, and we should not take resources away or shift the focus from the difficult situation that exists on the southwest border. Along with many law enforcement officers, I'm very concerned that international terrorists and drug smugglers are taking advantage of our inadequate security at the Northern border.

Most of the world's most dangerous terrorists groups have located "cells" of their organizations in Canada to have easy access to the United States.

It is far too easy for terrorists to live in anonymity on the Northern border so they can plan their attacks on the United States.

A year and a half ago, this threat of attack became a reality. In December of 1999, a suspected terrorist named Ahmed Ressam, was apprehended while trying to enter Washington state through Canada. He was carrying 100 pounds of bomb-making supplies, including a substantial amount of nitroglycerin. He had rented a room in Seattle near where a massive January 1st celebration was planned. A similar situation occurred in 1998, where a terrorist was apprehended in Brooklyn, New York, who entered the United States through Canada. He admitted he intended to conduct a suicide attack in New York.

Aside from terrorists, the Northern border has also become a major drug trafficking area.

We have been so successful on the Southwest border, that drug smugglers have begun to use the Northern border as the preferred method of bringing drugs into the country.

We can no longer allow the Northern border to be neglected. Our security and our efforts to curb the flow of drugs are at risk.

Mr. Attorney General, if we honor your request for more funding for border activities, are you committed to providing new agents and additional resources for the Northern border?

Answer. Thank you for your commitment to help secure funding for 570 new Border Patrol agents in both fiscal year 2002 and fiscal year 2003. We are committed to bringing needed staffing and resources, including the Integrated Surveillance Intelligence System (ISIS), and agent support equipment such as night vision goggles, pocket scopes and infrared scopes to all the borders of the United States. The Border Patrol Strategy for 1994 and beyond remains our blueprint for improving management of the border between the ports-of-entry and guides our deployment of resources to achieve the deterrence required for border control. In accordance with this strategy, we are working toward border control in 4 phases.

Phase I—Control San Diego and El Paso Corridors

Phase II—Control South Texas and Tucson Corridors

Phase III—Control Remainder of the Southwest Border

Phase IV—Control all of the U.S. Borders/Adjust to Flow

We are currently in Phase II of the strategy. As the Border Patrol Strategic Plan has matured, the Border Patrol's strategic efforts have been directed to areas of operational focus along the Southwest border: Operation Rio Grande (including Operation Hold-the-Line) in Texas, Operation Gatekeeper in California and Operation Safeguard in Arizona. The preponderance of staffing and resources will continue to be deployed to the southwest border through Phase III, where the highest levels of illegal entries are occurring. However, we do plan to deploy additional agents and

technology resources along the Northern border in both fiscal year 2002 and fiscal year 2003 to address compelling enforcement requirements.

In addition to the new agent positions being deployed to the Northern border in fiscal year 2001, we plan to increase our force-multiplying capabilities in 2 additional areas, technology (ISIS as mentioned above) and intelligence sharing. ISIS systems are being placed in the Blaine, Washington; Buffalo, New York; and Swanton, Vermont Sectors. The President's fiscal year 2002 budget calls for additional resources along the Northern border for establishing intelligence units. We support the request for these additional resources and ask that you help us secure this funding.

Overall, the national strategy has been successful, and we plan to follow through with the current phasing of the strategic plan. We will continue to monitor the situation along our Northern border and are prepared to adjust to any major shift in illegal cross border activity.

In an effort to maximize the effectiveness of enforcement resources along our Northern border, the Border Patrol participates in joint federal, state and local cooperative law enforcement initiatives. These include Project North Star, the Integrated Border Enforcement Team (IBET), and the Canadian Border Intelligence Center.

Project North Star was established to assist federal, state and local law enforcement organizations in counter drug operations along the contiguous border of the United States and Canada. The principal focus is to encourage and promote liaison between law enforcement agencies in both the United States and Canada through the exchange of ideas and information. This interaction benefits all participants by providing a mechanism for law enforcement agencies to coordinate their efforts, minimize conflicts between the various enforcement operations, and improve border-wide intelligence sharing, training and strategic planning.

The IBET was developed by our Blaine Washington Border Patrol Sector, and brings together law enforcement assets from the United States Customs Service, Royal Canadian Mounted Police and the United States Border Patrol. These enforcement resources mutually support one another in a coordinated effort that maximizes each agency's effectiveness in deterring and stopping cross border crime. This concept has been very successful in Washington and is being exported to other locations along the Canadian Border as well.

The Canadian Border Intelligence Center (CBIC) is a joint intelligence group located in the Swanton Vermont Sector Headquarters. The CBIC collects law enforcement sensitive intelligence from a wide variety of sources, which is then compiled, analyzed and disseminated to federal, state and local law enforcement agencies border-wide in both Canada and the United States.

These joint efforts were recently very successful in controlling the border during the Summit of the Americas Conference in Quebec, Canada. We believe that the Border Patrol is adequately prepared to meet its responsibilities in its overall focus on the Northern border. We will not neglect the Northern border in implementation of any of the phases of the National strategy.

SUBCOMMITTEE RECESS

Senator GREGG. The next hearing will be on Tuesday, with the Secretary of Commerce, Donald Evans.

Thank you.

[Whereupon, at 11:01 a.m., Thursday, April 26, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, May 1.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

TUESDAY, MAY 1, 2001

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

The subcommittee met at 10 a.m., in room S–146, the Capitol, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Hollings, Kohl, and Murray.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF HON. DONALD L. EVANS, SECRETARY

ACCOMPANIED BY:

BARBARA RETZLAFF, BUDGET OFFICER

SCOTT GUDES, ACTING UNDER SECRETARY, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Senator GREGG. We will start the hearing.

We appreciate the Secretary's attendance and thank him for his time. We know he has a busy schedule and appreciate his taking time out of his schedule to participate in this appropriations hearing.

I will reserve my opening statement. Senator Hollings, do you have a statement?

Senator HOLLINGS. No, thank you, Mr. Chairman. I think we can move right ahead and hear from the Secretary.

Senator GREGG. We would love to hear the Secretary's thoughts.

Secretary EVANS. Thank you, Mr. Chairman. I am delighted to be here.

I do have a formal statement that I would ask be inserted in the record. I will not bore you by reading that to you.

Senator GREGG. Absolutely; it will be.

[The statement follows:]

PREPARED STATEMENT OF DONALD L. EVANS

Thank you for the opportunity to appear before you to present the Department of Commerce's fiscal year 2002 budget request. Our focus, first and foremost, is funding the core missions of the Department and its bureaus. Thus, the President's budget request proposes increases only in those areas that are critical to promoting

economic growth, technological competitiveness, trade monitoring and compliance, and natural resources management.

The fiscal year 2002 budget request for the Department of Commerce is $4.75 billion, $381 million less than in fiscal year 2001. The request includes $97.6 million for adjustments-to-base. We are also requesting $9.7 million to restore security funding in each of the bureaus. This request will ensure adequate funding to provide nationwide security services including guard contracts, background investigations, information security, and counterintelligence activities.

Departmental Management (DM) requests $37.7 million to provide headquarters policy and oversight for the bureaus. Although no program increases are proposed in fiscal year 2002, $4 million in the base will fund the following digital department projects: $2.5 million to provide real time computer help desk support; $1.25 million to allow for digital signature capability on electronic documents; and $0.25 million for a voice over Internet protocol pilot that would utilize one telephone line for voice and data transmission. These requirements are important not only to fully utilize the new technology infrastructure funded in fiscal year 2001, but they also allow the Department of Commerce to capitalize on cutting edge technologies.

The DM account contains the first of four major reductions in the fiscal year 2002 budget. The President and I strongly believe that these reductions are necessary to focus the Department on its core missions and to contain the overall spending of Federal discretionary programs. In fiscal year 1999, $125 million was appropriated for the Emergency Oil and Gas Loan Guarantee Program to assist companies in this struggling industry. Loans totaling less than $5 million have been made, and oil and natural gas prices have rebounded, thus we are requesting a rescission of $115 million. The Emergency Steel Loan Guarantee Program was appropriated $145 million, and two loans have closed totaling $129.5 million. We are requesting a rescission of $10 million for this program.

The Office of Inspector General (OIG) requests $21.2 million. This includes a program increase of $0.5 million to increase financial statement audits by the OIG. This work will be contracted out, thus no additional full-time employees are requested.

The Economic Development Administration requests a total of $365.6 million. The Salaries and Expenses (S&E) request is $30.6 million, and this includes a program increase of $1.7 million to develop and implement the Economic Development Communications and Operations Management System, a grants management system that will automate the entire grants cycle from needs assessment to performance measurement. The Economic Development Assistance Programs request is $335 million, a $76 million decrease from fiscal year 2001, and the second major reduction requested for fiscal year 2002 in our budget. No funding is requested for Defense Economic Adjustment grants, as the last BRAC round was authorized for 1995.

Two of the most important program increases which I am proud to endorse in the fiscal year 2002 budget are requested for the Economics and Statistics Administration. Of the $62.5 million account request, $3 million is proposed to continue to improve core statistics including Gross Domestic Product and related measures, and $3.5 million is proposed to update information technology systems that support the provision of key economic data.

The Bureau of the Census requests $543.4 million, consisting of $168.6 million for S&E and $374.8 million for Periodic Censuses and Programs (PCP). This appears to be a significant increase over fiscal year 2001, however, PCP realized a carryover of $300 million from fiscal year 2000 into fiscal year 2001, and this reduced our request in fiscal year 2001 for new funding. The PCP request includes funding for several critical programs: cyclical increases for the 2002 Economic and Government Censuses; planning for the 2010 Decennial; implementing the American Community Survey; and redesigning the demographic survey samples to incorporate the results of Census 2000.

The International Trade Administration (ITA) requests $329.6 million. This funding level eliminates $13.5 million in grant programs, however, our request continues full funding for program increases provided in fiscal year 2001 for trade compliance and monitoring. Trade compliance is my highest priority for ITA, and I intend to focus ITA's efforts in this area.

The Bureau of Export Administration requests $68.9 million in fiscal year 2002. This request includes a program increase of $1.6 million for the redesign and replacement of the Export Control Automated Support System, which will enable better and faster decisions on license applications to accelerate U.S. competitiveness in global markets. An increase of $0.5 million is also requested to achieve efficiencies in processing export licenses.

The Minority Business Development Agency requests $28.4 million, and this includes a program increase of $0.8 million for expansion of the Phoenix Database.

This electronic portal will operate as an on-line business information center, and will provide electronic links to state and local governments, community development organizations, and strategic partners, significantly increasing business and economic development activity for the minority business community.

The National Oceanic and Atmospheric Administration (NOAA) requests a total of $3.1 billion. This includes an increase of $136.9 million to provide for critical weather warning and forecast services and climate research. Within this request is a net increase of $96 million to continue the acquisition of NOAA satellites, mainly the joint DOD/NOAA National Polar-Orbiting Operating and Environmental Satellite System (NPOESS) for weather, search and rescue, and oceanographic products for both military commanders and the civil community. An increase of $40.2 million is designated to continue and expand coastal conservation and ocean exploration activities, which will build on the progress that NOAA has made to preserve the Nation's coasts and oceans, as well as promote undersea missions of science and discovery.

I want to emphasize that NOAA is requesting a total of $243.8 million for global climate change activities. Included in this funding level is $34.7 million for NOAA's Climate Services Initiative, which focuses on enhancing climate observations, supporting carbon dioxide research, and climate change assessments. NOAA's contributions to long-term atmospheric measurements and research modeling are essential to our ability to analyze global climate change. NOAA requests $61.6 million to support the agency's long-term commitment to the management of the nation's marine fisheries, including improvement of the accompanying science, management, and enforcement activities. An additional $36.3 million is required to maintain NOAA infrastructure, including its facilities, vessels and aircraft, and to support other program requirements.

The third major reduction in the Department's request is $149.7 million for NOAA's Coastal Impact Assistance Fund (CIAF). Created in fiscal year 2001 to address the impacts of coastal development in the seven states involved in off-shore oil and gas production, we feel that this funding duplicates efforts of the Coastal Zone Management (CZM) program, in which all 33 coastal states are eligible to seek funds. In addition to elimination of the CIAF, NOAA also requests terminations and reductions of unrequested projects from fiscal year 2001 of $245.9 million in order to fund proposed program increases and adjustments-to-base.

The Office of Technology Policy requests a total of $8.2 million to continue its activities with the Office of Space Commercialization, the National Medal of Technology Program, the Experimental Program to Stimulate Competitive Technology (EPSCoT), and the Commerce Science and Technology Fellowship Program.

The fourth major reduction requested for the Department falls under the National Institute of Standards and Technology's (NIST) request of $487.4 million. The request for NIST focuses on the core functions and basic mission of NIST. We propose a decrease of $132.4 million from the fiscal year 2001 funding level for the Advanced Technology Program (ATP) and the suspension of granting new ATP awards in fiscal year 2002. Furthermore, NIST proposes to utilize funds made available in fiscal year 2001 to pay for prior-year commitments in fiscal year 2002. The Department is in the process of evaluating the program to determine whether a need still exists for Federal funding to assist U.S. industry in conducting applied research and development. NIST is requesting a total of $20.9 million for the maintenance and repair of its facilities in Gaithersburg, Maryland and Boulder, Colorado.

The National Telecommunications and Information Administration (NTIA) requests $73 million. This includes a program increase of $2.1 million for the Radio Spectrum Measurement van and suitcase necessary for NTIA's analysis of critical new wireless technologies. We are requesting a decrease of $30 million in the Technology Opportunities Program (TOP), for a total request of $15.5 million. This funding will enable NTIA to support approximately thirty new grants to under-served communities to demonstrate innovative uses of emerging information technologies.

The Patent and Trademark Office (PTO) requests a total program level of $1,139 million, a $100 million increase to manage its growing workload. In 2002, patent applications are expected to rise by 12 percent and trademark applications by 11 percent. This funding will enable PTO to recruit and retain examiners and make IT investments to improve productivity.

As previously stated, this budget request for the Department of Commerce has been carefully crafted to focus on the core functions the American people rely on from this agency. It is the Administration's belief that government should reduce discretionary spending, and we have done so with a budget lower than the previous year's. Although reduced funding is requested, this does not mean our performance will follow the same trend. Rather, we will further enhance economic growth, tech-

nological competitiveness, trade monitoring and compliance, and natural resources management, thus ensuring a better quality of life for all Americans.

BIOGRAPHICAL SKETCH OF DONALD L. EVANS

Donald L. Evans was nominated by President-elect George W. Bush in December 2000, confirmed by the U.S. Senate, and sworn in as the 34th U.S. Secretary of Commerce on January 20, 2001.

Formerly chairman and chief executive officer of Tom Brown, Inc., a large independent energy company in Midland, Texas, Secretary Evans oversees a diverse Department with more than 40,000 employees and a budget of $5.1 billion. The Department of Commerce exercises broad responsibilities for promoting U.S. business development and job creation, trade, technology and environmental stewardship of our coastal and ocean resources.

As Secretary of Commerce, Secretary Evans is the voice of American business in the President's cabinet, and he represents America's business interests around the world. President Bush has described him as "an advocate who carries with him knowledge of trade and proven skill as a negotiator." He is a key member of the President's economic team and his energy task force.

Secretary Evans has said that he sees the mission of the Department of Commerce under his guidance as being "to create an environment in which American businesses and American capital can thrive at home and abroad."

To this end, Secretary Evans has set out an aggressive agenda, with a focus on open and fair trade; e-commerce; accurate and timely economic data; sound science; and development of cutting-edge technology.

Born in Houston, Texas, in 1946, he is a graduate of the University of Texas where he received a Bachelor of Science degree in mechanical engineering and an MBA. His early career included a stint as a roughneck on an oil rig in West Texas and work in a steel mill.

In 1975, he joined Tom Brown, Inc., becoming CEO at the age of 33 in 1985.

Active in civic and philanthropic affairs, he served as chairman of the Board of Regents of the University of Texas and was a driving force behind Native Vision, a program that provides services to some 10,000 Native American children in America.

Secretary Evans also has been active in state and national politics, most recently serving as Chairman of the Bush-Cheney 2000 campaign.

Secretary Evans and his wife Susie have three children and are members of the United Methodist Church.

OVERVIEW OF SECRETARY EVANS' STATEMENT

Secretary EVANS. I have a few thoughts that I would like to offer, and then I would be delighted to respond to any questions that you have for me.

This process has reminded me of my years in the private sector. There was always a period each year in the company when we would deal with budgeting, and it was an arduous process that nobody liked going through, but it always reminded me how important the process was, to get your entire organization focused on your priorities and your needs and your goals, and also reminding the people in the organization that it is not your money; it is somebody else's money that you are spending. So I think it is certainly a good discipline to go through in the private sector and is a good discipline for me to be able to go through in these first 100 days, because it has really allowed me to get, I think, a greater understanding and depth of knowledge as to Commerce and its goals and objectives. I would like to compliment Barbara, on my right, who did a terrific job of not only taking me through the budget, but the entire organization.

As I looked at the budget that we were presented early in the year, I wanted to go back and look at the budget growth of Commerce over the last number of years, and I would compliment this

committee for really putting the Commerce Department on very sound footing. If you look at the growth of the Commerce Department over the last 11 years, it has been a little over 8 percent. The growth over the last 5 years has been a little over 9 percent, and the growth in the Commerce Department's budget over the last 3 years, including the 2002 budget that we have offered, is a little over 11 percent. So when I think of 11 percent growth over the last 3 years or 8 percent growth over the last 11 years, I think it has grown at a fairly healthy rate. And as I look at the budgets and goals and priorities that we have in Commerce, I would say that these goals and priorities are being funded.

The one message that I tried to send throughout the Department was the importance of our focusing on our core mission, whatever it might be, and any agency, any bureau, whatever your core mission is, make sure that that is your priority and that that is what is being funded first.

So with that kind of theme of focusing on the core mission and our priorities, I think that what we have presented is a responsible and prudent budget, and I think it is there in large part of action that you take and this committee has taken over the last number of years to make some meaningful increases in the budget.

Let me talk about just a few of the specifics, and then I am glad to respond to any questions that you might have.

In the area of international trade, everybody that I talk to when I talk about trade, I talk about it in terms of free and fair trade. I try to use the phrase "level playing field" often.

I do not think there is anything that dispirits and can destroy trade more quickly than for there to be an unlevel playing field. I do not think there is anything that dispirits the American worker more quickly than an unlevel playing field, or the American businessman or businesswoman. So I put a lot of emphasis on that, because it is vitally important.

Senator, good morning; nice to see you.

Senator STEVENS. Good morning.

Secretary EVANS. So when I talked about priorities in the International Trade Administration, I wanted to make sure the resources were there to enforce the agreements and make people compliant and enforce our laws. So I was pleased to find out that this committee authorized a year ago an increase and had the Trade Compliance Initiative, which I think is a very important initiative, that is allowing us to add some 60 employees to focus on compliance and focus on a level playing field.

So I think that is already in the budget, and we are trying to fill those positions, but it is a priority that to me is at the top of the list, because if you are going to expand trade in the world, you had better make sure that everybody is on the same playing field, period, end of statement. I just want to make sure that we continue to send the signal around the world that we are going to be tough when it comes to compliance.

Export licensing is another very important area, and it is an important area because technology continues to move quickly and move fast, and one of the problems that our industries have had in this country is the delays in issuing a license to export their equipment and their software around the world. So we have asked

for another $2 million to implement an information system that would speed up the licensing process for export licenses.

The area of critical infrastructure protection is obviously an area that is on everybody's mind inside Government and outside the Government. It is an initiative that started a number of years ago in Government. Commerce has been charged with a big responsibility and is part of the organization that is involved in critical infrastructure protection. We have three agencies that are within Commerce that are active in it. One is the Bureau of Export Administration, which is where we have what we call CIAO, which is the management piece within Commerce. It relates to the private sector and connects the public sector with the private sector to develop policies and programs, et cetera. NIST is very involved in it, the National Institute of Standards and Technology; they have a team of experts that goes around, looking at systems within Government to see if they are compliant and have the right systems in place to protect their infrastructure. NIST has a research program that is connected with this. They have a grants program that is connected to this. And then, NOAA also has important programs that are part of the critical infrastructure protection overall effort.

But while we have asked for an $8 million increase in this whole area, I know it is a subject that is very much on your minds, it is very much on our minds, and principally, how it is going to be organized going forward. I am sure that we are taking a hard look at it within Commerce. We are looking at it carefully with the White House in terms of how we think it should be structured. It is a very important area, and I think Commerce should always play a big role in it just because of our connection to the private sector.

When I come to the area of the Bureau of Economic Analysis, which is all part of the Economics and Statistics Administration, one of the critical areas that has received focus from you, rightfully so, is that the statistics that have come out of the Bureau of Economic Analysis have not been on the mark or on the money. Specifically, I think the simplest example, of course, is GDP. It is my understanding that the gross domestic product has been consistently underestimated, the growth of it has been, about 50 basis points for the last 8 or 9 years. And this is something that you recognized before I showed up. This is something that has been talked about.

You started a program a year ago to upgrade our efforts. We are asking to continue that; we are asking for another $9 million to hopefully provide us with the tools, with the systems, so that we will more accurately predict what the gross domestic product growth is in this country.

Just to show you the impact of this—and I know that you are aware of it, but I will mention it anyway—if you underestimate it some 50 basis points, and that gets into your budgeting process, it means that you underestimate the budget surplus $1 trillion over a 10-year period. The reverse is of course true also—if you overestimate it 50 basis points, it means that you have overestimated the surplus $1 trillion.

So it just shows the importance of making sure that you are providing as accurate a number as you possibly can for the entire budgeting process.

In the area of technology and NIST in particular, which is one of the crown jewels of the Federal Government as far as I am concerned—it is just an incredible treasure that we have, with an incredible cadre of talented scientists that we have there—one of the areas that is important to me, as I have already mentioned, is focusing on the core mission. There are a couple of really big, important labs that are coming out of the ground. One is out of the ground, and another is coming out of the ground—the Advanced Measurement Lab that is under construction and will be completed sometime, in the next year to 18 months. I look at these very vital labs that are being built, and I really do not worry about it, but I am mindful that we need to have the most modern, state-of-the-art, cutting-edge technology inside those labs, because the whole purpose of NIST is to be out in front of the industry and out on the very cutting edge, have the finest equipment, the finest people.

So I feel confident that I am going to be up here a year from now asking for a substantial increase in our budget to fund equipment that will need to go in these labs.

So that is an area of great interest to me and certainly an area of my focus. I look at a number of the programs in there—I know the MEPs program has been a terrific program working with small businesses across America. I looked at a study the other day that showed those that had participated in an MEPs program and an MEPs initiative had four times the productivity of those who had not participated in it. So this is a key way to get technology into these small businesses across America.

Global Climate Change is obviously another area that we are certainly very much involved in, and we are asking for the funding to spend $265 million on Global Climate Change. That is approximately what we have spent this last year. So that is an effort which, obviously, we want to continue.

Inside NOAA, as you have said—this is not my quote—we are trying to put the "O" back in NOAA. I am one who is very excited about the Ocean Policy Commission and what we might see from them in the fall of 2002. The oceans simply are underexplored, and it is time to take a hard look at that and see what we should do to really understand this treasure that we have on this planet.

So I am one who is going to be very much an advocate. I would say that within our Department, we are doing it, and we have some initiative within our Department, but I think the Ocean Policy Commission will give us some good directives as to where we need to go with ocean policy and ocean commitment. So I am anxious to see that.

Things that we are asking for in our budget that relate to putting the "O" back in NOAA include a $60 million increase to modernize the fisheries with science and management and enforcement. It is one of the areas where it is critical, and I hope those are enough funds. We have 110 lawsuits that we are trying to deal with out there right now. They continue to come in. I am hopeful that if we put some more resources into funding the sciences and collecting data and more effective management, maybe we can reduce these lawsuits by some degree.

We are also requesting a $17 million increase in the National Marine Sanctuaries. I just mentioned exploration of the oceans. We

have spent about $4 million this last year on ocean exploration. We are asking that we increase that by $10 million, which would increase it two and a half times, so we are talking about, as a percentage, a pretty healthy increase. It is time to start understanding that 95 percent of the oceans remains unexplored—not underexplored, but unexplored—and it is time to begin to explore them.

Then, we also continue with our commitment to our satellite program with the Department of Defense. We have asked for another $83 million increase for our NPOESS satellite, which is the National Polar-Orbiting and Environmental Satellite System. Obviously, this is a very important system for this country, so we are asking for that.

Finally, the only other point I would like to make is a $2 million request to upgrade our spectrum measurement equipment. I was in Boulder about 3 weeks ago and went out to those terrific labs—I am sure you have had the chance to go out and see them; it was my first chance to see NOAA's lab and NTIA's lab and, going through the NIST lab, a chance to see the Atomic Clock, but also to see the dinosaur kind of equipment that we have to measure spectrum in NTIA. We have a little, old truck moving around out there that is 10 or 12 years old, trying to measure spectrum interference, which is obviously a critical part of what we are doing right now in the management of spectrum. We all know how important spectrum is to the future of the country. When you look at the role it will play in getting information to the people of this country, it is important that we get it right as we allocate spectrum in the years ahead. So part of that is just bringing in the data to understand what spectrum is available to auction and what spectrum there is too much interference or there is no interference.

Anyway, getting NTIA the tools to measure this is vitally important as we move toward decisions, critical decisions for the country, as to spectrum allocation in the years ahead. You are like me—before you make decisions, you like to have the facts, so that is the role that NTIA can play, is helping develop the facts as we try to make these critical decisions.

Again, thank you for getting the budget and the Department, quite frankly, into the kind of condition it is in. It has had some nice increases over the last number of years. I think the budget is sound. I think there are a number of areas that certainly can continue to be focused on. I have committed to Senator Hollings that I am going to take a hard look at ATP. It is a program that has had some tremendous successes over the years, saving industry hundreds of millions of dollars. In our budget what we have asked for is to use the funds that have not been committed yet on grants this year to roll over to next year to fund the mortgages on grants that have already been granted, while during that period, I am going to take a real hard, honest look at ATP and see what kind of role it can play going forward.

Senator, good morning.

Senator MURRAY. Good morning.

Secretary EVANS. Let me stop there. Thank you all again. I thank all of you; I had a chance to get by to see you and talk to you, and I thank you for your help and your support and would be

glad to answer any questions that you might have or listen to whatever you want to tell me.

Senator GREGG. We appreciate that very comprehensive statement, Mr. Secretary. You touched on a lot of areas in which the committee has a very significant interest and has pursued rather aggressively.

It is the tradition of this subcommittee to acknowledge the chairman of the full committee whenever he decides to come by, which we appreciate he does often, and yield to the chairman for a statement or questions.

Senator STEVENS. I will just wait my turn, Senator.

Senator GREGG. Do you have any questions?

Senator STEVENS. Not now, thank you.

Senator GREGG. Okay. Senator Hollings.

NOAA DISCUSSION BY SENATOR HOLLINGS

Senator HOLLINGS. Well, my immediate reaction is "Whoopee," Mr. Secretary. That is, as the chairman said, a very comprehensive grasp of the role and responsibilities of the Secretary of Commerce. You are off and running, and I am just enthused to hear you, because other secretaries usually come up and everything is sort of foreign to them, and they are flipping pages and everything else, and do not know what the devil they are saying. Obviously, you do, particularly with respect to putting the "O" back in NOAA, the ocean exploration.

So you will understand, NOAA was created as a result of a very, very thorough study, and President Bush is going to revisit that study here with a new commission. Thirty-five years ago, Julius Stratton of MIT brought your Texas crowd together, the oil people, the Coastal Zone people, the energy folks, Coast Guard and everybody else, and they recommended, actually, an independent agency of oceans and atmosphere headed by the Coast Guard. President Nixon was disappointed and tickled, said they would never give him anything like that over in Interior and they were not going for an independent agency—so he gave it to Commerce and Maurice Stans. NOAA has been at Commerce, and different Secretaries have come along and in the main disregarded NOAA—although it is 40 percent of my budget—let somebody else handle it; get rid of the NOAA fleet, get rid of the NOAA corps, the environmental side, services administration, and so on.

So we have had a very difficult time, and to see an increase in ocean exploration is heartwarming. But mind you, Senator Stevens and I are on the authorizing Committee on Commerce, Science, and Transportation, and in space science there is $14 billion for exploration, and research is $7 billion, or one-half of that $14 billion.

So you are putting up $14 million and talking about a 200 percent increase—that is tommyrot. The truth of the matter is we have got to play catch-up ball, and you have the grasp of it. We see that the ocean temperature has increased some eleven-hundredths of a percent over the 50-year period, which means there is a tipping margin there to be studied and determined, because that degree of ocean warming is the equivalent of 15,000 years of electricity, and if it tips over, global warming will go way beyond any control whatsoever.

LEVEL PLAYING FIELD FOR INTERNATIONAL TRADE

Good. Otherwise, on trade, first, let me commend you, because it is tough on compliance, and I would not have to say anything else on trade—that is all we need, but do not look for a level playing field. I have always said I would take the Japanese trade book or the Korean trade book and administer our trade policy that way, and we would fill up the country with production. I cannot sell textiles in downtown Seoul, Korea unless the local textile industry votes and approves for me to come in—and they just do not. And you cannot sell in Japan. They get outsourced to Japanese companies that they have organized down in Malaysia and Thailand.

So it is not level. It is a proposition, frankly, of the security of the country. It is like a three-legged stool. One leg of our security, value, is unquestioned. The second leg of our security is the military, which is unquestioned. The third leg, the economic leg has been intentionally fractured in the sense that in order to spread capitalism—and it has worked—we have given up the textile industry. I remember a hearing I had 40 years ago, and Tom Dewey was the lawyer for the Japanese, and he was racing me around the hearing room saying, "Governor, what do you expect them to make? Let us make the airplanes and the computers, but let them make the shoes and the clothing."

My problem is that they now make the shoes, the clothing, the airplanes, the computers, and everything else.

President Kennedy put out a seven-point program—he had to comply with the national security provision that the President had to first determine that the item was important to our national security. They had the Secretaries of Defense and Commerce come in, and they brought in the witnesses—I can see Doug Dillon, Secretary of Treasury, there now at the hearing—and they determined that next to steel, textiles was the second most important item, because we could not send them to war, as they said at that time in a Japanese uniform, but now we can say we cannot send them to war in a Chinese uniform.

So there it is. To go immediately to your Bureau of Economic Analysis, the Advanced Measurement Lab and so forth, will you see if you can find out statistically the amount of U.S. consumption represented in imports, generally. I received from the Secretary of Commerce in 1975, 1976, 1977, 41 percent of our imports were U.S.-generated overseas and brought back in. Now, everybody is moving their manufacturing, because it is 10 percent of the cost of labor here in this country, so they are all running down to Mexico. I have lost 42,500 jobs in South Carolina alone—I do not know how many jobs have been lost in New Hampshire—and it is 500,000 over the country—and they are all Republicans, so let them go. But they are good jobs, and before long, I will not have any of them left. And they just shrug their shoulders like it means nothing, but it is very, very important to our economy. We are going to have to be able to produce a certain amount of basic electronics, clothing, and different things of that kind.

In fact, Senator Stevens and I are going to get together on a national defense measure along this line to reinstitute that security provision for the President and aim our trade policy along that

line. Otherwise, before long, we will go the way of England, with a bunch of Parliamentarians and scandal sheets.

CONTRACT FOR NOAA RESEARCH VESSEL

With respect to the fleet itself, we need that money for the research vessel. I tried to check on it earlier this morning. We tried to contract with the Navy for the small boats, and they refused. Maybe you can get the Navy now, with this administration and talk to them over there and see if they cannot get the contract for us. But when they get that small boat contract, and the contractor knows there are going to be two or three research vessels, you can get it at a cheaper price. For only one small boat, you disturb the flow of the contract and the cost itself on the number one vessel. The company tells me they are going into bankruptcy down in Mississippi. So we have got to check on that.

TEXTILE RESEARCH

With respect, Mr. Secretary, to the research, we have a little bit of research with the National Textile Consortium, $3 million and $9 million for the Textile Clothing Technology Corporation. We actually put in way more for California prunes. You ought to see the nonsense we go through with these farm boys. Having lost 500,000 textile jobs, to try to hold on to a sort of quality basis—and improvement; they get better cloth and so on. You have got to be able to manufacture webbing and parachutes and everything else. It is a defense measure as well. We ought to continue that. That is a tiny bit, $9 million and $3 million.

Senator GREGG. Can't you manufacture clothing out of prunes?

Senator HOLLINGS. Oh, they have put in I do not know how much, to sell wine and prunes and so on, in California. That California crowd, they have votes.

Senator GREGG. Not on this committee.

Senator HOLLINGS. No. That is right—but we are doing better—we have Herb with us now.

ADVANCED TECHNOLOGY PROGRAM

On ATP, any time you suspend this thing, they say they are going to study it. So after meeting with you yesterday, I have found that there are 21 General Accounting Office studies; we have had 18 Office of Inspector General studies; we have had two National Academy of Sciences studies; one Secretarial 60-day review and a report to the Congress—they are really trying to kill the program with studies. I hope Rumsfeld is not doing that with defense. I do not think he is. Can't you use all of these studies as a precedent and build ATP up with these studies? That is what we really need to do, because it has gotten a little off-course with respect to risk—we are not paying for high risk. What we are paying for, and the fundamental of this particular Advanced Technology Program, is to commercialize technology, discovered and researched here in the United States, and where we ought to bring it to market. But when you get these quarterly reports that these big moguls put in, that includes long-range financing, which is the global competition with Japan, for example, and we have nothing but short-range financing

here in the United States. So ATP would move into that gap and make sure that, in part, it is not pork. We had the project on a competitive basis in your Department, but it was first reviewed by the National Academy of Engineering. So all of these ATP reports are good. I have not been able to find a bad report yet—but they keep on studying it. Do you see what I am saying?

Secretary EVANS. Yes.

Senator HOLLINGS. So if you would look at that very closely for us, please.

Secretary EVANS. Yes.

Senator HOLLINGS. Thank you very much, Mr. Chairman.

Senator GREGG. Senator Stevens has a couple of questions.

Senator STEVENS. Thank you very much.

RESEARCH ON STELLER SEA LIONS

Mr. Secretary, as I told you when we met, I was very pleased with the briefing that we got from Dr. Andrew Treitz of the North Pacific University's Marine Mammal Consortium. This Consortium includes all of the universities of the North Pacific. They made some very preliminary conclusions concerning the decline of the Steller sea lion.

We provided moneys last year—and you have a $40 million request in this budget—for continuation of the Steller sea lion research. We are hopeful that that will proceed and that we will use the data that is being collected now as a basis for a new biological opinion regarding the Steller sea lion.

I would encourage you to get the preliminary conclusions from the Marine Mammal Consortium from the universities and try to see what we can do to head off another collision as far as the Steller sea lions are concerned.

As you know, probably more than 50 percent of our people make their living off the sea. We have half the coastline of the United States, as these people have heard me say that too often. But there is no question of the importance of fisheries in our State. We had a very difficult time last year trying to prevent the closure of a substantial portion of our fisheries.

So I would hope that we could get your assistance and that of your Department to pursue this science with real enthusiasm to make sure we have the science to support the theories rather than the theories before the science, in terms of what is causing some of these problems. There is no question that the Steller sea lions are declining. The question is what can we do to reverse it and to what extent will it impact the fisheries of our State.

I hope that you and others can spend some time on that this year.

Secretary EVANS. Indeed, we will, Senator. As you said, we had a good discussion about this yesterday and several other times I have been to see you and visit with you about it. As you know, Bill Hogarth, our Acting Assistant Administrator of Marine Fisheries was up in your State for 4 or 5 days, and we have obviously given it high priority. You mentioned the dollars that we have committed to it. I was interested to learn what the universities are learning about this very issue.

We will look at those studies, and we will incorporate them into our study of the issue as well. But yes, it is high priority for us.

COMPARISON OF WILD AND FARM-RAISED SALMON

Senator STEVENS. Salmon is probably our greatest resource, yet we seem to constantly be at odds with people from the Pacific Northwest on the salmon issue. There is a new wrinkle, though, coming now. I understand the President is going to recommend a new Free Trade Zone for South America. Chile is now providing, I think, up to 90 percent of all salmon sold in our supermarkets in this country. That was not the case 10 years ago.

We do not think too much of that product, frankly. It is farm-raised salmon, and it does not contain the high levels of beneficial substances, like Omega-3, and it does not have the naturally high levels of other materials found in wild salmon.

I do not know what we can do to assist our people compete with products from South America in competing if a Free Trade Zone concept becomes a reality.

I would just mention that. I do not know the answer, but I do think there has to be something done to distinguish between the farm-raised salmon and the wild salmon that comes from the Pacific Northwest and off Alaska.

We have the studies on the beneficial effects of consumption of salmon for heart disease and other human needs. There are not similar benefits as far as this farm-raised salmon from South America is concerned.

I would hope that in this process, we can find some way to at least require labeling of origin. When you go to the supermarket now, and you see salmon, it does not say where it is from. It does not really say what it is. It is not wild salmon. Most people who buy it probably think they are buying salmon from the oceans, when in fact they are buying farm-raised salmon, and it is a different product.

I hope that you will help us keep an eye out for what we might do to protect a basic resource of the North Pacific, which is the salmon.

Lastly, Mr. Secretary, I want to say that you have had some real competent help in Bill Hogarth and Scott Gudes and others who have kept the fires burning down there, and I want you to know that we appreciate what is going on. The budget is a good budget as presented to us now. We do not have some of the wrinkles that we have had in other departments that we are dealing with in this committee. I think you have really got a budget that we can all work with and be proud of. I know there are several items in there for Alaska, but I am not going to discuss those now.

I just want to urge you to realize the quality work that has gone into this before you came on deck. They are good people down there who have been working with us over the years—they are career people. We appreciate what they have done.

Secretary EVANS. Thank you, Senator. So do I; I appreciate every one of them, and I could not agree with you more. There are some real quality people throughout Government and in the Department I have the pleasure to serve in.

You told me something I did not know, and I am going to look into it. I am one of those who has been buying salmon, eating salmon, and thinking there is Omega-3 in it, because I have high cholesterol, and I want to make sure that I am taking care of my cholesterol issue. I did not realize that farm-raised salmon does not have Omega-3.

Senator STEVENS. Actually, Dr. Castelli from Dr. Treitz' institute up in New England is the one who worked with us for so many years and developed all the information about wild salmon. We have relied on him quite heavily in terms of advice about Omega-3 and the beneficial effects of salmon for people who have heart problems.

Senator GREGG. You hang around this committee, Mr. Secretary, and you will learn more about salmon than you ever wanted to know.

Secretary EVANS. I learned something new this morning, I will tell you.

Senator HOLLINGS. You can count on it. Get together with the Senator on Chile, because that is one big headache with respect to free trade. I think you can pass free trade with Chile by itself, but one caveat is salmon, and the other is the wine, with the California vote.

Senator GREGG. Did you want to comment on any of the points made by the first two Senators?

Senator HOLLINGS. I agree with Senator Stevens. It is an outstanding presentation.

Senator STEVENS. I do not have any questions.

Senator GREGG. If you do not get questions, it is better just not to answer.

Secretary EVANS. Okay.

Senator GREGG. Senator Kohl.

Senator KOHL. I welcome you here today, Secretary Evans.

Secretary EVANS. Thank you, Senator.

Senator KOHL. I would like to first comment briefly on your budget officer, Barbara Retzlaff. She has done a tremendous job, and I have been very impressed with her knowledge on a broad range of issues.

Barbara worked with me for a couple of years, and try as hard as she did, she could never get me up to your speed. I think that if you asked her, she would say that she had better material to work with in you.

Ms. RETZLAFF. Senator Kohl, it is nice to see you.

Senator KOHL. Now, I would just like to comment on NOAA. As important as it is to the Atlantic and Pacific Coast States, it is equally important to the Great Lakes States, because the Great Lakes have the largest number of miles of any of the States, including the Atlantic and the Pacific. So the issues of fisheries, and pollution hydrology, and invasive species are programs that NOAA gets involved in, and they are just as important to the Great Lakes States as they are to the Atlantic and Pacific Coast States. So it is good to hear that you are so interested and that you intend to pursue NOAA as vigorously as you are going to.

NORTHEAST DAIRY COMPACT

I would just like to raise two issues with you. Number one is the Northeast Dairy Compact, Mr. Secretary. It is an interstate trade issue, and I would like to get your thoughts on it, whether you have any familiarity or some familiarity with these dairy agreement. They are agreements among States to artificially set and support milk prices. In other words, they eliminate the opportunity for any of the other States to compete in those compact States by setting an artificial price above the market that coops pay farmers in those States for their milk; and if you want to send your product into that State to compete, you have to do it at that price that they set, which effectively eliminates any opportunity for competition.

Now, as you might imagine, listening to this description, which is brief but fairly accurate, it is like nothing we have ever done in this country before. The greatness of our economy, the greatness of our capitalist system is that, without any exception since this country was incepted, goods and services compete freely from one State to another. We have never before erected barriers.

But the Northeast Dairy Compact, which I think includes seven New England States, is subject to termination this year unless it is renewed. Now, I know how strongly you and your administration feel about free trade and how important it is, not only globally, but here in this country. If this Northeast Dairy Compact is basically as I have described it—and I believe you will find that it is—I would like, if I could, to get some opinion from you about what you and your administration's position will be on that Northeast Dairy Compact this year, as it is subject to renewal.

Secretary EVANS. Senator, let me say that it is not something that I have looked at in great detail. I am certainly not in a position to tell you at this moment what our administration's position will be, but I will tell you that I will get that to you.

[The information follows:]

ADMINISTRATION POLICY ON NORTHEAST DAIRY COMPACT

While the Administration is continuing to operate under the existing agreement, they are also reviewing the policy.

Secretary EVANS. This issue was first brought to my attention by Governor Ventura. I was talking to Governor Ventura about free trade and fair trade, and he brought up the issue of this dairy compact, and I responded by saying to him that, yes, it is awfully tough for us to talk about free trade and a level playing field around the world if we do not have one in our own back yard.

I am one who spent his career in the oil and gas industry, and I saw some similar kinds of practices inside the oil and gas industry. I am not sure the analogy is a great one between the dairy compact and the oil and gas industry, but my point would be that I saw the oil and gas industry could get special treatment from time to time that would benefit one group of oil and gas investors or companies to the detriment of another group of oil and gas investors in the same country. So I do not understand that principle, and if the principle is similar—one group of individuals milking cows and another group, and there are different rules—then, I would say it is something that we have got to take a hard look at.

And I am one who believes that we have a free enterprise system here in America, it is free and open competition, we are all going to play on the same playing field, and if you are the low-cost producer, you survive. If you are not, then you need to find something else to do in this great economy. And there is much to do. We have a wonderful economy here in this country. Unemployment is 4.2 or 4.3 percent, and it is growing and growing.

Anyway, the principle I understand. The specifics of what the administration policy is going to be on this expiring compact, I will get you a response.

Senator KOHL. That is good to hear. The greatness of our economy is attributable in large to the principle you have just enumerated, which is that competition is what makes the economy as good as it is, competition is what enables us to bring the best products at the best prices to consumers here and around the world. The minute we set up barriers to competition, we do great damage to the American economy. And that is what the Northeast Dairy Compact is.

In fact, I understand that there is an effort under way to expand it to 10 or 20 other States, and I would like to hope that this administration would take a very strong position against that kind of mechanism.

EXPORT-IMPORT BANK

The other thing I would like to raise with you, Mr. Secretary, is the Export-Import Bank. As you are well aware, the importance of exports continues to grow in our economy. It is now estimated that exports account for nearly 30 percent of our economy, up from 10 percent in 1950. The Export-Import Bank has played a vital role in supporting the continued growth of U.S. exports and the workers and businesses that prosper when new markets are found for their goods and services.

The Bank's use of loan guarantees, insurance to commercial banks, and direct lending, have allowed for the export of billions of U.S. exports that would not have gone forward for lack of financing.

Over the past 5 years alone, the Bank has supported 116 companies in 52 different communities in my own home State of Wisconsin. The benefits of these sales are widespread as nearly 50 percent of these transactions were with small businesses just in my own State of Wisconsin.

As you know, the President's budget request includes only $649 million for the Export-Import Bank, which is 25 percent below fiscal year 2000. Can you provide us some insight into the administration's reasoning for decreasing funding for the Bank's mission?

Secretary EVANS. Senator, I am going to give you a written response on this, and I will get that to you, because I think the reduction requires some specificity that I am not prepared to really offer to you right now because I do not recall all the numbers. But the cut itself is not as large as it appears on its surface.

[The information follows:]

EXPORT-IMPORT BANK FUNDING IN FISCAL YEAR 2002

The President's budget for fiscal year 2002 proposes to reduce Export-Import Bank funding by approximately 25 percent. As OMB has indicated, at least half of this reduction is accounted for by OMB's lower estimates of international risk for 2002. It is also unclear at this point whether Ex-Im Bank will face the same level of demand in certain sectors, such as aircraft, as it has in the past. The Administration does not expect these budgetary cuts to have an adverse effect on Ex-Im Bank's responsiveness to U.S. exporters or its ability to meet foreign competition.

As Secretary of Commerce and Chairman of the Trade Promotion Coordinating Committee, I will work to ensure that U.S. firms, including those that produce environmental goods and services, can effectively compete in international markets.

Secretary EVANS. Having said that, let me say to you the Ex-Im Bank is important in the overall international trade policy of this country. It relates in some way to the activities of the World Bank, the Inter-American Development Bank and the IMF. So there are a lot of financial institutions out there, banks, that are related on the world stage.

I talked to John Robson who is incoming—yet to be confirmed—director or chairman of the Ex-Im Bank. I look forward to working with him on it.

I have to admit to you that I have a concern when I hear about Ex-Im Bank granting an $18 million loan to a company in China to manufacture steel, when I know we have a glut of steel in the world. So I am kind of wondering what would cause a loan of that size to go to a company in China that would compete with companies here in America when we are filing antidumping suits and countervailing duty suits as fast as we can manufacture them.

I had a good visit not long ago with Bill Draper, who was chairman of the Ex-Im Bank during the Reagan Administration, and he was telling me what a great program it was and what great things it did and what a key role it played in helping companies be competitive around the world. So I know it has an important role to play, and I want to make sure the role it is playing is a constructive one.

I am just an outside director. I cannot vote. I serve on there as an advisory director since, obviously, Commerce is related to trade and the private sector and businesses.

But what I would say to you is that it has an important role to play. I do not think that the cut, when fully explained, is as severe as it appears on the surface, and I will get an explanation of that to you. I hope you will find that, and I think you will. But anyway, I will be glad to respond to you more specifically.

Senator KOHL. Thank you.

Secretary EVANS. Thank you, Senator.

Senator KOHL. Thank you, Mr. Chairman.

Senator GREGG. Senator Murray.

Senator MURRAY. Mr. Secretary, it is nice to have you here, and I appreciate the funding in your budget request of $110 million for Pacific Northwest salmon. I share some of the concerns of Senator Stevens and look forward to working with you on that very critical initiative.

Let me follow up on what Senator Kohl was just talking about—and I know this is not funded in your budget, but export promotion is a very critical role of your Department and your agency. I have

worked with one-stop shopping centers in Seattle that have been of tremendous help to many of our exports.

BOEING VERSUS AIRBUS

But the Ex-Im Bank is very critical. One out of three jobs in Washington State depend on trade, and it is no surprise that 80,000 of those jobs are at Boeing. They are highly-skilled, family wage jobs, very important to our economy. Plus there are 1,000 other businesses just in my home State that depend on those exports and contract services to Boeing as well. I know you know this, but Boeing is the only U.S. manufacturer of commercial aircraft. The competitor is Airbus. Airbus is highly subsidized, has sweetheart deals. They watch for what Boeing puts out in its contracts, and they undercut them. That is the environment in which we have to live today. Boeing used to have 75 percent of the market; they are now down to 50 percent.

The one critical tool they have is Ex-Im funding, and the proposed funding for Ex-Im actually threatens about $4 billion in sales for Boeing. That is going to have a dramatic impact on the U.S. economy and on Boeing's ability to survive in a very, very competitive market with Airbus.

I am looking forward to your written response, but I think the administration needs to understand that this is critical not just to my home State but to the entire economy and to our ability to keep our one U.S. manufacturer of commercial aircraft able to compete in a very tough market out there right now. I think the only people who are happy about the 25 percent cut are people who live in France.

I know you talked about numbers, and it does not look as bad, but I believe the request was $1.3 billion for Ex-Im funding and a $650 billion actual number is just going to really hurt us. I would love to have more time to discuss this with you, but I want the administration to understand that this is a very frightening number to many of us out there.

Senator GREGG. I should note, Mr. Secretary, that although Ex-Im is obviously a big issue, is not under this committee's jurisdiction; it is under the Foreign Operations Subcommittee.

Senator MURRAY. I am sorry—could you repeat that? I could not hear you.

Senator GREGG. The Export-Import Bank does not fall under this subcommittee's jurisdiction; it falls under the Foreign Operations subcommittee. You are perfectly welcome to raise it——

Senator MURRAY. I am well aware that the budget line falls under another subcommittee, but I think that your input to the administration is critical. So that is a battle that I will be fighting, and I hope that you will have some discussions about the critical nature because of your mission.

NORTHWEST STRAITS COMMISSION

On another local topic question, one of my priorities since I have arrived here is that the Northwest Straits Commission was a response to a very tough battle, one that all of us have in our States at the local level between environmental concerns and local concerns that resulted in a huge impasse. And we, on a bipartisan

basis, with members of our House delegation, put together a Northwest Straits Commission, which is a locally-driven, grassroots initiative to protect marine resources in Puget Sound and the Strait of Juan de Fuca. It has been highly successful and is very popular. It is the one thing that both Republican and Democrats say that we are really doing right. I do not know if you are familiar with the project, but it has been zeroed out in the budget, and I am hopeful that we can get you familiar and get you on board as a supporter before we get too far—I do not know if you have heard of it or not.

Secretary EVANS. I have heard of it. I think it was funded at $500,000 this last year, or the year that we are in right now. I guess we were thinking that it really was not in the budget a year ago, until it was placed in the budget by the committee. It is a local and State effort. I know how helpful it has been and how constructive it has been, but I think we have taken the basic position that we were not really funding earmarks in the budget.

Senator MURRAY. Well, as you know, salmon has been listed as an endangered species, and these are small projects that really have some tremendous impacts in restoring the salmon and salmon habitats; they are local projects that are funded with small amounts of money, and this is how we are going to fix the salmon problem, so I hope we can get you back on board with us.

Secretary EVANS. Thank you, Senator.

COMMERCE-WIDE HIRING FREEZE

Senator MURRAY. Another question on NMFS. I am concerned that even with the infusion of funds into our Steller Sea Lion Program, we cannot get the work done because there is a hiring freeze in place, and everywhere I go in my region, people are saying that there are not enough people in the Department to get through the necessary paperwork and to process the forms. I do not know if you can shed some light on that——

Secretary EVANS. I do not know how much light I can shed on it. I know that even though there is a hiring freeze, we are hiring people daily. All they have to do is bring it up through the system, and we are hiring. We have 40,000 people in the Department; I know we have a lot of people—but what is it on NMFS—we have 110 positions that have not been filled, but this is out of 2,800 positions, so we have 2,800 positions there, but 110 of them have not been filled.

Senator MURRAY. Well, does the hiring freeze apply to the positions that are open but not filled?

Mr. GUDES. Senator, we had 20 positions in the Fisheries Service for salmon habitat in the prior supplemental that the Congress passed. We are looking at each position, and we really want to focus on life safety-positions——

Senator MURRAY. You should just know that many of these people are trying to get through difficult processes. What they constantly run into is not enough people to work through a lot of the paperwork. If you could take a look at this and help us with it, I think it will ease a lot of the concerns, particularly in our rural communities.

Secretary EVANS. Sure, we will, yes.

TECHNOLOGY OPPORTUNITIES PROGRAM

Senator MURRAY. Great. I have one last, quick question, Mr. Chairman, and it is on the Technology Opportunities Program, which has had tremendous impacts, particularly in our rural communities that do not have access to technology and are desperately trying to catch up. Their economies are not able to compete with our corridor, where most of the technology is in place and growing rapidly, and their economies are hurting. This program helps expand their infrastructure, which is critical to being able to get their businesses competitive and to bring some economic development to rural communities.

I know it has been cut by 67 percent, and if you could just give me a justification for that, I would appreciate it.

Secretary EVANS. I think it is just simply taking it back down to the level where it was. We have been running it at about $15 million a year, and this last year we are in, it was increased to $45 million, and we took it back to where it was before.

I think it is a matter of evaluating the program, being comfortable with it. You have to make tough choices and set priorities, and it was just one of those tough cuts that we made, but I guess I have a hard time seeing a program triple in a year, going from $15 million to $45 million; so we just took it back down to the level where it was.

Senator MURRAY. I appreciate that, but I can tell you that the reason it tripled was because the demand in our rural communities is extremely high right now as their economies are falling dramatically far behind our urban areas, because they cannot compete, because they cannot get the infrastructure, and those are the areas where it is hardest and most expensive to bring it in. So these kinds of programs are really critical in our rural communities.

Secretary EVANS. Thank you, Senator. We will take that into consideration and check that.

Senator MURRAY. Thank you.

EXPORT-IMPORT BANK

Secretary EVANS. I want to just respond on the Ex-Im Bank. I know one thing that you will see is that when you change the risk profile alone, you do not need as much to support a loan, and I know that that is part of the cut. Just looking at the risk-weighted portfolio of the Ex-Im Bank, when you lower the risk of these loans, you do not need as much to support the loan. So what looks like a 25 percent cut does not mean that you are going to cut back the lending levels by that amount, which is what the countries are interested in.

Anyway, that is just one of the points. I will get a more specific explanation to you, and I think you will see again that it does not mean reducing the number of actual loans by that amount at all. The amount of loans that will be granted is not that far below what is being granted in the year we are in. But I will get you specifics.

Senator MURRAY. I would like to have your response, and maybe we can have a conversation after that.

Secretary EVANS. You bet.

Senator GREGG. A vote has started on the cloture motion.

SPECTRUM

Mr. Secretary, maybe you could bring us up-to-speed—you mentioned spectrum. What do you see happening vis-a-vis the efforts to address the spectrum issue generally, and specifically in relationship to defense needs and law enforcement needs and commercialization needs?

Secretary EVANS. Sure, sure. A good question. I met with Secretary Powell yesterday—I am sorry—Chairman Powell at the FCC and talked about getting with him, and I talked to Secretary Rumsfeld about the issue as well. I think the three of us need to sit down and map out our thoughts and a plan for spectrum use.

Obviously, Defense has important needs. They have spectrum that they currently use. Some of it relates to defense; some of it relates to safety of life issues. Those are also critical issues that we need to think about when we talk about auctioning additional spectrum and making decisions as to whether there is interference or not, or whether there is interference that you can tolerate.

NTIA just completed a couple of studies that are out in the public domain right now; we are receiving comments from industry right now on those studies, which speak to the issues of interference and what spectrum might be available.

The studies also laid out some potential options as to maybe some Government spectrum that could be moved to another location on the spectrum. But Defense has not agreed to move any spectrum. The way to determine whether they can move or will move or if it is practical to move is to sit down and talk through the issues. That is why I have taken it upon myself, anyway, to make sure that Chairman Powell and Secretary Rumsfeld and myself are all very focused on this very important issue, because it goes back in part to what Senator Murray said about people who are falling behind. A good part of it is just getting the equipment out there where we can get information and technology into the rural communities.

Senator GREGG. Where do you see the demarcation occurring that would allow 3G spectrum to be available for commercial use? Do you think that the Department of Defense is going to be receptive to the additional commercialization of spectrum along the lines of what Europe has today?

Secretary EVANS. I obviously cannot speak—am not going to speak, will not speak—for the Defense Department, obviously, but I would say to you that I have talked to Secretary Rumsfeld about the issue, I have talked to Dr. Schlesinger about the issue, so I think people know that this is something that needs to be considered. The Commerce Department has a study out there that says here is some spectrum that is currently used by Government agencies, including DOD, and maybe there is another spot over here where we can move that. It would cost "*x*" number of dollars—and they are estimating how much money it would cost to move it; I believe one of the studies I saw said it would cost $4 billion to move it.

So I am not in a position yet to tell you how receptive I think DOD will be. I do not think they have all the facts yet, and I do not think we really have all the facts yet. I just know that what

needs to happen is that we need to get the principals at the table and talk through it so we can all understand the importance of freeing up the spectrum to similar levels that we are seeing in Europe, or what we are seeing in Asia.

I take seriously that we are falling behind in the area of 3G wireless technology and allocation, so we are very focused on it, but in terms of when we can get this done and how receptive DOD will be, when I have a chance to sit down and spend a little more time with Secretary Rumsfeld and Chairman Powell, I will be able to get you a good answer, or a much better answer than I am giving you right now, but I will get back to you as soon as I do that.

Senator GREGG. It is good that you have focused on this, first off; I think that is very positive news. I am a little concerned that only the Defense Department was focused on it. It is good to hear you publicly pointing out that you are focused on it, and I hope the administration will develop a systematic way of doing this rather than just going about it casually. I think the community at large needs to know where we are going to end up on spectrum in an orchestrated way so we can make the investment decisions as a country.

Secretary EVANS. I share that, I share that.

CRITICAL INFRASTRUCTURE ASSURANCE OFFICE

Senator GREGG. What about the critical infrastructure—you mentioned the CIAO office. Where do you see this going? Is it going to improve the other agencies that are involved? Are they going to come under its umbrella, or are they going to function separately?

Secretary EVANS. Senator, my speculation would be that they would come under the umbrella. My speculation is that we all need to work closely together in an interagency kind of effort.

Having said that, I should be quick to say that it is something that is under active review and discussion right now. I looked at the organizational chart that is in place today, and I cannot tell you that it made a lot of sense to me in terms of how it is structured. But what did make sense to me is the critical role that Commerce must play in this because of where the private sector is in critical infrastructure protection. I think they are out in front of us by a large percentage. So we need them, and they are a part of it. I mean, that is part of the infrastructure that we are concerned about, protecting what they have.

So there is the issue of making sure that their infrastructure is protected, which I think they are doing a good job of, and then our own, the Government infrastructure and agencies and what-have-you.

It is a large undertaking, and first and foremost, I think it needs a clear organization and a clear plan as to how it is going to function and how it is going to operate and who is going to be responsible for it. Making sure that we have the responsibility clearly understood for this very important task is critical, and that is what is under way right now, and exactly what role Commerce would wind up playing, I am not sure, but it should be an important role. I think NIST has already done a great job in this effort so far, but I think we are a few weeks or a couple of months away before we

are ready to really propose something in terms of here is how we see it.

Senator GREGG. We will be interested in that.

As has been mentioned by a number of people on this subcommittee, NOAA is something that we take a lot of pride in. We have spent a lot of energy and time bringing it up to where we think it is an extraordinary agency with very talented people. The Administrator has done a superb job filling in during this time—he used to work around here, didn't he?

Senator HOLLINGS. Yes. We tried to get him to work, but I think the Secretary is doing a better job.

Senator GREGG. So I just want to reinforce our interest in this agency and the fact that we consider this to be a priority for us.

Secretary EVANS. Thank you, Senator.

Senator GREGG. Senator Hollings, do you have any further questions?

Senator HOLLINGS. Just two quick things for the Secretary. On the compact, let your lawyer look at those marketing orders. Forty years ago, I came down the gangway with a basket of fresh peaches for Governor Pat Brown, and they ran me right back up onto the plane because South Carolina peaches did not comply with the marketing orders of California. Those things have been upheld by the court, and they extend them into the compact, so there is a legal question. At the beginning of the season one year, I know our farmers rushed out and put some green peaches as Carolina Number 1's on the New York market, and it just ruined the market, and that is the genesis of the marketing orders in California. Otherwise, do not rush to inspect them. We have been using that as a "honeypot" to balance the budget. We get to the end of the thing, and we say, oh, yes, we can sell some spectrum and get "*x*" billions of dollars, and there is no funding shortage—it is just a misallocation—and everybody is trying to make money on it.

I can tell you right now that we have been giving it away.

Thank you, Mr. Secretary, for an outstanding presentation.

Secretary EVANS. Thank you, Senator, very much.

I want to say one other thing if I can about Scott Gudes, because you all have pointed out, and you have right to have great pride in NOAA. It received the best rating of any agency——

Mr. GUDES. All A's.

Secretary EVANS [continuing]. All A's—above NASA, above everybody.

Senator GREGG. This is the Weather Service?

Secretary EVANS. Yes, the Weather Service—it is hard to believe, I know.

Senator HOLLINGS. Who wrote that—Gudes?

ADDITIONAL COMMITTEE QUESTIONS

Secretary EVANS. Thank you all very much. We appreciate it.

Senator GREGG. Thank you.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

REPORTS AND SPENDING PLAN

Question. Mr. Secretary, as you know, the Department's role in reporting on its activities in a timely manner is critical to the work of the Appropriations Subcommittees. The current rate of return on reporting requirements is not acceptable. In addition, answers to questions posed by subcommittee staff frequently take months before they are cleared by the OMB and are so vague that they lack utility. Can you provide a plan that will allow for improvement on the timeliness of departmental reporting and a list of reports that you feel are no longer necessary?

Answer. I too am troubled by the amount of time it takes for some information to get through the process. I too am a stickler for timeliness and the adherence to deadlines. It is my hope that weekly budget meetings will be commenced once the Deputy Secretary is in place. Reports and other information requested by the Congress will be a regular agenda item at these meetings. I take this issue very seriously and want the Commerce Department to provide timely responses.

At this time, there are no reporting requirements included in recent Congressional Appropriations action that are no longer necessary.

COMMERCE ADMINISTRATIVE MANAGEMENT SYSTEM (CAMS)

Question. Mr. Secretary, have you reviewed the status of the Commerce Administrative Management System (CAMS)? Are you satisfied with the progress that has been made on this project? Do you have an out-year budget for CAMS? What are you doing to assure that CAMS will be delivered on time, within budget and to specifications? Your budget request includes $48.1 million for CAMS in fiscal year 2002. Your budget request also includes funding separate information technology systems at the EDA, the MBDA, the BXA, and the ESA. Why are these systems not tied into CAMS? Which other information technology systems within the Department of Commerce are not tied to CAMS and what are their functions?

Answer. Since the restructuring of the program in fiscal year 1998 and the successful pilot implementation of CAMS at the Census Bureau, where they used the system to control and account for the $5 billion plus 2000 Decennial Census and received an unqualified audit opinion on their fiscal year 2000 books, the progress of the program has been satisfactory and on schedule. The out-year budget projections, which are part of the CAMS Capital Asset Plan, are as follows: fiscal year 2003: $40 million; fiscal year 2004: $31.3 million (full implementation); fiscal year 2005: $30.2 million; fiscal year 2006: $26.4 million; fiscal year 2007: $24.3 million.

My Deputy CFO chairs a CAMS Executive Board consisting of the CFOs of the implementing bureaus (Census, NOAA, NIST and EDA) which meets monthly and reviews progress, budget and requirements, and identifies management and technical issues for resolution. In addition, the CAMS Program Manager, who reports to the Deputy CFO, meets weekly with NIST, and along with the Deputy CFO, biweekly with NOAA and biweekly with Census to review the details of implementation planning and execution.

The Department has an Information Technology Investment Review Board whose purpose is to: review the business case for any enterprise system development initiative in the Department; determine if an adequate capital asset plan is in place; evaluate the soundness of the technical design and implementation strategy; review the acquisition plan; and ensure that the appropriate ties to the financial system (CAMS) have been considered and planned. In the case of Commerce Standard Acquisition and Reporting System (STARS), the Department's new acquisition management system, the Board reviewed and approved the business case for CSTARS after they were presented with a plan for integrating CSTARS with CAMS. In fact, the Office of Financial Management and the Office of Acquisition Management have successfully collaborated on the design of an interface between the two systems which we will begin building about one year from now. Any other enterprise system in the Department that generates data with a financial impact is required to go through this same process with the Investment Review Board.

The majority of the information technology systems in Commerce are not directly linked to the financial system. These include infrastructure and mission or program-specific systems that do not have a financial component and therefore do not have to tie to CAMS. In their fiscal year 2002 request, the EDA, the MBDA, and the BXA, as well as several other bureaus, have submitted infrastructure improvement projects, which have no tie to the financial systems. In support of its program, the BXA has submitted a request for funding its export control system. Other information technology system investments requested for fiscal year 2002 provide support to the following programs:

—Census and Surveys
—Advanced Short Term Warning and Forecast Services
—Implement Seasonal to Interannual Climate Forecast
—Predict and Access to Decadal to Centennial Change
—Promote Safe Navigation
—Build Sustainable Fisheries and Recover Protected Species
—Sustain Healthy Coasts
—Enforce U.S. Trade Laws
—BEA Statistical Estimation
—Export Control
—Measurement and Standards Laboratories
—Advanced Technology Program
—Manufacturing Extension Partnership
—Radio Spectrum Assignments
—Digital Department
—Grant Processing and Management
—IT Infrastructure and Office Automation Support to all program areas

CRITICAL INFRASTRUCTURE ASSURANCE OFFICE

Question. What criteria will be used in evaluating CIAO?

Answer. The Administration has continued the Critical Infrastructure Assurance Office operations based on its evaluation that the functions remain relevant and essential to overall national critical infrastructure policy. CIAO's continued operations will be assessed against the three functional requirements listed below and the progress it makes in fulfilling these requirements.

The Critical Infrastructure Assurance Office (CIAO) was established as an interagency organization at the Department of Commerce to perform three basic functions:

—First, to promote national outreach and awareness initiatives. These initiatives are designed to inform business leaders across industry sectors of the need to manage the risks associated with relying on information systems.
—Second, to coordinate analyses of the U.S. Government's own dependencies on critical infrastructures. Last year, CIAO launched an initiative—labeled "Project Matrix"—to fulfill this requirement. Under this program, CIAO assists Federal agencies in identifying the assets, networks, and associated infrastructure dependencies that are required to deliver services vital to our national and economic security.
—Third, to coordinate the preparation of a national critical infrastructure assurance plan. The Bush Administration intends to publish its own national plan later this year.

The Administration has decided to go forward with funding for CIAO in its fiscal year 2002 Budget, extending the Office's term of operation through the next fiscal year.

Question. Who will be involved in CIAO's evaluation?

Answer. The future role for CIAO beyond fiscal year 2002 will be decided as part of the Administration's overall policy review of Federal critical infrastructure protection efforts. The Department of Commerce is responsible for evaluating CIAO's activities.

Question. When will a report on the evaluation be available to the Appropriations Committees?

Answer. The Administration's policy review is expected to conclude within the next few months.

Question. How are the NIST, NOAA and Bureau of the Census critical infrastructure programs tied into CIAO?

Answer. None of the critical infrastructure protection programs of NIST, NOAA, or the Bureau of the Census is "tied" into CIAO in any operational sense. CIAO is responsible for coordinating certain critical infrastructure policy initiatives and integrating them into a national critical infrastructure protection plan. NIST's work in research and development, and in establishing best practices and standards for unclassified computer systems, is clearly an important part of any national plan and, to that extent, NIST and CIAO work closely together. In addition, CIAO continues to work with Department of Commerce organizations in identifying critical assets and infrastructure dependencies under Project Matrix.

Question. Can these programs continue to exist without CIAO?

Answer. Yes. The programs of other Department of Commerce organizations are discrete in nature and their existence does not depend on the operations of CIAO.

Question. If CIAO were to be eliminated, how would this effect critical infrastructure programs in other Departments?

Answer. If CIAO were eliminated, the Federal government's ability to coordinate its critical infrastructure planning—especially with regard to the private sector—would be diminished as a result of a loss of coordinated efforts to promote outreach and awareness. In addition, CIAO's periodic support of Federal departments and agencies would be diminished as well. This would also be detrimental to the Federal government's overall ability to maintain effective partnerships at the national level. For now, the functions CIAO performs remain relevant and important to critical infrastructure protection policy. No other Federal government organization has been assigned responsibility to perform these functions, except CIAO.

ADVANCED TECHNOLOGY PROGRAM (ATP)

Question. Mr. Secretary, your budget request assumes congressional approval of a reprogramming request. If this reprogramming were to be denied, what would be your plan for funding new ATP awards? If the reprogramming were to be denied, will you continue to re-evaluate the ATP?

Answer. The Department is currently evaluating ATP to determine whether a need still exists for Federal funding to assist U.S. industry in conducting long term applied research and development. Therefore, I would like an opportunity to give the program thorough consideration and review to determine if any restructuring of the program is warranted prior to funding any new ATP awards. I believe that the Federal government has a role in long term basic research, but I have concerns that ATP, while well-managed, goes beyond this and has funded projects more appropriate for investment by the private sector.

PATENT AND TRADEMARK OFFICE (PTO)

Question. Mr. Secretary, assuming there were no budget restraints, what would be your top five priorities to improve efficiency of operations at the U.S. Patent and Trademark Office? Please rank these needs.

Answer. The core mission of the USPTO is to deliver high quality intellectual property products and services in a timely manner. The top priorities in achieving that mission are:

—Recruiting and retaining highly skilled Patent Examiners. It is critical for the USPTO to recruit a highly qualified workforce and to retain experienced patent professionals who are the most productive Patent Examiners if the agency is to achieve its quality and timeliness goals.

—Developing paperless patent and trademark application processes. This will reduce the inefficiencies and costs in handling large volumes of paper that are processed at the USPTO.

—Producing quality products and services. By producing quality products the first time and reducing errors, the USPTO will achieve the highest level of efficiency and citizen satisfaction. This will be accomplished by enhancing formal and on-the-job training, improving examiner search tools, and sound management principles.

—Outsourcing certain activities. This will allow Patent Examiners to concentrate their time on the critical technical and legal aspect of their job and thereby increase efficiency and effectiveness.

—Improving and expanding the e-government services provided by the USPTO to become more citizen-centered and accessible.

Question. With the understanding that one of your priorities is to move rapidly toward a paperless patent application process, please submit a written plan on deliverables that would allow for this to become a reality.

Answer. USPTO plans for paperless patent application processing are contingent upon receiving applications in the proper electronic format from our customers. The deliverable components that make up a paperless patent application process include:

—*Electronic Filing System.*—This system was made available to the public in the fall of 2000, which formats patent application data for further automated processing and utilizes public-key infrastructure to provide for secure communications from applicant over the Internet.

—*Management Information System.*—This will provide the monitoring and workflow of electronics documents, including the original application file and both incoming and outgoing correspondence that make up the patent application and will provide for the creation of management information reports.

—*Document Management System.*—This will provide the necessary storage and handling of all components of an application, and ensure that the electronic records are properly managed to meet the legal admissibility standards.

—*Electronic Publication System*.—This will provide the ability to deliver the appropriate version of the electronic application for publication.

The USPTO has been and will continue to be aggressive in its deployment of information technology and e-government as resources permit. USPTO plans to work closely with its customers in the roll-out of paperless patent application processing.

Question. The fiscal year 2002 Corporate Plan for the PTO contains a number of performance measures for the PTO for fiscal year 2002 through fiscal year 2006. That document states, "It is important to note that the performance measures identified for fiscal year 2003 to fiscal year 2006 assume that the USPTO will receive full access to its fees." Even with that assumption, the PTO projects that patent pendency will rise from an average of 26.2 months this fiscal year to 38.6 months by fiscal year 2006. That analysis clearly indicates that the Secretary of Commerce and the Committee need to take a serious look at PTO operations and evaluate from the ground up what they need to do their job better. How can PTO make that assumption? What would happen if the Administration and Congress continued to withhold approximately 15 percent of PTO fee collections consistent with the President's fiscal year 2002 Budget request? What can be done to address that issue without sacrificing quality?

Answer. The USPTO has experienced an annual growth in patent application filings of more than 12 percent in recent years. We need to address this issue by first identifying the core goals of the USPTO; implementing management strategies to reach our goals; and determining the level of funding needed to meet these goals. We will be evaluating the operations of the USPTO to ensure that proper priorities are being set and efficient systems are in place and submitting budgets that will reflect these priorities.

US&FCS STAFFING

Question. Mr. Secretary, how does the Department determine when and where U.S. and Foreign Commercial Service Centers are opened and closed? How much is being requested for the U.S. Foreign Commercial Service Export Assistance Centers? Please provide, in writing, a U.S. and Foreign Commercial Service Assistance Center expansion or consolidation plan that outlines both when and where openings and closures will occur both in this country and abroad.

Answer. The fiscal year 2001 budget for Domestic Operations is $35.1 million. Of that amount, $32.3 million is budgeted for USEAC operations in the field. The fiscal year 2002 budget request for Domestic Operations is $34.3 million.

Based on the President's budget request for fiscal year 2002, the US&FCS has no plans for expansion. With the recent confirmation of the Under Secretary for International Trade and the pending confirmation of the Assistant Secretary/Director General for the US&FCS, we are undertaking a full audit of all our domestic and overseas staffing and locations over the next 60 days. We anticipate that the new Assistant Secretary, when confirmed, will consider all options—including gapping positions, as well as consolidating, closing, and relocating offices domestically and posts overseas. We would be pleased to provide you with the results of that audit as soon as it is completed.

In undertaking the audit, we will utilize performance measures, look at mission effectiveness, and redistribute resources accordingly—all in order to position our resources where they will produce the biggest impact for U.S. exports. We are outlining briefly below the factors that will guide the audit in both the overseas and domestic fields. Again, we would be glad to provide further detail on the methodology.

We audit overseas staffing and locations in six major ways:

—We identify the most promising markets overseas using five-year historic data and five-year projections relating to market size and market structure which we received from economic forecasting firm DRI (now DRI-WEFA).

—We then identify where Foreign Service Officers are likely to have the greatest impact overseas based on management, operational and mission factors that cannot be as effectively discharged by local staff.

—Next, we apply a cost-benefit analysis to identify where we have been getting the most bang-for-our buck.

—Always, we consider several other important and often overriding factors that we did not attempt to quantify, such as Administration and legislative priorities, strength of trade promotion infrastructure, quality of local work force or geographic dispersion.

—Once these quantitative tools have placed all countries on the same starting point, the regional offices apply in-house country and area expertise to make

the hard calls on where to open or close offices and determine budget allocations.

—Within country, we rely on the post to determine an optimal staffing level and mix for each country given its resources.

We audit domestic operations in four major ways:

—We look for large concentrations of small and medium sized businesses that are looking to export to new markets.

—We consider what other resources these businesses have available to them.

—We work with other Federal agencies, state and local export promotion groups, and other organizations such as Chambers of Commerce and universities, to plan where our counseling services could create the greatest benefit.

—We consider the cost-effectiveness of all staffing options, utilizing a cost-benefit model that lets us compare productivity across offices in various locales.

With the process currently underway, we expect to have a full plan for you within 60 days.

TECHNOLOGY PROGRAM

Question. Mr. Secretary, your budget request for the Office of Technology Policy is $8.2 million. How is this amount broken out between the various Office of Technology Policy responsibilities?

Answer. The budget requests $8.2 million for the Under Secretary/Office of Technology Policy. This includes $1.832 million for the executive management function of the Under Secretary's office; $1.5 million for GSA rent and Hoover Building related costs; $608,000 for the Office of Space Commercialization; $598,000 for EPSCoT; $400,000 for the Partnership for a New Generation Vehicle Secretariat and $3.3 million for the Office of Technology Policy program and policy functions.

Question. Do you have plans to evaluate the relative value of the Partnership for a New Generation of Vehicles?

Answer. Yes. Every year the National Academies of Science and Engineering conduct such an evaluation. Their report for the year 2000 is currently being developed, and we expect its release in July 2001. This annual evaluation, conducted by the Transportation Research Board's Standing Committee to Review the Research Program of the Partnership for a New Generation of Vehicles, is performed by a group of industry and academic automotive experts. Approximately half of these experts are members of the National Academy of Engineering.

Question. Could economies of scale be realized if the Office of Technology Policy was eliminated and its programs were moved to separate Bureaus such as the National Institute of Standards and Technology?

Answer. The missions of the Office of Technology Policy (OTP) and the National Institute of Standards and Technology (NIST) are very different. NIST is, fundamentally, a scientific and research laboratory staffed with scientists, engineers, and other technical personnel who specialize in various scientific and engineering disciplines. In contrast, OTP is a policy analysis and development organization. It analyzes the range of factors that affect technological innovation, and advocates policies that could increase the contribution of technology to U.S. economic growth and competitiveness. This policy work is required in the Stevenson-Wydler Technology and Innovation Act of 1980. It is unclear what gains, if any, would materialize by eliminating OTP as other Federal agencies tend to only address a narrow set of technology policies related to their specific missions.

NOAA—NMFS COOPERATIVE RESEARCH

Question. Mr. Secretary, I've noticed that your budget request for the National Marine Fisheries Service includes an increase for cooperative research. This idea shows great promise for the future of fisheries management, but only if your fisheries scientists and managers are equipped and willing to use the data that is being collected. Can you demonstrate that they are willing and equipped to do so?

Answer. Our fiscal year 2002 request includes $3.5 million for NMFS Cooperative Research Implementation. These funds cover the NMFS costs associated with cooperative research in the Northeast, including specific research design, field scientific staff, data assimilation and analysis, program administration, and application of the research results to Council management issues. The NMFS Cooperative Research Implementation funds complement our $16 million Cooperative research request to utilize the expertise and insights of fishers in research including resource survey design and interpretation. This two-part request provides both the resources for NMFS and the industry to ensure future cooperative research programs are successful and provide needed data.

NOAA—NMFS LAWSUITS

Question. Mr. Secretary, there are 110 lawsuits pending that name the National Marine Fisheries Service (NMFS) as the defendant. Twenty-five of these lawsuits are related to the National Environmental Policy Act. As you know, NMFS' untimely action in the Ninth Circuit Court last year resulted in a temporary shutdown of one of our nation's biggest fisheries. A NEPA-related lawsuit could threaten the lobster fishery in New England. How do you intend to approach the backlog of litigation? What is your plan to avoid this kind of backlog in the future? How are you planning to reduce the agency's risk to litigation? What steps are you taking to ensure that the entire staff of the agency is not pulled into litigation, and away from the science and regulations that they are required to implement? Many of the lawsuits involve a debate about the science. How is NMFS evolving to ensure that it makes decisions based upon the most up-to-date and sound science?

Answer. NMFS is involved in approximately 106 lawsuits, but it is not the defendant in all of them. NMFS may be a plaintiff; it may not be a named party at all, but are following the lawsuit because our interests are implicated.

We are certainly concerned about our litigation load, as it has approximately doubled in the last five or six years. Some of this increase is inevitable. The more species or populations an agency lists under the Endangered Species Act, the more litigation will ensue. Another example is the Sustainable Fisheries Act, which in 1996 increased NMFS' responsibilities to rebuild overfished fisheries, minimize bycatch, and protect essential fish habitat. Those who believe we have gone too far in conserving fish stocks and habitat have sued us, and so have those who think we have not done enough. Other lawsuits may be avoided in the future if NMFS can improve its compliance with procedural statutes such as the National Environmental Policy Act and the Regulatory Flexibility Act. We have new guidelines for complying with the Regulatory Flexibility Act, and recently received an honorable mention from the Small Business Administration for our improved performance under that statute.

Most, if not all, of the funding increases requested for NMFS in the fiscal year 2002 President's Budget will help meet the agency's legal requirements and thereby reduce the number of new lawsuits. The increased resources will fund additional stock assessment information, improved economic and social data, and research. This will aid NMFS in meeting its mandates and withstand court challenges.

We have a task force working now, with assistance from a contractor, to identify ways to better manage our decision making process by incorporating all these procedural requirements more efficiently. We expect to make improvements that will result in better decision making and the elimination of our lawsuit backlog and other litigation problems.

Question. You have requested $8 million for NEPA in fiscal year 2002. How do you intend to spend these funds?

Answer. Our fiscal year 2002 budget request continues the $8 million appropriated in fiscal year 2001 to address NEPA related needs. This critically needed funding will be utilized in the short-term to fund immediately NEPA projects of highest national significance and litigable risk. In the long-term, the funding will be used to build on the task force recommendations and institute a management process that improves the decision making and integration of the agency's growing statutory, regulatory, and legal requirements. Additionally, the fiscal year 2002 budget request includes proposed funding of $13.3 million for additional stock assessments, and $1.4 million for more socio-economic analysis. Support for these requests would provide better data for the management arena as well.

NOAA—FISHERIES RESEARCH VESSELS

Question. Mr. Secretary, I am concerned that as NOAA's fisheries research vessels are pushed into proposed future budget requests that the cost per vessel will increase. As you know, the NOAA fleet is aging and many of the NOAA vessels must be replaced. Why wasn't the second fisheries vessel included in the budget request?

Answer. Mr. Chairman, the Administration has decided to defer funding for the second vessel to fiscal year 2003 to capture efficiencies and economies obtained through the design of the first vessel. However, this program remains a high priority for NOAA and NMFS.

Question. Will you support its funding if we find resources for it?

Answer. The Fisheries Research Vessel construction contract includes options to support NOAA's requirement to build three additional vessels. NOAA is committed to meeting this requirement.

Question. Can you assure me that next year we see the third vessel in the budget request?

Answer. NOAA is currently working with the Administration to secure funding in future years for these additional vessels.

STIMULATING U.S. MARKETS TO ENSURE GROWTH

Question. Secretary Evans, as you know the United States is the largest, most dynamic, and, most influential market in the world. We have experienced significant growth and innovation, resulting in increased wealth for much of the country. The U.S.'s influence on global markets is undeniable and dramatic. Yet, along with the designation of "worlds' largest economy" comes certain responsibilities. Some have even called the United States "the market of last resort," meaning that we must import goods and services in order to maintain some measure of economic order. Currently, our growth is slowing. People are not buying like they did a few years ago. Stock market analysts talk about "a market rebound" rather than "historic trading levels." Mr. Secretary, recognizing the U.S.'s role in the world, and our slowing economy, what is your plan to stimulate our markets to ensure continued growth?

Answer. The Administration is pursuing monetary, fiscal and trade policies that foster and improve a favorable climate for growth. In this regard, the tax legislation is critical. The near term stimulus of the tax bill is important. Since businesses look to the future, so too are those features of the Administration's strategy that encourage education, saving, risk taking and adopting a longer term perspective in investment in people and by people.

Just as U.S. markets represent important opportunities for foreign producers, U.S. economic strength depends in part on expanding access to foreign markets for U.S. producers. In recent years, the U.S. economy has enjoyed major productivity gains, high employment and low inflation stemming largely from the spread of IT investments. But these improvements only create the potential for commercial successes abroad if we have more open access to foreign markets. To realize our potential, we must continue to work for a more liberal international trading system.

Open markets at home and abroad are good for Americans and good for the global economy. Open U.S. markets provide lower prices and more choice to our consumers, which makes incomes of all consumers go further. In essence, open trade, much like a tax cut, increases people's discretionary income. This is particularly so in a competitive economy such as ours where the benefits of open trade quickly find their way to consumers in the form of greater choice and lower prices.

Internationally, open trade has contributed far more to post World War II economic expansion where countries have pursued liberal trade policies than where countries that have chosen more closed trade regimes, often marked by quotas, high duties and administrative restraints to the flow of goods and services.

QUESTION SUBMITTED BY SENATOR PETE V. DOMENICI

PROMOTING COMMERCE IN SOUTHWEST REGION

Question. Earlier, I referenced that our recently booming economy generated significant wealth for much of America. However, rural areas have not realized many of these gains from trade. New Mexico is a rural state. Even more to the point, my state's border region with Mexico is disproportionately poor. The median household income in the border area is $14,000 compared to $16,346 for the rest of the state. We should not point to the wealth of the majority while ignoring the relative poverty of the minority. Please explain your strategy to promote commerce in traditionally forgotten regions, like the southwest border region.

Answer. The Economic Development Administration's (EDA) mission is to generate jobs, help retain existing jobs and stimulate industrial, technological and commercial growth in economically distressed areas of the United States. EDA targets its assistance to distressed communities, such as those found in the Southwest Border Region, helping them in developing and implementing their own economic development and revitalization strategies. EDA provides planning assistance on an ongoing basis to seven Economic Development Districts (EDDs) in New Mexico that encompasses the entire state. The state's border region is covered by three EDA funded EDDs: Southwest NM Council of Governments, in Silver City; South Central NM Council of Governments, in Truth or Consequences; and Southeastern NM Economic Development District, in Roswell. EDA also funds two University Centers which are located in the border area. One is at the New Mexico State University in Las Cruces and the other is at Eastern NM University in Roswell.

EDA also plays an active role in support of the Interagency Task Force on the Economic Development of the Southwest Border initiative. EDA's Austin Regional

Office volunteered to assume the lead for the selected pilot community of Demming, New Mexico. EDA's function, in addition to providing technical assistance and direct program support, is to assist in coordinating other available Federal resources to implement the community's comprehensive economic development strategy. Also under study is a preliminary proposal for Wiring of the Border being developed and co-sponsored by the U.S. Mexico Chamber of Commerce.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

ACCESSING EDA FUNDS TO LOW-INCOME COMMUNITIES

Question. Last year, we appropriated $286 million to just the public works program, which supports local government efforts to attract new industry, encourage business expansion, diversify local economies, generate long-term private jobs. Despite its success in these efforts, EDA has been targeted in your budget for drastic reductions. What activities is the Commerce Department prepared to undertake to otherwise assist low-income communities who will no longer have access to economic development funds from EDA?

Answer. Economically distressed communities will still have access to all of EDA's various program tools, which include grants for Planning, Technical Assistance, Economic Adjustment, and Public Works and Economic Development Facilities.

While the $250 million requested in fiscal year 2002 for EDA's Public Works and Economic Development Facilities Program is approximately $36 million below the amount appropriated for fiscal year 2001, we believe the amount requested will be sufficient to enable EDA to respond to the needs of the highly distressed communities of the Nation.

EDA, which has a good track record of targeting its Public Works Program resources to areas of high distress, will continue to reach out to economically distressed places, both rural and urban, that have demonstrated a pressing need to upgrade their basic infrastructure or construct new cutting-edge technological facilities that are required to support the economic development of local economies and to enhance the global competitiveness of distressed communities.

DIGITAL DIVIDE

Question. The Commerce Department did an excellent job over the past three years demonstrating that a digital divide exists in America. The Department put out a series of reports entitled "Falling Through the Net" that indicated the digital divide is still widening. For example, the report showed that 46 percent of white households own computers versus only 25 percent of Hispanic households. What do you see as the Department's role in ensuring that no American is left out or left behind in the new techno-economy? What funding priorities in your budget achieve this goal?

Answer. A long-standing priority of the U.S. government has been universal access to basic and advanced telecommunications services at affordable prices. Access to the tools of the new digital economy by all Americans is the key to the economic growth and competitiveness of this country. Yet many Americans still do not have affordable access to telephones, computers, or the Internet.

The Department of Commerce will continue to play a role in promoting affordable access by promoting pro-competition policies. These policies encourage competition and growth in telecommunications services, which lead to new services being offered to more people at lower prices. Moreover, the Department's grant programs help provide access to new technologies. The President's budget requests $15.5 million for the Technologies Opportunities Program (TOP), administered by the National Telecommunications and Information Administration. This program provides matching federal grants to finance demonstration projects that focus on connections to rural and inner-city areas. The program emphasizes the application of new technologies, including broadband. In addition, the grant and loan programs administered by the Economic Development Administration are helping to support broadband infrastructure deployment to distressed communities.

The Department is currently reviewing the "Falling Through the Net" report to determine how to proceed in order to best assess the relative growth of the Internet and computer access across the country.

SUITLAND FACILITIES

Question. The current condition of the Census and NOAA facilities at the Suitland Federal Center in Maryland pose serious health and safety risks for thousands of federal employees: they are riddled with asbestos, there are high levels of lead in

the water such that employees have to use bottled water for drinking and don't know if it's safe for them to wash their hands. In addition, these buildings are over 60 years old and have received little maintenance over the past several years—roof leaks and floods from broken pipes are not an uncommon occurrence, and ceiling tiles, possibly contaminated with asbestos, fall down on employees desks. As you know, the Census Bureau employees more than 4,000 employees at the Suitland facilities and is the sixth largest employer in Prince Georges County. The Bureau is extremely disadvantaged by having to carry out its work in substandard, unhealthy conditions.

Similarly, NOAA's National Environment Satellite, Data, and Information Service (NESDIS) and its Satellite Operations Control Center, cannot complete their mission within these buildings. In fiscal year 2000, there was $3 million for NOAA to plan and design a new facility and report language to direct Census to come up with a long-range plan for its facilities. Last year, NOAA received $15 million in advanced appropriations for the initial rehabilitation. The General Services Administration budget for fiscal year 2002 includes $34 million to rehabilitate Census facilities, and the NOAA budget contains $15 million to finish the renovations. Do you agree that the current condition of the Census and NOAA facilities at the Suitland Center endanger the health and safety of the federal employees who work there?

Answer. While the current condition of the Census and NOAA facilities at the Suitland Federal Center does not endanger the health and safety of the federal employees who work there due to the special measures and monitoring put in place, we agree that the current facilities are not sustainable. The aging, 60 year old buildings are in substantial need of repair. Our concerns are based upon continual problems that threaten the day-to-day operations, as well as the health and safety of the employees and other individuals who must visit or work in these aging, deteriorating facilities. The following is a list of the major issues that must be addressed:

—aging, unreliable, uncontrolled heating and air conditioning (HVAC) systems, which rely upon a central plant supplying chilled water for air conditioning and several boilers in multiple buildings supplying hot water for heat, make the systems unresponsive to swing-season conditions
—frequent leaks from the HVAC units which result in carpet damage that contributes to mold and mildew growth and poor indoor air quality
—frequent roof and wall leaks that have resulted in damage to ceiling tiles, furniture, and equipment
—aging, corroded plumbing that is prone to leaks, blockages, serious pipe breaks, and office flooding
—aging power equipment and the lack of a managed electrical system that require extensive wiring searches and major rerouting of wiring to make electrical repairs
—aging, unreliable elevators that are frequently inoperable
—elevated levels of lead, iron, and copper in the water supply that is designated as unfit for human consumption, making bottled water a necessity at the facility
—no outside fresh air circulatory systems, which encourages the growth of molds and other microbes that cause poor indoor air quality
—existence of asbestos contamination in the air-handling units, pipe wraps, floor tiles, and above the drop-ceiling tiles
—pigeon, rodent, and other pest infestation.

Question. Will you keep the replacement or rehabilitation of these buildings as a top priority for the Department of Commerce?

Answer. Yes. Safe working conditions and modern facilities to house employees are top priorities of the Department of Commerce. The Department is working with GSA to formulate long-term housing solutions for both Census and NOAA at the Suitland Federal Center (SFC).

GSA has proposed a two-phase solution for the Census Bureau. Phase I involves the construction of a new building equal in size to Federal Building 3 (FB–3). The new building would be occupied in fiscal year 2006 by employees now located in FB–3.

Once the existing building is vacated, Phase II would involve the renovation of FB–3 with occupancy scheduled for remaining Census employees in fiscal year 2010. As Phase I nears completion, GSA and the Department will revisit the plan for Phase II to ensure that the most appropriate and cost effective solution will be undertaken.

For NOAA, the replacement of FB–4 has been identified as a national priority by both GSA and the Department of Commerce. The design contract for the new NOAA Satellite Operations Facility at the Suitland Federal Center was awarded in January 2001 and is underway. The President's fiscal year 2002 budget request includes

$34 million for GSA for the construction of the "base building" scheduled to begin in October 2001.

In fiscal year 2001, NOAA was appropriated $15 million for its above standard construction costs necessary to meet its high technology operational requirements. Included in the President's fiscal year 2002 budget request is $5.7 million for costs related to the occupancy of the building and to sustain the 24-hour, 7 day a week critical satellite operations during the relocation into the new facility.

This project is scheduled for completion in early fiscal year 2004 and will continue to be a top priority of NOAA and the Department.

SUBCOMMITTEE RECESS

Senator GREGG. If there is nothing further, the subcommittee will stand in recess.

[Whereupon, at 11:10 a.m., Tuesday, May 1, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

THURSDAY, MAY 3, 2001

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

The subcommittee met at 9:57 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Hollings, Mikulski, Leahy, and Murray.

DEPARTMENT OF STATE

SECRETARY OF STATE

STATEMENT OF HON. COLIN L. POWELL, SECRETARY

Senator GREGG. I call the Subcommittee on Commerce, Justice, State, and Judiciary of the Appropriations Committee to order.

We are certainly privileged today and appreciate the Secretary of State coming by to give us his thoughts on the budget and any other issues that he wishes to address or that members wish to raise.

I will forego an opening statement so we can hear from the Secretary. I do not know if my colleague——

Senator HOLLINGS. Good. I will follow your leadership.

Senator GREGG. Then, we will pass on opening statements, and we would like to hear your thoughts, Mr. Secretary—excuse me, Senator Leahy. Did you wish to say something? I understand Senator Leahy has to leave.

Senator LEAHY. Mr. Chairman, I have to go to the Judiciary Committee; we have a little matter up there this morning. If I could have permission to submit questions for the record and my statement.

Senator GREGG. Yes, absolutely.

Senator LEAHY. And I am, like all of us, delighted to see the Secretary here.

Secretary POWELL. Thank you, Senator.

Senator GREGG. Thank you for coming by.

[The statements follow:]

PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Mr. Secretary, it is good to see you. I think your appointment was one of the President's best and most important decisions so far, both for our country and for the State Department.

This has already been shown by the effective way the Administration handled the crisis with China over our reconnaissance aircraft, the public statements you have made for a more aggressive response to HIV/AIDS, and your work on other issues.

You are scheduled to testify before the Foreign Operations Subcommittee the week after next, so I do not want to take a lot of time today. There are a couple of issues I want to mention.

First, thank you for continuing the position of Special Representative for Global Humanitarian Demining. Ambassador Don Steinberg has done an outstanding job, and it is important that we continue to make progress on the landmine problem.

I hope you and I can find a time soon to discuss this further.

Second, I want you to know that I believe the budget for the Bureau for Democracy, Human Rights, and Labor is inadequate.

This office has some of the most hard working, committed, and under-appreciated professionals in the State Department. They are responsible for ensuring that the most fundamental principles on which our country was founded are reflected in our foreign policy.

Yet they have few funds to independently investigate reports of serious human rights violations.

Too often, their views have been ignored or ridiculed as naive. They are told that human rights are important, but there are higher priorities.

Last year, thanks to this Subcommittee, the Congress increased the budget for the DRL Bureau to $12 million. The Administration requested the same amount for 2002.

I believe they need more, and I hope we can do better.

Finally, I want to mention U.N. arrears. We were all pleased that Ambassador Holbrooke was able to achieve an agreement on a reduction in the U.S. share of U.N. dues last December, and that the Senate passed legislation to implement the deal. I hope the House acts on this soon.

But if we do not repeal the 25 percent funding cap, we will continue to accumulate arrears and be right back where we started. I urge you to work with Congress to move on this as soon as possible.

Mr. Secretary, there are other priorities like funding for AIDS, the immense needs in Africa, and other foreign assistance programs that we will discuss at the hearing on May 15.

I think we all feel that the State Department is in very good hands, and I look forward to working with you this year and in the future, particularly on the international affairs budget.

If I can be so presumptuous as to give you one piece of advice:

You can have the best foreign policies in the world but if you don't have the funds to implement them, they are not worth much.

Too many of your predecessors seemed to forget that after their first year in office, and they learned the hard way how big a mistake that was.

Mr. Chairman, I have a couple of questions I will submit for the record.

PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

Mr. Secretary, let me join in welcoming you to this subcommittee for the first time. Your talents and experience are well known to us all. I am proud to carry on a tradition of bipartisanship in foreign affairs in this subcommittee and in the Senate, though there have been tragic exceptions like the Comprehensive Test Ban Treaty vote last year.

I look forward to working closely with you to ensure American leadership is headed in the right direction and to ensure we devote the necessary resources to protect America's interests and reflect America's values.

I commend you for working to reinvigorate the State Department. Our Foreign Service Officers and civil servants serve our nation and endure hardships and risk their lives. They deserve secure, modern embassies not collapsing relics or trailers; 21st Century information technology not 19th Century cables; benefits they have earned not home leave they routinely forgo to reduce staffing gaps; and a career path that rewards performance not an uncertain future due to poor planning.

America's foreign policy professionals deserve our respect and support. I stand ready to support increased funding for the State Department. We're counting on you to make sure our resources are used well.

We must ensure that our foreign policy is one which deserves broad support from the American people not the agenda of a small minority who insist on the global "gag rule" which makes international family planning efforts less effective; not the interests of a few corporations who want to resume trade ties with terrorist states like Libya and Iran; and not an isolationist approach, leaving Europe to the Europeans or looking away from the AIDS crisis in Africa.

We should seize the opportunity to build a new relationship with the United Nations. The United Nations continues management and other reforms. Ambassador Holbrooke achieved reductions in our assessment rates last December. Now we must pay our dues and arrears responsibly. We must remain fully engaged in diplomacy to prevent or address conflicts in the Middle East, standing by our ally Israel at a difficult time; in the Balkans, ensuring our interventions achieved lasting peace with justice and with respect for the rights of all; in Cyprus, which has been divided for decades; in Africa, where ethnic conflicts, health crises, and slavery continue; and in Latin America, where we have the opportunity to work with democratically-elected governments in almost every country.

Mr. Secretary, we are looking to you to provide leadership for America's diplomats and for American diplomacy. Thank you for testifying today and I look forward to raising a few questions.

Senator GREGG. Mr. Secretary, please proceed.

Secretary POWELL. Thank you very much, Mr. Chairman, and good morning. It is a great pleasure to appear before the subcommittee, and I am tempted to take the same opportunity that you did to pass on an opening statement, but I do not think I can get away with that.

Senator GREGG. Whatever you desire.

Secretary POWELL. So what I would like to do is submit a formal statement for the record with your permission, Mr. Chairman, and then make some opening remarks and go right to the questions that might be on your mind.

Mr. Chairman, members of the subcommittee, I am pleased to appear before you for the first time as Secretary of State and to testify in support of the President's State Department budget for fiscal year 2002.

The budget, I am pleased to say, represents a significant increase in the Department's resources for the upcoming fiscal year, and we are very happy with that. It is a very good start in helping to get the Department ready for the 21st century. But it really is just the first fiscal step in our efforts to align both the organization for and the conduct of America's foreign relations with the dictates and demands of the modern world.

As Secretary of State, Mr. Chairman, I really wear two hats. By law, I am the principal foreign policy advisor to the President of the United States, but I am also the leader, the manager, the CEO of the Department of State, and I take that role and that charge very, very seriously.

To be successful in both roles, I think I have to make sure that the Department is properly organized, equipped, and manned to conduct America's foreign policy as well as formulate good foreign policy in the name of the President and the American people.

This morning, wearing my CEO hat, I want to highlight what this budget contains with respect to the President's three highest priorities for the operation of the State Department—first, hiring new people, the lifeblood of any organization; second, Embassy construction and security, an issue which I know is very much on the minds of members of this committee; and third, information technology.

I put people first because they should always be first; it is what makes the organization run. People get work done—not buildings, not staffs in a generic sense, and not plans—but people, and people will always be my first priority.

There is no disputing that America needs to have the right people on the front lines of diplomacy. But we also need to have enough people. So the budget has $134.5 million for a major investment to recruit, hire, and train sufficient new people to create a training float. As well as staff for needed openings, so that we can begin to do something about the serious shortages we are experiencing in Foreign Service Officers in the field.

In addition, we are seeking $488 million to continue and enhance our worldwide security readiness program. This enhancement includes hiring more security personnel, and we have $17 million within the $488 million to do just that.

Our important multiyear program for Embassy construction, refurbishment, security, and maintenance will continue apace if this budget is approved—$1.3 billion supports this effort for 2002, including $665 million for construction of new secure facilities.

In addition to continuing this ambitious program set in place by my predecessors and the Congress last year, we are using new and more efficient ways to execute this program. For example, as we have notified the Congress, I intend to move the Foreign Buildings Office out from under the Bureau of Administration and put it directly beneath the Under Secretary of State for Management, Mr. Grant Green, a distinguished leader and management expert, and by the way, a close friend of mine for 20 years, who knows how to run things.

Moreover, to run the Foreign Buildings Office, I have hired another experienced executive, retired Major General Charles Williams, U.S. Army Corps of Engineers. Chuck Williams is well-known throughout the congressional community, the military community, and especially the construction community, both military and civilian. He is well-known for his ability to get construction projects completed on time, under cost, and in the most efficient way possible. He built the Dulles Greenway, not too far from here. He helped to refurbish the D.C. school system and did the same thing in New York City. He has worked with Congress, and he is already making a difference in the running of the Foreign Buildings Office. His adaptation of industry best practices to our overall program, plus his skilled management techniques, will make this construction program hum. And we are committed, Mr. Chairman, to getting the average cost of Embassy construction below the current figure of $100 million per Embassy, and if anyone can do it, I know that Chuck Williams can.

It will be no mean feat because, as you are well aware, there are special provisions and requirements for every Embassy, and those unique provisions and requirements tend to drive costs up enormously. But we are going to give all we have got to get the price down and under control.

Along with well-built, secure, and modern embassies, we want broad-based internet access for all of our people. I want every employee in the Department of State, no matter where they are located throughout the world, to have access to the powerful new

internet technology that is out there, access to the power of the information revolution, so they can do their jobs in the most efficient way that we can make possible for them to do those jobs.

We also want to modernize our classified information networks, and we have $210 million in the budget for these two initiatives—universal access to the internet, and modernized classified networks.

On the CEO side of my ledger, then, these are my priorities—people, embassies, and information technology. Wrap all three up in the fourth priority, which is security, and you have the high points of the President's 2002 budget for State operations.

I want to talk about one other change we are making in the Department. We are reorganizing the way that we manage our finances. When I first arrived at State and looked around during the transition period, I did not find any single authority in charge of all of the Department's financial activity. There was a chief financial officer, but he had no control over the foreign operations part of the money, two-thirds of the overall budget. I knew that we needed to change that overall situation.

Under our plan to change, we will bring together all of our dollars, both those for State operations and foreign operations, and we will put them all under one bureau headed by an Assistant Secretary of State for Resource Management, and the Assistant Secretary will report directly to the Deputy Secretary.

This new bureau will also be responsible for strategic planning so that we can link our budgeting priorities and our budget requests to specific strategic planning objectives that we have for the Department.

These are just the highlights of what we are doing, Mr. Chairman. I want to close with an observation about the management style that we are going to be using at the State Department.

I have hired some very, very experienced people to help me. Deputy Secretary of State Richard Armitage and I worked together for many years at the Pentagon. I have delegated to him all of the authority that I have with the exception of a few legally-constrained authorities that I cannot delegate. The reason I did that was because I want the Department to see myself and my deputy as one and the same, totally integrated, both of us trying to be leaders and managers and foreign policy experts.

Leadership and management is not something I do every Friday afternoon for an hour or so. It is embedded in everything we do, every, single day in the State Department. And I want them to see that the top team, myself and Deputy Secretary Armitage, are working together as a team on leadership, management, and foreign policy for the President and for the American people.

Similarly with Grant Green and with our new Undersecretary for Political Affairs, Mark Grossman—a tight team that is working together to provide a new sense of enthusiasm throughout the State Department, to empower all of our Assistant Secretaries, to empower our Office Directors, to empower our Ambassadors, to let them know that they are in the front line of offense out there, getting the work done and making sure that we are a well-knitted-together team. From the lowliest—and that is not the right term—but the best and the lowest-position consular officer out there in an

Embassy somewhere, all the way up to the Secretary of State—one team, all working together, all empowered, all knitted together with the finest information technology, with programs that take care of them, take care of their families, take care of their kids' schooling, so they know that we care about them as they do about the work that is needed to be done for the American people and to advance American interests on the world stage.

PREPARED STATEMENT

Mr. Chairman, I will stop at this point, because I think it is much more interesting to get to your questions and find out what you would like to hear from me.

[The statements follows:]

PREPARED STATEMENT OF COLIN L. POWELL

Mr. Chairman, members of the subcommittee, I am pleased to appear before you for the first time as Secretary of State, and to testify in support of the President's State Department Budget for fiscal year 2002.

This Budget represents a significant increase in the Department's resources for the upcoming fiscal year, and we are pleased with that. This is a good start.

It is the first fiscal step in our efforts to align both the organization for and the conduct of America's foreign relations with the dictates of the 21st Century.

As Secretary of State I wear two hats—one as CEO of the Department, the other as the President's principal foreign policy advisor.

Being successful in both roles is important because we must be properly organized, equipped, and manned to conduct America's foreign policy as well as formulate good policy.

So wearing my CEO hat, I want to highlight what this budget contains with respect to my three highest priorities: embassy construction and security, information technology, and hiring new people.

Our important multi-year program for embassy construction, refurbishment, security, and maintenance will continue to move forward if this Budget is approved. $1.3 billion supports this effort for fiscal year 2002, including $665 million for construction of new secure facilities.

In addition to continuing this ambitious program set in place by my predecessors and the Congress last year, we are using new and more efficient ways to execute this program.

For example, as we have notified the Congress I intend to move the Foreign Buildings Office (FBO) out from under the Bureau of Administration and put it directly beneath Under Secretary for Management Grant Green.

Moreover, I've hired an experienced executive to manage overseas construction, retired Major General Charles Williams, U.S. Army Corps of Engineers. His adaptation of industry best practices to our overall program, plus skilled management techniques, will make this program hum.

We are committed to getting the average cost of embassy construction below the current figure of $100 million. If anyone can do it, Chuck Williams can. It will be no mean feat because, as you are well aware, there are special provisions and requirements for every embassy and those provisions and requirements drive up costs enormously. But we're going to give it all we've got.

Along with well-built, secure and modern embassies, we want broad-based Internet access for all our people. I want every State employee to have access to the Internet and to be able to talk to each other. Likewise, we want to modernize our classified information networks. We've got $210 million in the budget for these initiatives.

There is no disputing that America needs to have the right people on the front lines of diplomacy. But we also need to have enough people. The budget has $134.5 million for a major investment to recruit, hire, and train sufficient new people to create a training float so that we can begin to do something about the serious shortages we're experiencing in Foreign Service Officers (FSOs) in the field. In addition, we are seeking $488 million to continue and enhance our worldwide security readiness program. This enhancement includes hiring more security personnel and we have $17.1 million within the $488 million to do just that.

On the CEO side of my ledger, these are the priorities—embassies, people, and information technology. Wrap all three up in a fourth priority called "security", and

you have the high points of the President's fiscal year 2002 Budget for State operations.

But let me talk about one more change we are making before I go into levels of detail about the Budget. We are reorganizing the way the Department manages its finances.

When I first arrived at State and looked around, frankly, I could not find any single authority in charge of all of the Department's finances. There was a Chief Financial Officer but he had no control over the Foreign Operations portion of the money—two-thirds of the overall budget. I knew we needed to change that situation.

Under our planned change, we will bring together all our dollars—both those for State operations and foreign operations.

We'll then put them all under one bureau headed by an assistant secretary of state for resource management. The assistant secretary will report to the Deputy Secretary.

This new bureau will also be responsible for our strategic planning. Previously, such planning was accomplished in a number of different offices and as a consequence it was quite often separated from actual resource decisions. With the new bureau, we are going to streamline and consolidate so as to synchronize our actual resource allocation with our strategic goals.

Consolidating under one bureau will also establish accountability. All dollars under the purview of the Secretary of State will be coordinated within this bureau.

Linking more directly our strategy and our dollars, and making the expenditure of those dollars more accountable, will make us more effective, more efficient, and infinitely better able to justify our resources.

Mr. Chairman, there is of course much more to the President's Budget for fiscal year 2002 for State operations. Let me provide some of the details under three general headings: Administration of Foreign Affairs, International Organizations, and Related Appropriations.

ADMINISTRATION OF FOREIGN AFFAIRS

Diplomatic and Consular Programs (D&CP):

The fiscal year 2002 request for D&CP, the State Department's chief operating account, totals $3.705 billion.

This account funds the diplomatic activities and programs that constitute the first line of defense against threats to the security and prosperity of the American people. Together with Machine Readable Visa and other fees, it supports the salaries, operating expenses, and infrastructure required to carry out U.S. foreign policy.

The fiscal year 2002 request provides $3.217 billion in D&CP for ongoing operations—a net increase of $459.3 million over the fiscal year 2001 level. Increased funding will enable the State Department to make critical improvements in diplomatic readiness, particularly in human resources and overseas infrastructure.

The United States must have the right people in the right place at the right time with the right skills to advance national interests effectively. To meet this requirement, the State Department will implement a strategy to recruit, hire, train, and deploy the additional professionals needed around the world. We will put in place processes to test the effectiveness of our strategy and to ensure accountability. With new D&CP funding in fiscal year 2002 of $134.5 million, the State Department will add 360 professionals and create a work environment that will help attract and retain talent in a highly competitive economy.

The United States requires a strong and secure diplomatic platform to support the work of more than 30 Federal agencies at more than 250 posts overseas. With new D&CP funding of $78 million, the State Department will restore infrastructure and address deferred maintenance. In fiscal year 2002 the Department will replace a third of its obsolete equipment and unreliable vehicles; increase training, essential service contracts, and Foreign National employee wages; and continue consolidating overseas financial functions in the Charleston Financial Services Center.

The D&CP ongoing budget also includes new base funding of $102.7 million for the operating and maintenance costs of information technology investments. These costs have been carried by the Information Resources Management (IRM) Central Fund, using two-thirds of its resources for maintenance rather than modernization.

An increase of $17 million will support priority foreign policy initiatives. These include projects in the areas of intelligence and research, Freedom of Information and Privacy Act compliance, arms control and international security (meeting nonproliferation, disarmament, and verification obligations), and international trade.

The fiscal year 2002 request also provides $487.7 million in D&CP for Worldwide Security Upgrades—an increase of $78.6 million over last year.

This funding includes $349.3 million to sustain security programs begun with the fiscal year 1999 emergency supplemental, such as worldwide guard protection, physical security equipment and technical support, information/systems security, and personnel and training.

Worldwide Security Upgrades also includes $74 million to help continue the perimeter security enhancement program for 232 posts; $47.3 million to improve technical, counterintelligence, and domestic programs; and $17.1 million to add 186 security professionals.

Capital Investment Fund

The fiscal year 2002 request provides $210 million for the Capital Investment Fund, the State Department's principal funding for information technology (IT) enhancements. The request represents an increase of $113.2 million over the fiscal year 2001 level.

Together with an estimated $63 million in Expedited Passport fees, this request finances the IRM Central Fund to permit vital IT investments and enable more effective interaction and information sharing among agencies in the foreign affairs community.

Funding for the IRM Central Fund will provide $236.9 million for IT infrastructure. A key initiative will extend classified connectivity to every post that requires it, adding new posts and replacing obsolete equipment that posts are still using for classified operations. Another priority initiative will expand desktop access to the Internet for State Department employees around the world through full deployment of OpenNet Plus, an intranet for sensitive but unclassified e-mail plus Internet access.

Funding will also provide $26.2 million for IT applications and software that directly support foreign affairs activities and $9.9 million for IT training of systems managers and users.

This request makes the IRM Central Fund a true investment fund, shifting IT operating and maintenance funding to D&CP.

Embassy Security, Construction, and Maintenance (ESCM):

The fiscal year 2002 request for ESCM is $1.291 billion. This total—an increase of $213.4 million over the fiscal year 2001 level—reflects the Administration's continuing commitment to protect U.S. Government personnel serving abroad, improve the security posture of facilities overseas, and correct serious deficiencies in the State Department's overseas infrastructure.

For the ongoing ESCM budget, the Administration is requesting $475 million. This budget includes maintenance and repairs at overseas posts, facility rehabilitation projects, construction security, renovation of the Harry S Truman Building, all activities associated with leasing overseas properties, administration of the overseas buildings program, and construction of a classified annex in Bogota, Colombia.

In Worldwide Security Upgrades, the Administration is requesting $665 million for capital projects. This request will continue the program of relocating posts at highest risk begun with the fiscal year 1999 emergency security supplemental.

Funding will be used for the design and/or construction of about seven new embassies or consulates. Possible sites include Beijing, China; Cape Town, South Africa; Conakry, Guinea; Damascus, Syria; Harare, Zimbabwe; Phnom Penh, Cambodia; Sao Paulo, Brazil; Tashkent, Uzbekistan; Tbilisi, Georgia; and funding may also be used for a post opening in Medan, Indonesia.

Capital projects funding will also be used to acquire sites at five to ten other posts for which design/construction funding will be sought in the outyears and to construct Marine Security Guard quarters at posts with new diplomatic compounds. Funding includes $50 million for construction of new on-compound facilities for USAID.

In Worldwide Security Upgrades, the Administration is also requesting $150.9 million to strengthen perimeter security at 28 additional vulnerable posts and meet recurring security support costs associated with the embassy construction and perimeter security program.

Educational and Cultural Exchange Programs (ECE):

The fiscal year 2002 request of $242 million for ECE will fund some of the U.S. Government's most effective international exchanges.

Authorized by the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), as amended, these strategic activities build mutual understanding and develop friendly relations between the United States and other countries. They establish the trust, confidence, and international cooperation necessary to sustain and advance the full range of U.S. national interests.

The request provides $140.3 million for Academic Programs. These include the J. William Fulbright Educational Exchange Program for exchange of students, scholars, and teachers and the Hubert H. Humphrey Fellowship Program for academic study and internships in the United States for mid-career professionals from developing countries.

The request also provides $72.6 million for Professional and Cultural Exchanges. These include the International Visitor Program, which supports travel to the United States by current and emerging leaders to obtain firsthand knowledge of American politics and values, and the Citizen Exchange Program, which partners with U.S. non-profit organizations to support professional, cultural, and grassroots community exchanges.

The total request for ECE represents an increase of $10.4 million over the fiscal year 2001 level. While most of this increase is needed to cover built-in requirements (particularly federal pay raises), $2.2 million will provide program enhancements for Fulbright, International Visitors, Citizen Exchanges, and global academic programs (including university partnerships, English teaching, and overseas educational advising).

Other State Programs:

Representation Allowances:

The fiscal year 2002 request of $9 million will reimburse diplomatic and consular personnel in part for officially representing the United States abroad and before international organizations. The increase of $2.5 million over the fiscal year 2001 level begins to restore the buying power that has been lost in this account over the past twelve years.

Emergencies in the Diplomatic and Consular Service (EDCS):

The fiscal year 2002 request of $15.5 million increases support for the EDCS account by $10 million over the fiscal year 2001 level to help meet emergency requirements in the conduct of foreign affairs.

Funding for this no-year account will cover the evacuation of American officials and their families from areas of political unrest or natural disaster. It will also pay rewards for information concerning international terrorism, narco-terrorism, and war crimes.

INTERNATIONAL ORGANIZATIONS

Contributions for International Peacekeeping Activities (CIPA):

The fiscal year 2002 request for CIPA totals $844.1 million. It represents the U.S. share of the expenses of United Nations (U.N.) peacekeeping operations and provides for full funding of projected fiscal year 2002 operations.

The request funds U.S. assessed contributions to continuing U.N. operations in Kosovo, Bosnia and Herzegovina, East Timor, the Golan Heights, Lebanon, Cyprus, Georgia, Western Sahara, Iraq/Kuwait, Sierra Leone, the Democratic Republic of the Congo, and Ethiopia/Eritrea. It also includes funding for the War Crimes Tribunals for the former Yugoslavia and Rwanda.

U.N. peacekeeping operations serve the national interests of the United States by helping to support new democracies, lower the global tide of refugees, reduce the likelihood of unsanctioned interventions, and prevent small conflicts from growing into larger wars.

Acting through the United Nations allows the United States to share the risks and costs of responding to international crises. Funding the U.S. share of assessed U.N. peacekeeping budgets ensures continued American leadership in shaping the international community's response to developments that threaten international peace and security.

The Administration requests that 15 percent of these funds be appropriated as "two-year funds" because of the unpredictability of the requirements in this account and the nature of multi-year operations with mandates overlapping the U.S. Fiscal year.

Contributions to International Organizations (CIO):

The fiscal year 2002 request for CIO totals $878.8 million. It provides full funding of U.S. assessments, consistent with U.S. statutory restrictions, to 44 international organizations.

The request recognizes U.S. international obligations and reflects the President's commitment to maintain the financial stability of the United Nations and other international organizations.

The international organizations funded by the CIO appropriation further U.S. economic, political, social, and cultural interests. In addition to the United Nations, they include the World Health Organization, the North Atlantic Treaty Organization, the International Atomic Energy Agency, and the Organization for Economic Cooperation and Development.

Membership in international organizations benefits the United States by building coalitions and pursuing multilateral programs which advance U.S. interests. These include promoting economic growth through market economies; settling disputes peacefully; encouraging non-proliferation, nuclear safeguards, arms control, and disarmament; adopting international standards to facilitate international trade, telecommunications, transportation, environmental protection, and scientific exchange; and strengthening international cooperation in agriculture and health.

RELATED APPROPRIATIONS

The Asia Foundation:

The Asia Foundation is a non-governmental grant-making organization with a sustained presence in Asia and the Pacific. Its programs complement official efforts to advance U.S. interests in the region.

Through its network of 14 small field offices, the foundation supports local groups and hands-on programs that build democratic institutions and leadership, develop non-governmental and regional organizations, and advance the rule of law and human rights.

The fiscal year 2002 budget request of $9.25 million will enable The Asia Foundation to help develop stronger and more effective open market economies and support the adoption of sound governance practices on which the region's long-term economic recovery depends.

East-West Center:

The Center for Cultural and Technical Interchange Between East and West was established by Congress in Hawaii in 1960. It promotes better relations and understanding between the United States and nearly 60 nations of Asia and the Pacific through research, study, and training.

The fiscal year 2002 budget request of $13.5 million will assist the East-West Center's continuing programs to maximize regional cooperation and minimize conflict. The center is part of the overall U.S. public diplomacy effort directed toward a region with more than 50 percent of the world's population.

North-South Center:

The Dante B. Fascell North-South Center, a private non-profit institution affiliated with the University of Miami, promotes better relations among the United States, Canada, and the nations of Latin America and the Caribbean. It is a national and regional source of information and analysis, serving as a catalyst for change.

In fiscal year 2002, the Administration is requesting $1.4 million for the North-South Center in the Educational and Cultural Exchange Programs account (ECE). Funding will support programs that advance long-term U.S. interests and address multilateral needs, including strengthening democracy and encouraging open markets in the hemisphere.

National Endowment for Democracy (NED):

The National Endowment for Democracy is a private non-profit organization created in 1983 to strengthen democratic institutions and processes around the world. NED makes grants to numerous U.S. organizations for programs in such areas as labor, open markets, political party development, human rights, rule of law, and independent media.

The fiscal year 2002 budget request of $31 million will help expand important democracy-building programs in Africa, the Middle East, the NIS, and Latin America. Funding will also support countries in transition, strengthen civil society, assist democratic activists in authoritarian countries, encourage free market reforms, and develop regional networks.

Eisenhower/Israeli Arab Exchange Programs:

The Eisenhower Exchange Fellowship Program promotes international understanding by bringing rising leaders to the United States, and sending their American counterparts abroad, on custom-designed professional programs.

The Israeli Arab Scholarship Program fosters mutual understanding by enabling Arab citizens of Israel to study and conduct research in the United States.

The two programs are supported by interest and earnings from their respective trust funds.

There are of course many more details on our budget available, and I invite all of the Subcommittee members' attention to a most comprehensive pamphlet entitled "United States Department of State: The Budget in Brief—Fiscal Year 2002."

And now, Mr. Chairman, I'm prepared to answer your and the members' questions.

BIOGRAPHICAL SKETCH OF COLIN L. POWELL

Colin L. Powell was nominated by President Bush on December 16, 2000 as Secretary of State. After being unanimously confirmed by the U.S. Senate, he was sworn in as the 65th Secretary of State on January 20, 2001.

Prior to his appointment, Secretary Powell was the chairman of America's Promise—The Alliance for Youth, a national nonprofit organization dedicated to mobilizing people from every sector of American life to build the character and competence of young people.

Secretary Powell was a professional soldier for 35 years, during which time he held myriad command and staff positions and rose to the rank of 4-star General. His last assignment, from October 1, 1989 to September 30, 1993, was as the 12th Chairman of the Joint Chiefs of Staff, the highest military position in the Department of Defense. During this time, he oversaw 28 crises, including Operation Desert Storm in the victorious 1991 Persian Gulf war.

Following his retirement, Secretary Powell wrote his best-selling autobiography, My American Journey, which was published in 1995. Additionally, he pursued a career as a public speaker, addressing audiences across the country and abroad.

Secretary Powell was born in New York City on April 5, 1937 and was raised in the South Bronx. His parents, Luther and Maud Powell, immigrated to the United States from Jamaica. Secretary Powell was educated in the New York City public schools, graduating from the City College of New York (CCNY), where he earned a bachelor's degree in geology. He also participated in ROTC at CCNY and received a commission as an Army second lieutenant upon graduation in June 1958. His further academic achievements include a Master of Business Administration degree from George Washington University.

Secretary Powell is the recipient of numerous U.S. and foreign military awards and decorations.

Secretary Powell's civilian awards include two Presidential Medals of Freedom, the President's Citizens Medal, the Congressional Gold Medal, the Secretary of State Distinguished Service Medal, and the Secretary of Energy Distinguished Service Medal. Several schools and other institutions have been named in his honor and he holds honorary degrees from universities and colleges across the country.

Secretary Powell is married to the former Alma Vivian Johnson of Birmingham, Alabama. The Powell family includes son Michael; daughters Linda and Anne; daughter-in-law Jane; and grandsons Jeffrey and Bryan.

Senator GREGG. Thank you, Mr. Secretary. I appreciate that background and especially your closing thoughts on the philosophy of how you plan to manage the Department of State, which is a critical Department.

Let me begin by congratulating you for what you have done so far. I think you have brought an energy and vitality and renewed enthusiasm to the agency, which is extremely important. The way the Department handled the situation in China deserves the highest praise. It was a reflection of maturity and expertise that led to the defusing of what could have been a terribly difficult situation. So I certainly congratulate you for your leadership in that area and your team, especially the Ambassador to China.

Secretary POWELL. Thank you.

Senator GREGG. We have a lot of issues on this committee, of course, surrounding your agency that we are concerned about. I have a number of questions. I will ask a couple and then move to Senator Hollings and Senator Murray, and we can go around a few times to get to all of them.

COST OF PEACEKEEPING MISSIONS

I want to start out with the issue of peacekeeping. This appears to us to be a huge blank check that the American taxpayers are being asked to write. We have been supportive of the peacekeeping efforts, but we are concerned that peacekeeping is being driven by policies that are either not consistent with American policy or that are pulling American policy in a direction that is not necessarily where we want to go. This is especially true, it appears, in Africa.

So I would like to get, first, your summary of where we are with respect to peacekeeping in Africa. I am also curious about the costs you project overall for peacekeeping for this coming year and where you expect the American taxpayer will have to pick up a significant bill for peacekeeping missions.

Secretary POWELL. It is an excellent question, Mr. Chairman, and I am glad to have the opportunity to speak to it.

I wish there were a single statement that I could give about peacekeeping that would cover all of the different situations that we find ourselves in. But as a member of the United Nations—as a key and most important, frankly, member of the United Nations and the wealthiest member of the United Nations—we have an obligation to participate in the activities of that organization when it comes to peacekeeping operations.

In almost every instance, it is a peacekeeping operation that we supported in the Security Council, and we voted for it, or else it would not take place in the first place. So there should always be some American policy interest in the particular peacekeeping operation that we are voting for in the Security Council.

I think it is incumbent upon us when new operations come along to make a clear judgment as to whether our interest is being served as well as the interests of the United Nations and the interests of the country that is in question that is having the difficulty.

When we have decided that a peacekeeping operation makes sense, that the circumstances are there so that the operation makes sense, and we go along with it and vote for it, then we have an obligation to support it, financially or in other ways.

I prefer and the President prefers that we not provide troops to these operations if there are other troops that are available. A good example of a peacekeeping operation that I think meets this model and has gone very well is what we have been doing in East Timor, where we have provided political support, diplomatic support, and we have provided funding. There is a clear endpoint to this particular operation, and our colleagues in the region have provided the military and other on-the-ground leadership, the Australians in particular. That is an example of the kind of peacekeeping operation, and I think it is clear, and it is very, very deserving of our support.

They do not all come out as neatly as that. The ones in Africa are particularly difficult because of the circumstances that we are going into. If you take a look at Sierra Leone, it is perhaps one of the most challenging. You have the RUF, the insurgents, a very rowdy band of criminals, insurgents, terrorists and all kinds of other things. The United Nations felt an obligation, and we supported the United Nations in going into Sierra Leone with peace-

keepers—not U.S. peacekeepers, but peacekeepers—to try to bring the RUF under control, to try to train the Sierra Leone armed forces so they can handle this with their own resources. It is a tough one. It is a tough one that does not have a clear endpoint, in my judgment, but it is one that we supported at the beginning, and I think we have a continuing obligation, and we acted on that obligation recently when we supported the increase in the number of peacekeepers going in.

Will it end as neatly and as quickly, and is there an exit strategy that is as clear as we might see in East Timor? No. But is that a reason to totally walk away from a nation and a group of people who are in desperate straights, who have been subjected to the worst kind of atrocity and cruelty?

Similarly in the Democratic Republic of the Congo, this is another case where you have a much more complex situation, and it is a little harder to see what the outcome is liable to be. But, in many of these instances, you are going to have to go in and try to do the best you can, and the United States has an obligation to participate in such missions.

The President has made it clear—he made it clear in the campaign, and he has made it clear since he became President—that we will be looking at all of these in a far more critical way to make sure that we have a foreign policy interest associated with the particular peacekeeping operation and that we believe it is going to be run in a way that makes sense and will solve the problem we started out to solve. And, as he has also indicated in many instances, he will try to minimize U.S. troops actually committed to such operations—not that we are afraid of such operations, but the United States armed forces are stressed with deployments all around the world, and as you know, Secretary Rumsfeld is reviewing all of those now with the intent of getting some back.

Sometimes it is not the United Nations; it is more of a NATO mission, such as we have in Bosnia and Kosovo. I was recently there and saw what those troops are doing. We are working hard to reduce the number of U.S. troops in these areas, Bosnia and Kosovo, but it is also clear that we are the glue that is holding this fragile situation together, so we are not going to be able to just say, well, we have had enough, and come out and leave, and leave our NATO colleagues who are in there, counting on us, and we are counting on them, and they are providing the bulk of the force and doing a heck of a job. So there are these fragile situations where the answer is not as clear.

The amount of money going to all of these operations is rather significant. It is in the billions, as you know; and I will be delighted to provide the actual breakdown for each and every one of them. As you know, once one of these things is approved by the Security Council, we immediately have a 25 percent capped obligation to support them, an obligation that we are trying to move up to 28 percent so that we do not accrue new arrears as to what we are capped to provide and the actual cost of such operations and the allocation assigned to us by the United Nations.

Senator GREGG. Do you have an estimate of how much it is going to cost us to continue the operations in Sierra Leone and initiate operations in the Congo?

Secretary POWELL. I will have my staff look that up while we are continuing the dialogue, if I may, Mr. Chairman.

Senator GREGG. We are working under a time frame here, and I think my time for the first round has probably expired.

Senator Hollings.

Senator HOLLINGS. First, to the point, you are to be congratulated on restoring the morale at your Department and providing us with a realistic budget. We have been downsizing and neglecting—other than peacekeeping and security—diplomacy and foreign policy.

To the point, though, you say you have looked critically—because you know we listened to President Bush in the campaign—at getting out of Bosnia and Kosovo and cutting back our peacekeeping missions overseas. You indicated in your comments, that you are going to have a critical review of some 14 of them. Then, Senator Gregg and I go to the Defense Appropriations Subcommittee, and Defense says the trouble is we are stretched too far, morale is low, that we do not have an adequate defense, and that we are no longer a two-army system because of peacekeeping.

You were Chairman of the Joint Chiefs, and now you are coming around the corner, meeting yourself, saying whoopee for the 14 peacekeeping operations, and requesting $318 million for Sierra Leone——

Secretary POWELL. Yes.

Senator HOLLINGS. How do we get that? We have only $122 million for Kosovo, and we had a war there. I have been to Camp Bondsteel in Bosnia. That is quite a commitment. We built up a billion-dollar facility there. Now, we have almost three times as much for Sierra Leone?

Secretary POWELL. That is the case at the moment. To answer the chairman's question, it is $83.5 million for the Congo and $318 million for Sierra Leone.

Senator HOLLINGS. And you looked at that, and that is how much is necessary for Sierra Leone?

Secretary POWELL. That is our obligation at the moment.

Senator HOLLINGS. And you endorse all 14 operations—East Timor is even more than Kosovo, too. That is $130 million.

Secretary POWELL. And that one I think is going rather well.

COST OF EMBASSY CONSTRUCTION

Senator HOLLINGS. I want to get into detail, if the chairman will permit, in just one other subject with respect to the cost of embassies—and I commend you for getting General Williams on board. It strikes me that these facilities are awfully expensive. Who ever heard of spending $97 million in Tashkent? Have you ever been there?

Secretary POWELL. No, sir.

Senator HOLLINGS. Well, you ought to go. I mean, you ought to be able to buy the place for $97 million.

And then, Tbilisi, Georgia, $95 million; Phnom Penh, $65 million; Zimbabwe, $86 million. I have got to sit down with the General and find out where he got all these expenses. I do not want to take the subcommittee's time.

But we look and we know—for example, when I went down to Brazil earlier this year, I had the dog-and-pony show from the Ambassador about the important facility at Rio. I have been there several times, and when I got there, I found that we have a 10-story building and 27 personnel. The AID people wanted out; the Navy commander who escorted me around said he could move into those fine facilities with the Brazilian navy. In their replacement, they wanted to by a facility for $100 million that has the same dangerous kind of condition that was the basis for your Department wanting to move out of the facility in Istanbul. They said we had to get a new facility because you could look down into the facility and, with a rifle, maybe shoot into the window or something. That is what they wanted to buy in Rio, and that is what they wanted to sell and get rid of and establish a new one in Istanbul.

We have got to get around and look at these costs.

Secretary POWELL. I could not agree more, Senator Hollings, and that is what General Williams has been charged to do. In some instances, we are bound by requirements given to us by Congress. When you look at the Inman report and the Crowe report, they create standards for the construction of embassies to provide for security against the threats that are out there. The two East Africa bombings a couple of years back—who would have predicted that that is where somebody would have bombed us—but they found vulnerabilities, and they found weaknesses.

So you cannot say that an Embassy in a place that seems to be rather quiet is safe. You have to look at each and every one.

There are also requirements associated with who can actually build a secure facility for us. In many instances, we have to bring it all over from the United States—the communications requirements, the power requirements, all the other security issues associated with the construction of an Embassy run the costs up rather significantly. And General Williams has it as his charge to take a look and may well be coming back to the Congress to ask for some relief from some of the requirements that exist, because it is not clear that you really need this in all instances around the world.

So I am very anxious to work with the committee and other committees of Congress to help drive these costs down, and that is General Williams' charge, to find ways to drive the costs down.

What may be fine for the Brazilian navy may not be fine for the American navy coexisting in a similar facility because of security requirements or other requirements.

Senator HOLLINGS. Thank you, Mr. Chairman. I will come back.

Senator GREGG. I completely agree with Senator Hollings' concern here, and I appreciate the focus that you are putting on it. I am almost of the opinion that we should probably have a special hearing just on these building costs. These Embassy costs have just gotten outrageous.

Secretary POWELL. Yes, they have; I am not disputing that.

Senator GREGG. What is the number now for Beijing?

Secretary POWELL. It was in the hundreds of millions the last I checked.

Senator GREGG. I thought it was closing in on $1 billion, actually.

Secretary POWELL. It is well over $600 million.

Senator GREGG. We have got to figure out some way to address this, and if there are congressional mandates, we need to review them.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Mr. Secretary, I join my colleagues in welcoming you here, and I would be remiss if I did not take this opportunity to invite you to my State. We are a very internationally-engaged community. Our trade is very important to my State. We have a number of sister city relationships. I think that we send more men and women to the Foreign Service than most States do—many of them retire back in my community—and for every issue you consider on a daily basis, I have constituents who are debating it somewhere at home, and we would love to have you come and be a part of that conversation.

Secretary POWELL. Thank you, Senator.

CHINA'S BID FOR THE 2008 SUMMER OLYMPICS

Senator MURRAY. Mr. Secretary, let me first take this opportunity to commend you for the handling of the recent EP–3 incident in China. It came very close to home. I live on Whidbey Island, where our service men and women are stationed, and on behalf of my neighbors and my constituents, we appreciate the job that you did in bringing our service men and women home. We are all very, very proud of them.

I think we have to continue to convey our disappointment to China on this issue, but I think we are really at a very delicate point, and I think we have to be very cautious in sending any message. I think we need to recognize that our words and deeds do have long-term consequences that will directly affect U.S. interests at this time.

I understand that the House of Representatives is likely to take up and pass legislation that will oppose China's bid to the 2008 Summer Olympics, and I know that this week, the U.S. Commission on International Religious Freedom presented you with a report recommending that the U.S. Government oppose that bid.

What do you think would be the long-term effect on United States-China relations if the United States is viewed by both the Chinese Government and the Chinese people as having stopped the Beijing Olympics bid?

Secretary POWELL. I am sure the Chinese Government and the Chinese people would be very, very unhappy and very disappointed. But there are other nations that are also bidding for the Olympics that are going to be very unhappy and disappointed if they do not get it.

We have taken no position on this within the administration, and essentially it is an independent judgment by the International Olympic Committee, although I am sure they would be interested in what the Congress and the administration might say.

We are trying to calibrate a response to this incident in a very, very careful way to make sure we do not cut off our nose to spite our face, and I think we have done rather well. The Chinese now have allowed our assessment team onto the island, and the assessment team is at work this morning; we had a meeting on this this

morning. I think we will get past this, but we should have no illusions about the nature of the regime that exists in Beijing. It is a totalitarian government; they can turn human rights on or off as it suits their purpose. They can act in ways that we find very distasteful, and when they do, we should point it out to them and not let them get away with it, but at the same time recognize it is a nation, a powerful, strong, proud nation, in transition and transformation, and we should work with them to try to bring them into the international community.

Senator MURRAY. On the question of the Olympics, then, I assume the administration is not going to take a position.

Secretary POWELL. We have not decided——

Senator MURRAY. You have not decided.

Secretary POWELL [continuing]. Whether we will or will not.

Senator MURRAY. Let me just read you a couple of quick items from the International Olympic Committee's Code of Ethics. They state that "The Olympic Games are competitions between athletes in individual or team events and not between countries" and that "the Olympic parties shall neither give nor accept instructions to vote or intervene in a given manner with the organization of the IOC."

I think it is really important that we take this issue very seriously and abide by the rules of the International Olympic Committee. I think we all recall the last time the United States allowed our relations with another country to interfere with the Olympic movement. A number of Olympic games were affected, including the 1984 Los Angeles games, where we had athletes who lost their opportunity to participate.

And U.S. foreign policy is still dealing with the ramifications of allowing politics to enter into the Olympic arena. You can talk to any wheat farmer in the State of Washington, and they will tell you about mixing politics with the Olympics.

So I think I would just like to tell you the seriousness with which I view this and to really caution all of us to be very careful as we use words and the administration determines how they are going to handle this.

Secretary POWELL. I understand, Senator. Thank you.

Let me also, through you, thank and congratulate the wonderful young men and women who did such a great job getting that plane on the ground and how they comported themselves during the 11 days that it took us to get them home.

Senator MURRAY. Yes. We are all very proud of them.

Secretary POWELL. We all should be.

Senator MURRAY. Thank you very much.

Senator GREGG. Senator Mikulski?

Senator MIKULSKI. Thank you very much.

Secretary Powell, how wonderful to see you again.

Secretary POWELL. Nice to see you, ma'am.

Senator MIKULSKI. I again wish to extend my hand to you to work to really advance American values around the world. I like the way that, in your testimony, you talked about your CEO responsibility and then these global policy issues.

ADEQUATE SUPPORT FOR FOREIGN SERVICE OFFICERS

On CEO responsibilities, I have the good fortune that a significant number of your Foreign Service Officers live in Maryland; they make Maryland their home as they do service abroad. This goes to my question. Looking at how we can keep our embassies secure, of course, is a key priority. But do you feel that in this year's budget we have done two things—one, in terms of our Foreign Service, are there adequate moneys to really be looking at pay, health care, pensions, and issues around spouses? And two, are we addressing demands on our embassies and our consulates? I think the consulates are among the most stressed-out operations within the State Department, with students abroad, more desire for business activity, more people traveling, and more places in the world open for Americans to travel.

So I would like very much to play a role with you, to be sure, about our professional FSOs, but in addition to really look at the number and the support to the consulate offices.

Secretary POWELL. Thank you, Senator. I think you are absolutely right.

Senator MIKULSKI. Because that is where Americans come in contact with——

Secretary POWELL. That is where they see their United States Government out there, when they have lost a passport or they have a problem of some kind, or they want to learn about the United States or want to come to the United States. I think we can do a much better job—and you are quite right, Maryland has been a great host for not only our Foreign Service employees but for so many of our civil service employees as well. I always like to put the two together and then add our Foreign Service nationals; it is all one family, one team, around the world.

In this year's submission, I think we have a start on that problem. As I indicated in my opening statement, we have a lot of work that needs to be done, and as Senator Hollings mentioned earlier, we have not spent enough on this over the years. So I hope that I will be back here next year with the President's permission and with OMB's permission to make a case for even more resources for just the kinds of things you said, to make sure that people are getting what they need to do the job—and it isn't just $318 million going to Sierra Leone, but that we are taking care of all of our people around the world and their families. We just started a pilot program for spouse employment in Mexico City, and there are a lot of other things we are trying to do to make families more satisfied with their service overseas.

Senator MIKULSKI. Well, I would really look forward to working with you, and judging from your answer, you are saying that this year's request is a down payment——

Secretary POWELL. A start, yes.

Senator MIKULSKI [continuing]. And that over the next years that each year, we will look at how to upgrade and expand this most important service to both the Nation and to our people.

Secretary POWELL. Exactly right. I think the President was quite generous to the State Department in this first year of his administration, and he has indicated to me that if I come back and make

the case, he will examine the case very, very carefully for future years.

MIDDLE EAST AFFAIRS

Senator MIKULSKI. Now I would like to go into some foreign policy issues as well. Mr. Secretary, the issues around the great State of Israel, of course, are indeed complex and compelling, and we appreciate where you are heading.

My question is that there seems to be a need for supplemental assistance to Israel in the area of military expenditures. Is the administration planning to send a supplemental expenditure up, and also some robust activity to move the Jordan Free Trade Agreement forward?

Secretary POWELL. Starting with the second point, we are very committed to the Jordan Free Trade Agreement. Jordan needs this agreement. Jordan is a good friend of the United States. Jordan plays a very key role in the region, especially now during these difficult times. So we are anxious to see that agreement come into force and be passed.

Mr. Zoellick, our Trade Representative, is hard at work examining that one plus a number of others that are out there, as well as trade preference authority, to see whether we should package this or we should start moving them one at a time. I will leave it to Bob to figure out the answer to that question, but you can be sure that the President, this Secretary of State, and Mr. Zoellick are fully behind the Jordan Free Trade Agreement and will do everything we can to get it passed as quickly as we can, consistent with our other free trade needs.

Senator MIKULSKI. I think there is strong bipartisan support.

Secretary POWELL. Yes, I see that; I have sensed that.

Senator MIKULSKI. What about the supplemental issue?

Secretary POWELL. On the supplemental, I am well aware of the need that the Israelis have. We have discussed it with them, and at the moment, we do not have a proposal up here yet. It is something that we have under consideration, but it has not yet been acted on for submission to the Congress.

Senator MIKULSKI. One last question. Has my time expired?

Senator GREGG. No. Go ahead and ask the question.

SPECIAL ENVOY TO CYPRUS

Senator MIKULSKI. On special envoys, the issue of Cyprus goes back, as you know, to another way you served the Nation. What is the administration's plan and your plan on being able to move on a continued special envoy on Cyprus and plans to try to resolve this issue? It has significant consequences.

Secretary POWELL. As you know, we are at a bit of an impasse right now because of the position taken by Mr. Denktash. We are supporting the U.N. efforts on this. At the moment, I am examining the whole issue of special envoys. When I took over, I discovered that we had over 50 special envoys and ambassadors-at-large here and there, and in order to sort of clean up things and start fresh, I eliminated quite a number of them. Some are in law, and they were not eliminated, and some are doing very, very useful work.

I want to continue to examine Cyprus a bit longer to decide what best we can do with respect to our representation to move that process along. I have not made a decision yet.

Senator MIKULSKI. Well, we would like to hear more about that.

Secretary POWELL. Yes.

TRAFFICKING IN HUMANS

Senator MIKULSKI. Another area where we have bipartisan agreement has been on passing the Trafficking Victims Protection Act. This is legislation that Senator Brownback, Senator Kay Bailey Hutchison, myself, and others have been working on. You might not be familiar with this, because the legislation passed last year, but it is something in the world that I know you will find so repugnant if you are not already aware of it. It is the trafficking of women and children—out of Asia, in the Ukraine, et cetera.

I wonder what efforts you have underway to implement the Act, and if you have not given it consideration, if you could review it.

Secretary POWELL. We will implement it in tone and intent.

Senator MIKULSKI. Because it really does not come under the classic human rights, but——

Secretary POWELL. It really should—it is an abuse of human rights in the most fundamental sense.

Senator MIKULSKI. Truly. And also on a human rights issue, I would hope we would continue to be working with Israel in terms of their missing soldier situation, with perhaps the encouragement of Red Cross.

Secretary POWELL. Yes. Foreign Minister Peres and I discussed that yesterday.

Senator MIKULSKI. Thank you, Mr. Chairman.

Senator GREGG. Senator Stevens.

Senator STEVENS. Pardon me, Mr. Secretary. Good morning.

CHINA'S BID FOR THE 2008 SUMMER OLYMPICS

I understand the Senator from Washington has made some comments about the Olympics. That is what I came over here for. I am involved in a little bit of an extracurricular activity called "the budget" right now, but I did want to come and greet you and thank you for coming.

Secretary POWELL. Thank you, sir.

Senator STEVENS. I too believe that the current crisis with China is one thing. But keeping the Olympics out of disputes between individual countries is a policy that this administration should adopt and pursue. I hope it will be your policy to not let our current relationship with China interfere with the decision of the International Olympic Committee as to where the Olympics will be held.

Secretary POWELL. As I said to Senator Murray, I am very sensitive to that, and we have made no decision with respect to this issue. We have talked about it when we had the crisis on our hands a few weeks ago; obviously, you would expect us to look at the full range of alternatives. Right now, we are anxious to get the relationship back on an even keel so we can move forward and work in areas with which we agree with the Chinese and work in areas where we disagree with the Chinese. So no decision has been made

about what the United States might or might not do with respect to the Olympics.

Senator STEVENS. I told a group this morning that, in case they did not realize it, my home is just about the same distance from Peking as it is from where we sit right now. We have people who fly out of Anchorage daily to somewhere in China and return, with both FedEx and UPS and other carriers going through there daily.

I am alarmed at some of the comments we are hearing about the muscle that the Chinese military is flexing in terms of civilian matters. Would you care to comment on that? Is that perception wrong, that the military, as reflected in the EP–3 instance, was using extreme muscle and really interfering with the normal civilian relationship between our countries?

Secretary POWELL. The People's Liberation Army is more than just an army. It is an organ of power within that state. As we went through the EP–3 incident, I could see that the Chinese Foreign Ministry as it tried to handle that matter had to be enormously sensitive to the interests and equities of the People's Liberation Army.

As you know, it is deeply involved in businesses, although recently, Chinese leaders have been trying to get the army out of business.

So I do not think they are in a position of overruling what their civilian masters would choose to do or want to do. But, it is also clear that the civilian leaders, party leaders, political leaders, and the bureaucracy within the Chinese Government have to take into account very seriously the views and attitudes of the People's Liberation Army, and we could see that both in the circumstances we went through to get our young men and women out, and also we can see it as we work on getting our plane out.

SECRETARY'S COMMENTS ON MIDDLE EAST VISIT

Senator STEVENS. I am sorry to have been late, but have you commented on your trip through the Middle East and what the situation is there, as you see it?

Secretary POWELL. No, but I would be pleased to take a moment to do that, sir. I met with Foreign Minister Peres yesterday for a long period of time, and I also met with Foreign Minister Gutter, and I meet with leaders from the region on a regular basis. What is absolutely clear to me is that there has to be a reduction in the level of violence in the region before we can move forward to improve the economic situation of the Palestinians and before we can move forward to getting back on track toward negotiations for peaceful resolution of this crisis.

Many people say, well, let us start negotiating right away, but it is clear to me, and I think it is clear to most of the leaders in the region, that the two sides are not going to be able to conduct fruitful negotiations under the conditions of violence that currently exist.

When Mr. Peres was here yesterday, he described, and then he and I gave a press conference describing some ideas for negotiations that had been presented by the Jordanians and the Egyptians and the Palestinians that the Israelis are working with. So they are talking to each other about what they might do in a negotiation

when they are able to get to a negotiation, but they are not going to be able to get to a negotiation until the level of violence has gone down. And that has been our consistent message to both sides, that leaders on both sides have to take every action within their power to restrain the passions that exist in the region and to call on their followers to foreswear violence, to knock it off, to bring it back down, not to zero—we will not get it to zero—but to bring it back down to a level where we can start building confidence again so that people are then willing to take chances for peace.

The United States is heavily involved in this. I spend a large amount of my time speaking to leaders in the region, calling them on the phone day and night; the President spends a large amount of his time doing the same thing. So we are deeply engaged, but we have to make sure we understand that we are not going anywhere until the level of violence starts to go back down.

We are sponsoring two sets of security consultations at the moment between the Palestinians and the Israelis. Those consultations back and forth are starting to show a little bit of progress. There is a little bit of traction. But this little bit of traction will not really be enough unless the level of violence goes down.

I am repeating myself for purposes of the public audience out there and in the region. You have got to knock it off if you want to get back to discussions on permanent solutions and on peace.

Senator STEVENS. I can only make one last comment. Some of us were with Minister Peres yesterday, and he told us that he had had to request to move $1 billion from the civilian accounts to the military accounts in order to counter the current level of military activity in the region.

When I was in Greece earlier this year, it was suggested to me that the trade between the countries in the Middle East is almost nil now and that if we had a role, perhaps we should try to find some way to restore the trade and urge some way to establish a free trade zone there between those countries. There may be some way they could get back together in terms of providing employment and jobs for their people, rather than this escalating violence. I would just pass it on to you for what it is worth.

Secretary POWELL. Mr. Peres and I talked about that yesterday. It would be terrific if we could see trade opportunities for the Jordanians on the West Bank. If the Jordanians had access to more markets on the West Bank, it would solve a large part of their financial problem right now. And Mr. Peres also said that the Sharon Government is going to be acting more aggressively to provide more work permits and access points to get through for Palestinian workers to come back to their jobs in Israel, so that we can get some flow of money going back and forth.

I have every reason to believe that if the level of violence goes down, the Israelis will be very forthcoming with respect to starting up economic activity, because at the end of the day, the economic activity that is not taking place now, the lack of that economic activity not only hurts the Palestinians, but it is also hurting the Israeli economy. So that is step two, but step one has to be lowering the level of violence.

Senator STEVENS. Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Mr. Chairman.

Lowering the level of violence—I was wondering if you could——

Senator STEVENS. See if you can pass that on the Budget Committee, will you?

Senator GREGG. That is impossible.

SITUATION IN IRAN AND IRAQ

Mr. Secretary, I was wondering if you could give us your thoughts on what is happening in Iran and Iraq.

Secretary POWELL. Let me start with Iraq. We have a country that was put under a regime 10 years ago, a very simple regime, that said if you foreswear weapons of mass destruction and trying to develop weapons of mass destruction, you could be welcomed back into a community that would be interested in the welfare of your people. You have enormous wealth in your oil resources and revenue, if only you would use it for productive purposes.

Unfortunately, Saddam Hussein is still the same person he was 10, 12, 15 years ago, and wastes the treasure of his people, the treasure of his nation. So we are absolutely committed to imposing the sanctions that were passed by the United Nations directed against his weapons of mass destruction.

I have been hard at work for the last several months with the members of the P–5, the United Nations and with Arab leaders in the region to reshape those sanctions so that everybody can see that those sanctions are clearly targeted at the weapons of mass destruction and are not targeted at commodities and goods for the Iraqi people.

Our argument is with Saddam Hussein, his regime, and those weapons of mass destruction and not with the Iraqi people. The case we have been making to the people of the region to the "Arab street," as it is sometimes called, is that we are doing this to help you because he is developing those weapons of mass destruction not to aim at us but to aim at you, so it is in your interest to support the United States and the United Nations in this effort to have him come into compliance with the obligations he undertook at the end of the Gulf War.

He has not been able to rebuild his forces. He is not able to project the kind of power he was 10 or 12 years ago, so Desert Storm did what it was supposed to do. It kicked his army out of Kuwait, and it brought him down to size. He is still a danger. He is still in a nation that we have to watch carefully. And he will not get out from under these sanctions, if the United States has anything to do about it, until he allows inspectors back in and behaves. We will keep control of the oil-for-food money, and we will do everything we can to stop leakage of that money, or other money, that he may acquire through sales of oil, leakage out of U.N. control. And we have some interesting ideas about how to do that.

We will also keep in place the no-fly zone that exists, and we will also continue to work with Iraqi opposition groups that believe a regime change is the right answer.

With respect to Iran, it is going to be very interesting in the upcoming election to see if the gentleman considered reasonably moderate by Iranian standards, Mr. Khatami, is actually going to participate in the election and run again.

I think that Iran is a nation that has enormous treasure, an educated population, and has all the potential to enter the international marketplace, the international world, and be successful. Yet, it continues to hang onto an ideology that is not a political ideology that is really not relevant to the 21st century, and they continue to find that it is in their interest to try to develop nuclear weapons and weapons of mass destruction, thinking that this will give them a position of power in the region and in the world when, at the end of the day, it will not, because we will contain them and we will deter them.

We are working with a number of countries to try to cut off access to this kind of technology. Obviously, we are concerned about North Korea, which provides this kind of technology, and frankly, we have had some very direct conversations with the Russians about this sort of spread of technology to Iran.

So we will have to watch Iran, be willing to engage when they show that engagement makes some sense. Wish the Iranian people the best, but be very guarded with respect to Iranian leadership. Keep in place the sanctions that we have put in place—as you know ILSA is coming up for reauthorization in August, and we will have some thoughts about that to share with the Congress and move forward together. But these two regimes, Iraq and Iran, are dangerous, have to be contained, and are out-of-step with the way the world is going, and it is a tragedy to see them waste the resources that they have in the pursuit of these evil technologies that threaten the region.

Senator GREGG. Thank you.

Just quickly, the Secretary of Defense suggested that we withdraw the American troops that are in Sinai.

Can you tell us whether you support that position?

Secretary POWELL. The Secretary of Defense is reviewing that. At the moment, as you know, that mission is not a U.N. mission; it is a mission that is run by the United States, Israel and Egypt as a result of the agreements that were entered into in 1979.

The size of that mission has come down over time. I would like to eventually see it go away. I have been to the Sinai, and I have seen those troops. It is not a very exciting mission, and it costs something. I would like to see it go away. At the moment, however, we have an obligation to Israel and to Egypt to support that multinational force.

So Mr. Rumsfeld is reviewing it along with all the other deployments to see if there is a way to do it with fewer troops, to do it in a different way, to do it at less cost, but at the moment there is still a diplomatic and political necessity to keep a presence of some kind in the Sinai in accordance with the obligations we picked up in 1979.

Senator GREGG. Thank you, Mr. Secretary.

Senator Hollings.

ASIAN-UNITED STATES RELATIONS

Senator HOLLINGS. Mr. Secretary, Senator Stevens asked about the influence of the military in China with respect to getting that plane back. But this is another country you want to watch, they are having a dickens of a time trying to get $1 billion more for

their education budget, their military is coming along with $25 billion more, they have deployed militarily in 14 countries around the world, they have brought in from the military-industrial complex the Secretary of Transportation, and now they have the Joint Chiefs of Staff from the military in charge of foreign policy. You have got to watch that country.

I just cannot go along with the idea that we have got to make China the enemy. We watch it with care, but don't make it the enemy. I went some 20 years ago with Lee Kuan Yew—Mansfield said he is the "wise man of the East"—and we were talking about the military and how we could not afford, here in the United States, all of this military and that we had to share that burden. And we were talking about not wanting Japan to build up an army or an air force, but maybe a navy. I suggested to give them from Okinawa down past the Philippines into Australia, let them go to Bali—they did not have to worry—and we would take on up around Korea and Vladivostok.

And the prime minister said, "But Senator, you should not give them nuclear." And I was sort of taken aback, because I was not even thinking about that, but I said, "Would you give the Germans nuclear?" and he said yes. But he said never give the Japanese nuclear. He said they do not think they lost that war. It is taught in the schools today that they did not lose that war, and historically, they have been the aggressor in the East, not China.

Then, jump to the reality of our experience in Korea and the reality of our experience in Vietnam, where you served. I remember a conversation with you—yes, the United States has all these tinkertoys, all this technology and so on, we had the flame-throwers, the helicopters, the B–52s and everything else—but the Vietnamese were on foot and beat the hell out of us.

So as we puff and blow about what we are going to do, ask yourself how many in the Congress are going to vote to commit troops again in that area.

With respect to their activity running that country, I have some little, very, very minute—maybe it is mistaken—understanding. I know that Tiananmen Square was brutal, and we all abhorred it, yet I ask myself how do you run a country with a population of 1.3 billion.

I remember when I was Governor of South Carolina and had the dichotomy of the law saying you could not take over the streets—all the marry-ins, bed-ins, sit-ins—that is what the law said. But President Kennedy at that time said if they do not have recourse in the courts or in the Congress, they only have the streets of America.

So I was in between the devil and the deep blue sea, and I adopted the old 12th Roman Canon, "Salus populi supreme lex," or "The safety of the people is the supreme law." And I was running around arresting and holding up people. I will never forget the lawyer for Woolworth's and what he was going to do in the Supreme Court. I told them to send down Chief Justice Earl Warren, and I would lock him up. I was in charge as Governor of the State.

And so it was that we had no one hurt and no life lost in South Carolina. I wonder if you had some demonstrations here, there, or yonder, in China, and it got the least bit out of control—with 1.3

billion, within a year's time, it would be totally out of control. And at the same time, we are working our way—capitalism is defeating communism. That is what really prevails over the Soviets, and it is working. And as you said, our foreign policy—do not get all puffed up like some around here who use it pollster-wise as a political issue to get themselves elected—they are strong, they are against the reds, they are against communism and all that—but they have no idea of sending troops over there. We are deploying and puffing and blowing.

EMBASSY CONSTRUCTION REQUIREMENTS

Otherwise, get to the construction projects that we have, Mr. Secretary, on course—not just the new projects. For example in Moscow, if you go over there in the winter time, they have a lot of adoptions going on, and U.S. citizens are standing out on the streets, freezing. The adoption process takes around 3 weeks, where you have got to check in and stay and do this, do that, and so on. Our consulate is working around-the-clock. They are doing a magnificent job, but they need a facility, and they need it quick, more than Tashkent and security in Tashkent. We have got to get General Williams on the stick and have him set some priorities and get Moscow completed right away.

Otherwise, go to Lebanon. I know there are some realtor developers, because I have been there, and they want to go way out on the edge of town, because that will get them a new development, and if they can get the American facility there, they can make money. It is like building a golf course and selling the lots. If they can get you, then they can sell the lots.

But I have seen the facility that we stopped construction on. It is all right on three sides. But, on the back side, they could aim down, but tell them to get that contractor in Caracas, Venezuela who built the back side of the Embassy there. We paid a fortune for a particular site in Caracas so that you could look down the valley—but he built it with no windows so you cannot look down anywhere. If you just wall it off, seal it off, on that back side, you have a good facility, and you have construction started, and it ought to be completed so it would be available. Otherwise, you will have to go way out where nobody can get to it there in Lebanon.

Chairman Gregg's staff has been down to look at the facility in Sao Paulo. I want to get a report from General Williams on that, because it seems like that building could be used. Do not tell me they have glass—everything—the State Department has glass. But it is right in the city, it is a beautiful site, and rather than tear it down, it seems to me it could be secure now. I am not all that wedded to Admiral Inman and General Crowe. We live in the real world, and they would have gotten rid of the Buenos Aires facility, and now they are very happy with it. You cannot build "fortress America" everywhere and get into $100 million projects. That is really bothersome.

I will yield with that, Mr. Chairman. Thank you.

Senator GREGG. Thank you. Did you want the Secretary to respond on any of those points?

Senator HOLLINGS. Yes, by all means. Tell us about China—no kidding.

Secretary POWELL. Let me talk about embassies, and then I will go to China.

On the embassies, thank you. I will point out all three of these cases to General Williams and see what we can do.

SECRETARY'S COMMENTS ON CHINA-UNITED STATES RELATIONS

I first went to China in 1973 as a young lieutenant colonel on a fellowship program right after Nixon made his first trip. It was a shocking visit, a remarkable visit. There were bicycles everywhere. The only things one could aspire to were a bicycle, a sewing machine, and a radio—that was it. If you had all three of those, you were at the top of society. You could go anywhere in China and ask a question and get the same answer from anybody. It was total group thought. They were just coming out of the cultural revolution. It was a depressing 3 weeks—but they were able to feed this country of, at that time, just short of one billion people.

Now it is almost 30 years later, and there are skyscrapers popping up all over the place and a degree of wealth they never would have dreamed up. There is pollution, not from bicycles, but from cars running all over the place. And there is some level of openness that would have been undreamed of 30 years ago.

Are they a society like ours? No. Are they totalitarian? Yes. Do they have an ideology that we find fatally flawed? Yes.

But are they also understanding that in the international marketplace, there is wealth that they never dreamed of before? Yes. Forty percent of their products are coming to us, and this does not just benefit big American businessmen, it benefits your constituents who go to K-Mart and Home Depot and Office Depot and get products that they need perhaps a little more inexpensively.

So they are coming out, and we need to keep encouraging it; but they are also running a country of 1.3 billion people, and they are determined—whether we think it is appropriate or not—they are determined that that philosophy, that ideology, and that country will not fall apart all at once the way the Soviet Union did, losing your political system, your economic system, your cultural identity all at once. They are determined that that is not going to happen.

So I believe our strategy is rather clear—work with them, and our little ups and downs will come, but continue to work with them, continue to show them the benefit of moving in the direction that we think is the correct direction. When we do not like things about their society, about their government, about their way of doing business, about their lack of respect for international norms of human rights, then we should say so, just as we did to the old Soviet Union, and let the power of democracy, the power of openness, and the power of the free enterprise system work. It may take a generation or two. I do not know. It is up to the Chinese people to decide that. But let us not cut off our nose to spite our face in order to look like we are big and bad.

I think President Bush understands this. I know he does. I think he demonstrated that in the way he handled the EP–3 incident and the way he is handling the situation now—calibrated, firm, but with an understanding of the nature of the total relationship between us and China.

Senator HOLLINGS. I was there just at the time when Mao passed in 1976. So we were the capitalist running dogs, the gang of five, or whatever. But then I was there in 1986, 1996, right on down the line, and we are winning as far as your philosophy and my philosophy. I saw Madame Kang back there in 1976, 25 years ago, and she said if the seed of capitalism ever got planted—that is why they had to go out to the countryside and be reeducated under Chairman Mao's doctrine—if the seed of capitalism ever got planted, it would be uncontrollable. And its spread is uncontrollable in my opinion. We have 50,000 of their students here in the United States, going back and forth.

In my time, I think I am going to see a lot happen there. China is headed in the right direction when you understand that when you have 1.3 billion people, the first human right is to feed them; the second is to house them; the third human right is to educate; and the fourth is to give them voting rights—one man, one vote. But we have people running around in the Congress who want one man, one vote tomorrow and cannot understand why not.

Secretary POWELL. Well, it is a pretty good philosophy, but it is going to take time to get there.

Senator HOLLINGS. And finally on the trade matter, for example, I am a big cotton-producing State. You heard the Senator from Washington talk about her wheat. The truth of the matter is they already export more wheat than they import. They import more from us because they are smart; diplomatically is why they are doing it. We have a deficit in the balance of trade in cotton right now, and 700 million farmers are going to outdistance 3 million farmers. I do not care how much technology and equipment you have. So they are going to be an agricultural exporter, and then, all these people who get subsidized, the aircraft industry for research, the Export-Import Bank. Then chastise me when I want no subsidy, just the enforcement of my textile agreement. The subsidized crowd says "You are protectionist," but they will learn before long, in the next few years.

China has come along, and they are going to be quite a competitor, and we had better treat them as a competitor.

Secretary POWELL. May I say one more word, Senator—with your indulgence, Mr. Chairman.

You talked about Japan, you talked about China, you talked about Vietnam, you talked about Korea—I also served in Korea after the war, so I have a little experience in the region. And the one thing that keeps things in balance and keeps China from becoming any more of a dangerous player, using its wealth for dangerous purposes—they will modernize their armed forces, and they will do a lot of other things that we may not like, but it is not clear to me that they are going to become the kind of aggressive nation that tries to expand beyond its borders—but the one thing that keeps it all in balance is the American presence. The one thing that keeps it all in balance—and nobody wants to see us leave for this reason—is that the investment of 100,000 American troops and American presence and American military commitment to the region underscores our diplomatic and political commitment to the region and keeps things in balance.

So we should push for more burdensharing, and we should ask our friends in the region to do more, but we are the Asian power that keeps those very difficult competing interests in balance. At the end of the day, if you scratch any one of them, nobody really wants to see us leave.

Senator HOLLINGS. Thank you.

Thank you, Mr. Chairman.

Senator GREGG. Thank you.

Senator Mikulski.

IRAQ SANCTIONS

Senator MIKULSKI. Mr. Chairman, I just have one question, and I hope you do not regard your experience here as a quiz. Mr. Secretary, I want to come back to Iraq. You have proposed reshaping sanctions on Iraq and that we call them "smart sanctions," with a focus on limiting Saddam's ability to develop weapons of mass destruction.

Could you share with us perhaps an elaboration on the concept, and have you given up using broader sanctions on getting the inspectors in? I regard you as really quite an expert on Iraq for obvious reasons, and I think we would all like to be supportive here.

Secretary POWELL. Others use the term "smart sanctions." It is not a term that I have used. What I found when I became Secretary of State, and what the Bush Administration found when we came into office on January 20th, was that the whole sanctions regime was collapsing in front of our eyes. We had people running off hither and yon. We had people trying to undercut the compensation account. People were saying let us get rid of all the sanctions. We had difficulty with some of our best friends in the United Nations. The Arab nations were up-in-arms. And Saddam Hussein had very effectively put the blame on us for the suffering of his people, when the blame belonged right on him.

So when we took a look at that and saw the whole thing collapsing, it was my judgment, shared by the President and approved by the President, that we ought to refocus the sanctions against their original target, which was weapons control, control of weapons of mass destruction and the technology to build them, and also control his ability to rebuild an armed force that would be threatening to the region.

What I found was that the United States was placing holds on huge amounts of material and commodities that were heading into Iraq under the oil-for-food program at a rate 10 times higher than our allies were. So we were being very, very tough, and our allies were saying this is not going to work much longer—we have all got to have a common view of what we are doing.

So what I have been working hard to do is to develop that common view, and I think we are having some success with it. In the PERM–5, I spoke to my Russian colleague, Foreign Minister Ivanov, about it again yesterday, and our teams are meeting. I think I will have good support from our Arab friends in the region. The Iraqis went to the Arab Summit and blew it and did not succeed in getting out of the constraints, did not get the Arab Summit to endorse their getting away from the control of these weapons as controlled by the United Nations.

So I think we are going to have some progress, and I hope that by early June, when we have the next rollover of the sanctions regime in the United Nations, America's ideas will have taken root, and we will see a change in it.

Senator MIKULSKI. Thank you very much, Mr. Secretary. Obviously, this is a work in progress. I think it does require new thinking while we are thinking about our national goals and our values.

GLOBAL PUBLIC HEALTH

I know that we will be meeting again on May 15th in Foreign Operations, and at that time, I hope we can have a conversation on global public health issues—the growing rate of vulnerability, transnational threats to us in infectious disease, AIDS. And I am sure you are aware that yesterday, the House International Relations Committee voted 26–22 to reverse the gag rule. I would hope we could come up with a way of bridging that so that that is not the big fight—there are other real big fights—but many of us are quite concerned about the infectious disease issue, the AIDS problem in both Africa and Russia, that also, then, constitute threats to the United States and threats to them in terms of the ability to ever be able to grow an economy.

Secretary POWELL. There are 26 million people in Sub-Saharan Africa who have been condemned to death by HIV/AIDS, tuberculosis, and malaria, and the infectious diseases that are driven by HIV/AIDS, and——

Senator MIKULSKI. Why don't we save that, then, until May 15th when you come up to Foreign Operations.

Secretary POWELL. Very well, Senator.

Senator MIKULSKI. And we look forward to your hearings next week, Mr. Chairman, on such a comprehensive approach to terrorism. It is probably the most——

Senator GREGG. I hope you will have a chance to participate.

Senator MIKULSKI. I am going to try to come to everything that I can.

Senator GREGG. The idea is to have everybody who wants to participate be able to do so, and we hope the Secretary can make it, or Mr. Armitage.

Senator MIKULSKI. Thank you very much.

Mr. Secretary, again, we really look froward to working with you.

Secretary POWELL. Thank you, Senator.

TRADE WITH CHINA

Senator HOLLINGS. Just a heads-up on one other function, that is, studying at the Department of Defense level, along with the Secretary of State, those items necessary to our national security. What I am getting at is back in 1961, 40 years ago, President Kennedy could not evoke or take action for his seven-point textile program unless under the statute it was found to be necessary to our national security. He brought the witnesses, including Secretary McNamara, Orville Freeman, and Secretary of Treasury Doug Dillon, and we had the hearings, and next to steel, they found that textiles were second most important to our national security.

You mentioned Ambassador Zoellick a minute ago. This trade measure has gotten totally out of hand, and the tail is wagging the

dog. That crowd that did not want to go overseas to produce anything 50 years has now found out that for 10 percent of the cost, you can move your production overseas and bring it back in. And as a result, at least two-thirds and probably 75 percent of the clothing I am looking at is imported, and 86 percent of the shoes on the floor here are imported.

I noticed in the newspaper that you were embarrassed, I take it, to finally stop the production of the Rangers in China. I was a witness back at that particular time. Tom Dewey represented the Japanese Government, and they ran me all around the hearing room of the old International Tariff Commission. The thrust was, "Governor, what do you want them to make? We will make the airplanes and the computers, but let them make the clothing and the shoes." The problem is that today, they make the shoes, the clothing, the airplanes, the computers—the whole kit and caboodle. I do not mind losing the textiles, because they are all Republican anyway. But I really worry about the disillusionment of the economic backbone of this Nation. It is like a three-legged stool—first, your values, which are admired the world around; second, the military, which is unquestioned; but the third, the economic leg, we have sacrificed intentionally, really, for the victory of capitalism over communism. Fine—give them some textiles, give them this, give them that—but now we are competing with ourselves. The United States Chamber of Commerce does not represent Main Street; it represents overseas. I do not have to see the Japanese Ambassador come in; I see the United States Chamber of Commerce, with free trade, free trade, and so on.

I have lost 42,500 textile jobs since NAFTA. We have lost 500,000 textile jobs. We used to have 41 percent in manufacturing at the end of World War II, and now they are down to 12 percent of the work force.

So the only way to get the attention of these free trade addicts, really gutting our economic strength, and fracturing that third leg, is to have a hearing to find out from the Secretary of State and the Secretary of Defense those things necessary to our national security. Find business for Jordan; I will vote for that. Find business with Chile—I know we will have a problem with respect to their salmon and with respect to their wine, but they have the entities in Chile of a free economy. They have property rights, a respected judiciary, labor rights. They had none of that in Mexico, and that is where we tripped up, and now we have to get some sort of Marshall Plan—that is another thing over there.

But as we go along with the State Department just parroting, free trade, free trade, free trade, it is not necessarily working in our interest. That plane—I would not have given that much to China for that Boeing 777—50 percent of it is made in China—because the Chinese know how to trade. Do not talk about the Chinese—I hear these Senators jumping up and down, "Oh, they cheat, they cheat." Well, by gosh, the Japanese continue to cheat; the Koreans continue to cheat. And they all cheat because that is the rule of thumb, because we never enforce our dumping laws, because we do not want to be protectionist.

You have the army to protect us from enemies without; the FBI to protect us from enemies within. We have Social Security to pro-

tect old age, Medicare to protect health. You can go right on down—that is the function of Government. We have got to protect our economy.

So as the Secretary of State, understand that we are doing pretty good militarily, we are doing pretty good on the values, but we are enfeebled in a sense—we are going to wind up like England. They told them at the end of World War II, do not worry—instead of a nation of brawn, you are going to be a nation of brains. Instead of producing products, you are going to produce services; instead of creating wealth, you are going to handle it and be a financial center. They have a bunch of Parliamentarians, and downtown London is an amusement park. They do not do anything. Do not worry when you get into a conference with that crowd—they do not have anybody to go. Their army is not as big as our Marine Corps.

So we have got to maintain our economic strength, because money influences. The Japanese are now giving more to the United Nations than we are in foreign aid in different countries. We passed a resolution—they are talking about human rights in China—we passed it 12 years ago and have never had a hearing, because the Chinese went down into Africa and places like that where they had influence, and they forestalled it, and we have never had a hearing.

So money talks, and watch it as the Secretary of State.

Secretary POWELL. Thank you, Senator.

Senator GREGG. We very much appreciate your attendance, Mr. Secretary, and we thank you for your time.

We are going to begin a series of hearings next week on terrorism and would appreciate the State Department's participation in those. They will begin on Tuesday, May 8th, and run for 3 straight days, with every department that has any involvement in combating terrorism being in attendance. At these hearings, we hope to hear from each agency about what their role is in combating terrorism activity, what they think their role should be in combating terrorism activity, and with whom do they coordinate and to whom do they report.

ADDITIONAL COMMITTEE QUESTIONS

It is essentially a set of hearings the purpose of which is to develop a base from which we can make some intelligent decisions on how to get better coordination with respect to terrorism activity. I know the White House is also aggressively pursuing this issue, but the Congress does have a role here, as Senator Hollings was just saying. That will be the focus of our attention next week.

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

QUESTION SUBMITTED BY SENATOR PETE V. DOMENICI

Question. Mr. Secretary, I listened with great interest to the President's recent speech on transforming deterrence at the National Defense University. As he has indicated in earlier foreign policy statements, he believes it's time to shift from a purely offensive posture to some mix of reduced offensive capabilities and more emphasis on layered missile defense possibilities. He also indicated that the first step would be consultation with allies. At some later point, the United States would engage Russia and China on this approach.

1. I would like to understand your view of how we best can achieve consensus among our allies, as well as our potential adversaries, on a shift from mutually assured destruction to an entirely new approach that includes defensive capabilities?

2. How do you believe we can assure stability as we proceed to undo the framework that has dictated the course of arms control over the past several decades, but as the President rightly indicated is no longer applicable to today's world?

Answer. 1. We are consulting with our allies and working to convince Russia and China of the need to shift from a purely offensive posture to some mix of reduced offensive forces because our relationship with Russia is different—and limited missile defense capabilities—because we face missile threats from new challengers. On his two recent European trips the President described this vision and our plans to date.

The NATO allies are unanimous in their support for President Bush's decision to intensify work with Russia on strategic stability, missile defense and a framework to replace the Anti-Ballistic Missile (ABM) Treaty before the U.S. testing schedule bumps up against Treaty limits. As the pace of United States-Russia discussions continues, we will keep the Congress as well as our NATO allies informed of our gameplan with Moscow and the results of our bilateral discussions.

With respect to Russia we are seeking to build a new strategic framework in which our ability to destroy each other is not the defining principle. We seek to build a new relationship based on mutual interests and cooperation in the political, economic, and security areas.

With respect to China, the United States intends to continue consulting with Beijing. China was in the process of modernizing its strategic forces before President Bush's missile defense initiative. It has continued to modernize its aging deterrent force. We have established a dialogue with the PRC on our strategic framework, emphasizing in particular that our plans with respect to missile defense are not aimed at China's small strategic nuclear force. We intend to continue our discussions with China on our strategic framework to promote our broad nonproliferation, arms control, and transparency/confidence building objectives.

2. The July 22 Joint Statement by Presidents Bush and Putin marks an important step in our efforts to establish a new strategic framework for ensuring security and stability into the future. The statement sums up the Presidents' shared understanding that major strategic changes require concrete discussions of both offensive and defensive systems and that there are already some strong and tangible points of agreement. Intensive consultations have already begun on the interrelated issues of offensive and defensive systems.

We have told the Russians that we believe it is necessary to move beyond the structures of the Cold War, including moving beyond the ABM Treaty. We also seek to develop regular United States-Russian exchanges to ensure full transparency and understanding of each other's offensive and defensive systems and future plans. This will provide assurance to each side that neither side threatens the other's strategic deterrent.

The missile defenses we will deploy will be too limited to affect the credibility of the Russian deterrent, even at levels of forces far below those reportedly being considered in Moscow. The reductions in nuclear forces we both will make also will help preserve the stability of nuclear deterrence. The United States intends to reduce its nuclear forces to the lowest level consistent with our national security needs, including our obligations to our allies.

We will continue consulting with China as we move forward. I was in Beijing last month, and emphasized that we want to build positive political, economic, and cultural relations with China. In particular, the Chinese agreed to further experts' talks on nonproliferation related issues. These consultations are integral to our ongoing effort to monitor closely PRC implementation of its nonproliferation commitments, including its November 2000 commitment to establish an effective missile technology export control system. We will take action if we see backsliding, including sanctions, where appropriate.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

Question. Mr. Secretary, concern has been raised that the State Department has been outmaneuvered on the United Nations Compensation Commission (UNCC) by Russia, France and China. There is a perception that those countries have implemented a strategy to benefit Iraq instead of compensating Kuwait and the other victims of Iraq's aggression. Last year, for example, they got concessions for Iraq at the UNCC by blocking for several months a $16 billion oil field damage award to Kuwait, and now they are proposing the use of UNCC compensation funds to pay

for Iraqi consultants to help Iraq oppose Kuwait's environmental claims. These actions indicate these countries may be motivated by the prospect of future commercial and oil field deals with Iraq as well as future military sales to Iraq. Does the Administration believe Security Council members are attempting to appease Iraq in order to further their parochial, commercial and economic interests? If so, what is the Administration's plan to ensure this pattern of behavior is corrected?

Answer. Fourteen of the fifteen Security Council members support our new approach on Iraq. The UNCC's Governing Council, consisting of the same members as the Security Council, has consistently supported our efforts to keep the UNCC focused on the technical, non-political completion of the UNCC's workplan, under which it verifies and pays out claims, including the large environmental claims of Kuwait.

In UNCC meetings, countries have raised questions about the fairness of the UNCC's processes, especially given the size of the awards now being considered. We have accepted some adjustments to UNCC procedures to allow the UNCC to continue processing claims as quickly as possible, according to its technical standards. The result of these changes is that the UNCC Governing Council continues to operate effectively and to approve awards by consensus. The continued effectiveness of the UNCC in carrying out its mandate to compensate victims of Iraqi aggression in Kuwait will continue to be the standard by which we judge any future proposals for change in UNCC procedures.

Question. Concern has also been raised that if the UNCC does not fully compensate Kuwait and others similarly situated for the damage Iraq inflicted on them, Iraq and other would-be aggressors will believe that the United Nations and the international community lack the collective will to make them pay for the damage that they cause. They may believe they can avoid compensating the victims of their aggression by stalling for time and offering commercial inducements to targeted members of the Security Council. What steps will you take with the UNCC to ensure that Iraq fully compensates the victims of its 1990 invasion of Kuwait instead of marshaling its assets to fund Iraq's military programs?

Answer. The Department has led the support for the UNCC's Work Program in order to ensure that every claim filed before the UNCC is adjudicated, and is working to ensure that the Compensation Fund is adequately funded until all awards rendered are paid.

Question. The largest Kuwaiti war damage claims, totaling more than $140 billion for environmental damage and reconstruction costs, are still pending in the UNCC and are due to be decided later this year. The 42 Kuwait government claims processed so far have received an average amount of 55 percent of the amount claimed. Do you believe that the pending claims, which go to the heart of the damage caused by Iraqi aggression, will receive at least as favorable a rate of compensation as the claims processed earlier?

Answer. We are not privy to any of the claims filed with the UNCC by any other government, including the government of Kuwait and are therefore not in a position to make our own assessment of the strengths or weaknesses of the claims made. Even if we did have access to these materials, it is impossible to guess, in advance, how the independent panels of commissioners will decide any given claim.

Question. There is a perception that the UNCC Governing Council has made recommendations by panels of commissioners before the United States has had an official opportunity to review the claims. Will you make sure that the State Department and its legal Advisers engage the UNCC earlier in the process, review the Commissioners' analysis of the claims, and take steps to ensure that their recommendations do not unfairly favor Iraqi interests or discount claims unnecessarily?

Answer. The UNCC's panels of commissioners independently review the claims before them, including any supporting evidence, and arrive at their own independent conclusions regarding the dispositions of claims. They submit their written reports and recommendations to the UNCC Secretariat, which makes them available to all members of the Governing Council simultaneously. Neither the U.S. Government, nor any other Governing Council member, is privy to those reports before that time. Before the UNCC's rules of procedure were revised in December 2000, the UNCC circulated reports to all Governing Council members 30 days before the quarterly sessions of the Governing Council at which the given report was to be discussed and approved. As a result of the revisions to the rules, certain reports, including those containing significant legal, factual and technical issues and those containing claims with recommended awards of $100 million or more, are to be made available three months in advance of the relevant Governing Council session. Although it is not privy to the evidence and expert reports that underlie panels' recommendations, the Department reviews all such reports for patent errors prior to Governing Council consideration. While under the rules the Governing Council does

not function as an appellate body, in appropriate but infrequent occasions, the United States has sought clarifications from panels or in the Governing Council resolution approving an award. To date, all awards have been approved by consensus among Governing Council members.

Question. Concern has been raised that of the $34 billion awarded by the UNCC to date only $11 billion has been paid. In addition, the United Nations reduced the amount Iraq had to contribute to the U.N. Compensation Fund from the oil-for-food proceeds from 30 percent to 25 percent. What steps does the United States plan to take to ensure that this rate is not further reduced and that the remaining awards, including those resulting from the $140 billion in remaining Kuwaiti claims, will actually be paid?

Answer. As part of an agreement that led to UNCC Governing Council approval of a $16 billion award to Kuwait, the United States accepted a temporary reduction in the allocation from Iraqi oil revenues to the U.N. Compensation Fund. These funds that made up the reduction are earmarked exclusively for humanitarian projects under the control of the United Nations to benefit the people of Iraq, not to the Iraqi regime. During negotiations on the Security Council resolution that would have established a new approach to Iraq, we have supported a return to a 30 percent allocation. Within the UNCC we will continue to ensure that the UNCC has the resources to pay awards and that its award adjudication and payments reflect the technical merits of the awards and UNCC procedures claims and not extraneous political factors.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Question. President Bush promised during his campaign to immediately begin the process of moving the U.S. Embassy in Israel to Jerusalem. What funds in the Embassy Security and Construction request will be used for that purpose?

Answer. The President remains committed to beginning the process of moving our Embassy to Jerusalem. However, we are not in a position to establish an embassy in Jerusalem at this time. A fundamental and overarching foreign policy and national security goal of the United States is to help the parties end the current violence in Israel, the West Bank and Gaza.

The President has determined that moving the embassy now would complicate our ability to play a helpful role in bringing and end to this violence. That is why on June 11 the President exercised the waiver authority given him by the Jerusalem Embassy Act to waive for six months the Act's limitations on the Department's ability to obligate the funds appropriated for overseas buildings.

Question. U.S. citizen Zachary Baumel and two other Israeli soldiers have been missing since June 1982, when they were captured after a tank battle with Syrian forces. Three other Israeli soldiers were kidnapped in northern Israel and taken to Lebanon last October. What are we doing to help find these Israeli soldiers captured and taken into Lebanon or Syria? Why hasn't the Red Cross and Red Crescent even managed to locate them?

Answer. The Department considers ascertaining the fate of all Israelis missing in Lebanon as an important humanitarian goal. U.S. citizen Zachary Baumel, and fellow Israeli soldiers Yehuda Katz, and Zvi Feldman have been missing since 1982, while Israeli pilot Ron Arad has been missing since 1986. In October, 2000, Hizballah captured three Israeli soldiers, Avi Avitan, Benny Avraham, and Omar Souad while they were patrolling the Israeli side of the United Nations certified Blue Line. Shortly thereafter, Hizballah seized Israeli businessman Elchanan Tanenbaum, though the circumstances remain unclear.

The Department is in close touch with Israel and the families, with whom the Secretary met in June. We have endeavored to be as helpful as possible in pushing for International Committee of the Red Cross access and in ascertaining the fate of all missing Israelis. At every opportunity we call on Syria and Lebanon to do their utmost to help achieve the release of, and/or information about the missing Israelis. Assistant Secretary Burns stressed our concerns directly in Beirut and Damascus in July, and met again with the families in Washington on August 2.

The United States maintains a strict prohibition against contact with Hizballah. Negotiations on the prisoners have accordingly been pursued through non-U.S. channels. The Department of State will continue to monitor and raise this issue whenever and wherever doing so will contribute to the resolution of this humanitarian issue.

Question. Last year, the State Department requested $30 million in the Foreign Operations bill to establish a Center for Anti-Terrorism and Security Training (CAST). The purpose of CAST is to provide one good site to be shared by Diplomatic

Security service for its own training and for the International Narcotics and Law Enforcement (INL) bureau to provide training for selected foreign officials. That request was not met, because it was felt that building such a facility should be funded in Commerce-Justice-State, not Foreign Ops. I hope you will look into getting this important facility established.

I believe Aberdeen Proving Ground in Maryland could be an outstanding site for the CAST. It has the space you need as well as other related institutions. It is within easy distance of Washington and close to BWI airport.

Why didn't the Administration request CJS funds for CAST this year? Would you please ensure that your DS and INL officials fully consider the advantages of locating the facility at Aberdeen Proving Ground?

Answer. The Antiterrorism Assistance Program's CAST initiative is intended to significantly increase training for foreign law enforcement and Government officials. The Department is continuing to explore sites, which would serve the CAST training requirements, as well as those of the Diplomatic Security Service. Proximity to Washington, DC, existing infrastructure, and potential for dual use are among the criteria being reviewed. The Aberdeen Proving Ground is among a number of venues, which continue to be vetted.

However, while the Department firmly believes in the value of CAST, the prioritizing of needs for the fiscal year 2002 budget cycle could not accommodate funding for CAST. While we cannot now commit to fiscal year 2003 spending initiatives, the CAST program will be given every consideration.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

Question. In my opening statement, I mentioned the Bureau for Democracy, Human Rights and Labor. The Administration has already made its budget request, which I believe falls short, and I will be talking to the Chairman and Ranking Member about that.

But there is also a lot that can be done, without spending money, to strengthen that office. It all depends on what message you, as the Secretary, send to the rest of the Department. If you make clear that you want their unvarnished views whenever there are potential human rights issues at stake, that would make a difference. Would you comment on this?

Answer. Since taking office, I have made it clear to all my Under Secretaries and Assistant Secretaries that I want to be presented with all views on an issue even where a position may affect our relationship with a foreign country. This understanding applies directly to human rights issues. For example, Assistant Secretary of State for Democracy, Human Rights and Labor Lorne Craner, who is a key member of my team and participates in my daily senior staff meetings, accompanied me on my recent trip to Asia. I value his unvarnished views.

Question. An election will be held in East Timor later this year to establish an independent government. I know there is a waiting list for construction of new embassies, and for the renovation of existing embassies and other facilities. However, we do need an embassy in East Timor, and I would like to know the status of the Department's efforts to open a fully functioning diplomatic mission there.

Answer. The Department shares your desire for an expeditious opening of diplomatic mission in Dili. A U.S. presence in East Timor is essential to monitor our bilateral assistance programs and work with officials of U.N. transitional administration in East Timor as well as the nascent East Timorese government.

On May 7, 2001, the Department transmitted a notification letter to the Congress requesting reprogramming of funds for facilities renovation and operating expenses associated with opening a U.S. diplomatic post in Dili, East Timor. However, language included in the Report (107–42) accompanying the fiscal year 2002 Senate Commerce-Justice-State Appropriations Bill (S. 1215) puts a hold on this reprogramming action. In the Report, the Committee expresses its concern with the safety of American people and property in East Timor and directs the Department to report on the situation by January 1 2002, at which time the Committee will reconsider our request to open a post in Dili. While we will provide the Committee with the requested report, we still believe that opening a U.S. diplomatic mission in Dili as soon as possible is in our national interest, and we would hope the committee could find a way to allow the administrative preparation for opening a post to proceed in the interim.

OFFICE OF WAR CRIMES ISSUES

Question. I am pleased that you decided to keep the position of Ambassador-at-Large for War Crimes. There have been reports that there is consideration within

the State Department to place the Office of War Crimes (S/WCI) under the authority of either the Under Secretary of State for Arms Control and International Security (T) or the Office of the Legal Advisor (L). Do you intend to maintain the current structure where S/WCI reports directly to the Secretary of State?

Answer. I have decided that the Office of War Crimes Issues (S/WCI) will continue to report directly to me. Pierre-Richard Prosper, our new Ambassador-at-Large for War Crimes Issues, advises me directly on U.S. efforts to address serious violations of international humanitarian law, including genocide, crimes against humanity and war crimes, committed throughout the world. President Bush and I count on him to ensure that the United States remains a leader in the effort to punish war criminals and to prevent the commission of future crimes.

Question. Don't you think the best strategy is to remain a signatory [to the ICC treaty]—to maintain our leverage in the negotiations and allow our representatives to get more protections for Americans?

Answer. The Administration's primary objective in its ICC review is to find avenues to protect United States officials and service personnel from politically motivated prosecutions by the International Criminal Court. That review is currently underway.

Question. Does the Administration's policy on the ICC include "unsigning" the treaty or actively pressuring our friend and allies not to ratify it?

Answer. As you know the Administrative has no intention to submit the ICC treaty to Senate for advice and consent to ratification. The Administration has currently underway a review of the ICC and is seeking to develop a strategy that best protects the interests of the United States.

SUBCOMMITTEE RECESS

Senator GREGG. I thank you for your attendance, and this hearing is recessed.

Secretary POWELL. Thank you, Senator.

[Whereupon, at 11:18 a.m., Thursday, May 3, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

TUESDAY, MAY 15, 2001

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

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Hollings, Inouye, and Murray.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

STATEMENT OF SCOTT B. GUDES, ACTING UNDER SECRETARY AND ADMINISTRATOR

ACCOMPANIED BY:

JACK KELLY, ASSISTANT ADMINISTRATOR, NATIONAL WEATHER SERVICE

BILL HOGARTH, ASSISTANT ADMINISTRATOR, NATIONAL MARINE FISHERIES SERVICE

Senator GREGG. The subcommittee will come to order.

It is a pleasure today to have the Acting Administrator of NOAA, Scott Gudes, with us. He is reasonably familiar to the committee.

I have no opening statement. Senator Hollings.

Senator HOLLINGS. Thank you, Mr. Chairman.

I note the bio or resume here of Scott B. Gudes, and I see mentioned Fullerton and scuba diving and many other things, but it does not mention my name.

I think of the time that Bess Truman—they used to tell all kinds of stories about President Harry Truman—had gone to have her annual physical, and she was standing in front of the mirror, admiring herself. The President looked at her and asked, "What in the world are you doing?"

She said, "I have just had my annual physical, and the doctor said I am in the best shape of anyone he has ever seen my age."

And Harry asked, "Well, what did he say about your big, fat . . ."

And she said, "Harry, he did not even mention your name."

Thank you, Mr. Chairman.

Senator GREGG. That may go down as one of the more original opening statements.

Mr. GUDES. You cannot say those things in the executive branch, so I will just listen.

Senator GREGG. Senator Inouye, did you have any opening remarks?

Senator INOUYE. I do not think I can add to that.

Senator GREGG. No, I do not think any of us can.

Senator INOUYE. I just want to welcome Scott.

Senator GREGG. Mr. Gudes, the floor is yours.

Mr. GUDES. Thank you, Chairman Gregg, Senator Hollings, Senator Inouye.

OPENING STATEMENT BY UNDER SECRETARY GUDES

I will submit my full statement for the record, and I would like to use these powerpoint slides and just make some oral comments if I could.

First of all, let me say on behalf of Secretary Evans and our 12,500 men and women working around the country that I want to thank you for this opportunity to come here today and testify on behalf of our fiscal year 2002 budget for your National Oceanic and Atmospheric Administration.

I also want to thank this subcommittee for your unwavering and strong support through the years for our Nation's ocean and atmospheric programs and especially highlight your outstanding professional staff who have worked so closely with NOAA—Jim Morhard and Luke Nachbar, Lila Helms, Jill Shapiro-Long, Nancy Ragland-Perkins, and Dana Quam.

Mr. Chairman, I would also like to recognize my management team that is here today—my deputy chief financial officer and budget director, Jolene Lauria Sullens; Sonya Stewart, our chief financial officer and chief administrative officer; Margaret Davidson, head of the Oceans Service; Bill Hogarth, head of Fisheries; Jack Kelly, head of the Weather Service; Louisa Koch, deputy head of research; Greg Withee, who is here for satellites; Bob Taylor from Office of Marine Aviation Operations.

These are, I think, testament to the fact that NOAA is much greater than the sum of its parts, and I rely on this whole management team to help run the agency.

For fiscal year 2002, the NOAA budget totals $3.152 billion. That is a $61 million reduction from the current year. So we are not talking about how much real growth above the current year or below the current year.

That really does not tell the whole story. We have about $330 million in reductions and about $270 million of investments or add-backs. That is most of what I will talk about today. But when you look at those add-backs, Mr. Chairman, I think you will see that in fact they really do emphasize NOAA's core mission; that Secretary Evans really did come to us and say "Please invest in the things that will help NOAA do its mission in the future." And I think you will see that that $270 million is wisely invested.

I also believe that this subcommittee will find this budget to be more realistic than past budgets that have been submitted in that we have fully funded programs that this subcommittee has been

telling us for years are important and high priority that have too often come up being cut or terminated in the President's budget.

So that, for example, the Coastal Services Center is fully funded; the Joint Hydrography Center; CICEET, the National Undersea Research Program. We are almost at last year's level for the Steller sea lion programs. The Juneau lab in Alaska for the first time has a substantial funding request, and Sea Grant is fully funded. Coastal Zone Management actually has an increase. Those are programs that this committee for years has supported and told NOAA that it wants to be funded.

NOAA MANAGEMENT IMPROVEMENTS

If I could turn to the first slide that shows management improvements, before talking about what we are asking for in terms of funding this year, I would like to show you what we have been doing with the funding that this subcommittee and committee have been providing to us in the past and just show you some of the impacts we have had.

If you look at the box in the middle, that is hurricane track forecasts. What the slide shows is that since the mid-1980's, we have reduced the error in hurricane track forecasts from about 400 nautical miles out at 72 hours down to 200 nautical miles. We are coming down every year a few percentage points. We can do better, but we have cut it in half since the mid-1980's, and that is a factor of better satellites, better training, better research, but most importantly, better supercomputers and models. That really shows the impact of that.

Another example is tornado lead time, where in the early 1990's, we had very little lead time; we got a nationwide system of NEXRAD Doppler radars, of AWIPS communications and forecasting systems, and now we are up to 10½ minutes of lead time, and that is for all types of tornadoes. If we are looking at the larger tornadoes on the Fujita Scale, we have greater lead times.

On acquisition reform, this committee played a real leadership role. In the 1991 time frame, we had one geostationary satellite left in this country. I remember when this subcommittee got together with the Commerce Committee and held a special hearing to get on top of the situation and do something about the fact that we had one geostationary satellite, and we did not think it was going to last until the next series came and replaced it. And by the leadership of this committee, Loral Corporation, our satellite service, and Ray Kamer, who just retired from NIST and was the Deputy Under Secretary of NOAA at the time, we made real improvements and fixed those instruments.

The situation we now have is that we basically kept the costs of a geostationary satellite in constant dollars frozen or slightly less than it was. We have two—one West, one East—geostationary satellites, one in cold storage in orbit, ready to turn on; and a fourth satellite that is going to be launched this summer. So we have gone from a situation through better acquisition management of keeping down costs but also providing robustness to our system and being able to maintain coverage for the American people.

Turning to the budget for this fiscal year, the next slide shows some of the cross-cutting themes that we have used and it highlights some of the numbers that I showed you before.

NOAA BUDGET PRIORITIES

The next slide shows my number one priority. If you ask me, "Scott, you are Acting Administrator. What is your top priority in the budget?"—it is our people. It is funding our adjustments to base—the pay raises, the rent costs, the must-pay bills. That is about $60 million of our request, and about $24 million of that is for the Weather Service, which is the most people-intensive part of NOAA. For too long, too many years, the President's budgets did not come up fully funding it, and we have done that.

The next slide shows my next-highest priority, which is infrastructure—equipment, facilities, maintenance. It is what I call infrastructure, and it is about areas where we have not traditionally done well in NOAA, worrying about how this agency is going to continue to do its mission, not just today but in the future.

I would just like to highlight a few of the things that are covered in here. Three million is to help start building our new Honolulu Fisheries Laboratory. It is collocated at the University of Hawaii. It is non-ADA-compliant right now—that is the Americans for Disabilities Act. It has leaks in the computer areas, and I think it was originally designed for 45 employees, and we currently have about 120 there.

Then, $1.7 million is for overall safety and environmental issues; $5.8 million is for overhaul and repair of two of our NOAA fisheries vessels, including the Albatross IV, which is home-ported in Woods Hole and is the workhorse of our Northeast surveys.

And $7.5 million is for a backup telecommunications gateway for our National Weather Service. The gateway puts out all products to emergency managers, the media, and to the public. We have a single point of failure in Silver Spring. We talk about critical infrastructure a lot on this committee and in the executive branch. This is about giving us a backup telecommunications gateway so that we do not have that single point of failure. It is the right thing to do.

CROSS-CUTTING ISSUES

The next slide, I will just go through very quickly, but there are a few cross-cutting issues. I want to talk about satellites and our weather forecasting.

Under coastal conservation—that is a program sometimes called Lands Legacy, coastal ocean activities—we have a number of programs there from coral reefs to marine sanctuaries to the estuarine research reserve program, like Ace Basin and Great Bay. The total increase for that is $34.4 million, and included in the marine sanctuary request is $6.5 million to build and fully fund the Nancy Foster complex in Key West for the Florida Keys Sanctuary.

On the right, modernizing NOAA fisheries—we are really following the lead of this committee, and we have an increase of $60.1 million for science, for management, and for enforcement; $13.3 million for surveys, which is largely by contract, days at sea—829 days, I believe, by contract. We have $2.5 million for Fisheries Management Councils. They are really the way that we manage

fisheries in this country in partnership with the industry and the States, and they have adjustments to base as well, and they have not gotten an increase in quite some time.

We have $2 million for the community-based Habitat Restoration Program, which has been making a big impact across the country. We have some $16.5 million in increases requested for the Climate Services Initiative, like Argo floats, which are like radiosondes, weather balloons, if you will, for the ocean, for studies of carbon in Arctic ice. It includes $3 million for supercomputing to get our capability at the Geophysical Fluid Dynamics Lab, our principal climate modeling center in this country, up to speed with the Japanese and the Europeans, which have more capable supercomputers right now.

Climates, both seasonal and long-term—this is a major interest of NOAA and of this country. Increasingly, we are realizing that it is of interest to the energy industry as well, something that we have increasingly become aware of and they have increasingly become aware of. And of course, it is also about the oceans. Of course, climate is one of the areas in NOAA that is not about atmospheric NOAA or oceanic NOAA; it really is both, because in order to understand climate, you need to understand the oceans and their impact.

MARITIME TRANSPORTATION SYSTEM

One slide that you have up there, a final area before I turn to satellites, is the maritime transportation system. I know this is a major area of interest to a number of people on the committee. What we are talking about there is really looking at our maritime transportation system in the same way we do at aviation, at surface transportation. We have a number of specific initiatives—$3 million for working with communities in coastal storms, $2 million for oil and hazardous spill response, and $3.6 million for electronic navigational charts to really move the smart charts, vector charts, and a digital database to cover 200 of the most important ports of this country.

I would just like to highlight—there is an image of a NOAA polar satellite here on the bottom—I would like to cover two programs that are under satellites and weather, because I think they are highly important, and one of them is the biggest budget initiative that we have in here.

HURRICANE FORECASTING

The first is a $2.2 million increase for something called the U.S. Weather Research Program. I guess I would probably refer to that as hurricane forecasting, if you will. It is about hurricane track forecasts, about intensity, about quantitative precipitation forecasts. Increasingly, the number one killer from hurricanes is not the storm surge and the winds at the coast—we are doing a better job getting the public to pay attention to that—but it is about inland flooding. In Hurricane Floyd, we lost over 50 people to inland flooding. So the U.S. Weather Research Program is really about doing the science, working with our partners in the academic community and other agencies, doing a better job in all of those areas,

being able to determine where a hurricane is going to hit, with what intensity and how much rainfall.

If you turn to the next slide, I just want to show you an example of why I think we need to move on this area, and I am pretty proud that it is in our budget. On this side is a depiction of Hurricane Georges. Hurricane Georges came over Key West and did not intensify quite as much as we had thought, which was good. But 48 hours later, it came in to southern Mississippi just about exactly where we predicted it would; it did a few things in between that scared the people in New Orleans, but it came in pretty much where we said 48 hours later. So it is an example in 1998 of where we got it right.

On the other side of the page is Hurricane Mitch. Hurricane Mitch came across the Caribbean, and it actually came back into tropical storm status and then went down over Honduras and became sort of like Hurricane Agnes here on the East Coast, with major flooding, and killed over 10,000 people.

No model—NOAA's GDFL hurricane model, the Navy's model, or the European model—predicted that hurricane to come south like it did or to stall. So 98 years or so after the Galveston hurricane, we lost 10,000 people just 3 years ago. So it is an example of how far we have got to go in terms of hurricane forecasting in this country.

NPOESS SATELLITES

The last major program that I would like to mention is NPOESS, the National Polar-Orbiting Environmental Satellite System. The satellites that you see on television are geostationary satellites; you see them every night. You do not see our polar satellites. Our polar satellites do several functions. They get the meteorological measurements, which are the backbone of how we do our numerical weather prediction, those models we talk about for winter storms and for all the long-term forecasting that we do. They do search and rescue, SARSAT with the Coast Guard. We have saved over 12,000 lives since 1982. They do ozone, and they also do imaging. And actually, with our very high advanced resolution radiometer, I have some pictures of how that satellite actually does disaster assistance all over the world. It is a global satellite.

This shows some examples of where we got Mozambique some forecasts of flooding, and Ethiopia and the Horn of Africa, with drought and fires. These really are global satellites; they cover the globe every day.

In the polar satellite area, we have two programs. We have the NOAA civil satellite, and we have the Air Force satellite, called DMSP. For 40 years, these two agencies have run separate satellite systems—NOAA runs two, and the Air Force runs two. In about 1993–1994, the previous administration said we are not going to do that anymore; we are going to have one system, and we are going to call that NPOESS, National Polar-Orbiting Environmental Satellite System, and merge them together and only have three satellites at any time.

It is an issue of improving those forecasts, improving the data. It is also an issue of continuity. And that is the one thing I want to leave you with today. It is the largest budget increase in our

budget, $83 million. It is a 50–50 program, half in NOAA, half in the Department of Defense, Air Force.

We only have three current-generation polar satellites left on the ground to get us to the first NPOESS satellite, and that is in 2008–2009 for delivery if everything works on time.

So my point is that I would like us not to take a chance of getting back into a gap like we were in the geostationary program. I think it is very important to keep NPOESS on schedule. It is very important for the civil community, which is represented by NOAA, to be an equal partner in that program along with the Department of Defense.

OCEAN EXPLORATION

Finally, you talked about the "O" in NOAA. At the Secretary's hearing, you heard that ocean exploration is about the "O" in NOAA. It is responding, I think, to the points that have been made here. It is one of the areas that the Stratton Commission asked NOAA to be involved in that we really never stepped up to the plate on. And really following your lead, you gave us $4 million, and we are moving expeditiously to do missions in the East, called Big East, diving in the Hudson Canyon off the East with the Alvin submersible, along with our partners in universities, NSF, and Woods Hole; out on the West Coast, working in Astoria Canyon in the Gulf. We are moving ahead on that program, and we have requested an increase of $10 million. It follows the recommendations of the President's blue ribbon panel on ocean exploration headed by Dr. Marcia McNutt, which also included Dr. Bob Ballard, the fellow who found the Titanic, and Dr. Shirley Pomponi from Harbor Branch, and a number of other oceanographers. So I think it is doing the right thing for what you want.

The final slide shows that ocean exploration is also about education and outreach. That is a major part of what we are doing. Ten percent of the program—any number that you give us, 10 percent will be for education and outreach.

The final slide is of our website, www.noaa.gov. I for one think that NOAA's core mission includes training the meteorologists, the oceanographers, the marine biologists, the explorers, if you will, of tomorrow. And as I go around the country, one thing that is very rewarding to me is to have students and teachers and the public come out and talk about how great our website is and how they can really navigate from anything from our hurricane imagery, satellite imagery, to our weather forecasts, to learning about whales and marine mammals.

It really is about reaching your constituents and my customers, really, and it is about education and outreach, and we are usually in the top 10 websites in Government and private sector on any given week—when we have severe weather, it is even higher. But it has really been an example of where our people got together and did the right thing in engineering and taking a look at how to outreach the agency.

The last point I would like to make is that this committee played a leadership role in keeping our NOAA Corps 7th Uniformed Service a uniformed service in this country. Last Wednesday night, I had the opportunity to go to Kings Point, to the U.S. Maritime

Academy, to the graduation ceremony for the 100th basic officer training class. This is a picture of that class, and those ensigns are now being deployed to ships across the country. One is going to work in South Carolina; two are going to work in Seattle; and one of these ensigns, Ensign Sook, is from the University of New Hampshire and grew up in New Hampshire. So I thank you for what you did to keep our NOAA Corps.

Thank you very much, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT SCOTT B. GUDES

Thank you, Mr. Chairman, and members of the Subcommittee, for this opportunity to testify on the President's fiscal year 2002 Budget Request for the National Oceanic and Atmospheric Administration (NOAA).

I am accompanied today by Sonya Stewart, Chief Financial Officer/Chief Accounting Officer.

Let me begin by saying that NOAA, a key component of the Department of Commerce, plays a vital role in the everyday lives of our citizens through our numerous contributions to the Nation's economic and environmental health. In a period of strongly competing Government priorities, the President's fiscal year 2002 Budget Request for NOAA is $3,152.3 million in total budget authority for NOAA and represents a decrease of $60.8 million below the fiscal year 2001 enacted levels. Within this funding level, NOAA proposes essential realignments that allow for a total of $270.0 million in program increases in critical areas such as infrastructure, severe weather prediction, coastal conservation, living marine resources, and climate.

The funding requested in the fiscal year 2002 President's Budget Request will allow NOAA to ensure that our vision for environmental stewardship and assessment and prediction of the Nation's resources becomes a reality and that NOAA will continue to excel in our science and service for the American people.

From weather forecasting to fisheries management, from safe navigation to coastal services, remote sensing to climate research and ocean exploration, NOAA is at the forefront of many of this Nation's most critical issues. NOAA's people, products and services provide vital support to the domestic security and global competitiveness of the United States, and positively impact the lives of our citizens, directly and indirectly, every single day.

NOAA's mission is to describe and predict changes in the Earth's environment and to conserve and manage the Nation's coastal and marine resources to ensure sustainable economic opportunities. NOAA implements its mission through its line and staff offices: the National Ocean Service (NOS); the National Marine Fisheries Service (NMFS); the Office of Oceanic and Atmospheric Research (OAR); the National Weather Service (NWS); the National Environmental, Satellite, Data and Information Service (NESDIS); the Office of Marine and Aviation Operations (OMAO); and Corporate Services (CS).

Today, the Nation and the world look to NOAA to provide timely and precise weather forecasts that protect lives and property; to manage fisheries and protected species; to promote and sustain healthy coastlines; to make America more competitive through safe navigation; to examine changes in the oceans; and to inspire and create approaches that will protect and keep our precious natural resources alive for the generations to come.

NOAA conducts research to develop new technologies, improve operations, and supply the scientific basis for managing natural resources and solving environmental problems. NOAA's comprehensive system for acquiring observations from satellites and radars to ships and submersibles provides critical data and quality information needed for the safe conduct of daily life and the basic functioning of a modern society.

NOAA's products and services include short-term weather and space-weather forecasts, seasonal climate predictions, long-term global change prognoses, environmental technologies, nautical charts, marine fisheries statistics and regulations, assessments of environmental changes, hazardous materials response information, and stewardship of the Nation's ocean, coastal, and living marine resources.

NOAA's programs for fiscal year 2002 support several key cross-cutting initiatives. These cross-cutting initiatives illustrate the degree to which NOAA's programs are inter-related. Each of the component programs within a cross-cutting initiative uniquely contributes to NOAA's ability to meet its mission.

The fiscal year 2002 President's Budget Request supports NOAA's cross-cutting initiatives, each of which is I will discuss in greater detail.

People and Infrastructure

The request of $73.3 for the People and Infrastructure cross-cutting initiative brings together the heart of what NOAA is and does. These are the underlying and interconnecting threads that hold NOAA and its programs together. Investments in NOAA's scientific and technical workforce and NOAA's facilities and equipment is essential to the agency carrying on its mission into the 21st Century. "People and Infrastructure" is about investing in the future.

People ($60.0 million)

NOAA requests $60.0 million in base adjustments that are critical to preserve and develop NOAA's human capital, our greatest asset. The demand for NOAA's scientific work products and services is expected to increase significantly in fiscal year 2002 and beyond. This trend is evidenced by market responses to increasingly accurate seasonal forecasts, protection of life and safety, competing interests for marine resources and the need to protect and recover endangered species, and the application in pharmaceutical manufacturing of the earliest rewards from increased ocean exploration. Similar increases in demand for NOAA's products and services are expected from the national energy community and other potential user communities. To ensure NOAA's mission capacity is adequate to respond to these demands, NOAA must continue to invest in its people.

This investment will ensure NOAA's programs are maintained at the current services level. These are "must-pay" bills like pay raises, benefits, inflation, and rent. Failure to receive these adjustments in any given year results in program dislocations and minor cutbacks. Failure to receive these adjustments over time has a cumulative erosion effect that can be programmatically devastating. Consequently, these adjustments to NOAA's funding base are essential for NOAA to continue meeting core mission-related requirements and the expectations of the American public.

Infrastructure ($73.3 million)

NOAA's facilities and information technology infrastructure directly and immediately impacts the ability of NOAA's program offices to satisfy mission demands. The condition, readiness and vulnerabilities of this infrastructure have direct consequences on human welfare, economic well being, and the advancement of the state of the sciences. To ensure mission capacity, NOAA requests infrastructure funding of $73.3 million in the following key categories: critical systems, construction, maintenance and repair, and NOAA program support.

Systems ($16.4 million)

The total request of $4.0 million for the National Marine Fisheries Service (NMFS) Computer Hardware and Software represents an increase of $0.5 million. This continued investment will be used for information technology refreshment to support the scientific and computational needs of the NMFS. Many of the observational data elements obtained from the new sensors, observers, Fisheries Research Vessels (FRVs) and survey and census data collection programs in this budget submission will rely on the NMFS Information Technology infrastructure for all or part of their life cycle. The cumulative effect of rising costs, the unmet need for adjustments to base, and expanding requirements have created an erosion of base program functionality. These funds will result in a continuous process of technology refreshment to keep pace with the increasing information flow created by the deployment of new sensors, platforms and data collection activities throughout NMFS' initiatives.

NOAA requests a total of $7.5 million for the National Weather Service (NWS) Telecommunications Gateway (NWSTG) Backup, to provide critical infrastructure protection. This investment will enable NOAA to acquire the equipment and facility infrastructure necessary to ensure continuity of operations at the NWSTG. The NWSTG is the Nation's critical telecommunications hub for collecting, processing, and distributing weather data and information. The data processed by the NWSTG are used by hundreds of customers worldwide but the current NWSTG facility, located in NWS headquarters in Silver Spring, MD has no operational backup and is therefore a single point of failure vulnerable to natural disasters, human error, computer viruses, hacker attacks, and terrorism. This investment will mitigate these risks and will enable NOAA to comply with Presidential Directives on critical infrastructure protection and continuity of government operations.

NOAA requests a total of $0.3 million to begin to address the critical single point of failure for NOAA's satellite products. This investment will fund a study to evalu-

ate the backup capabilities for critical satellite products and services currently delivered from Federal Building 4 in Suitland, MD. This initiative is essential to address the potential for a catastrophic outage, which would prevent the delivery of critical satellite data and products to the NWS. In the event of such an outage, approximately 85 percent of the information used in weather forecast models would be lost, seriously limiting the ability to make accurate weather forecasts. This would be particularly dangerous if data was not available during times of severe weather events.

NOAA requests a total of $4.6 million to ensure Continuity of Critical Facilities for Satellite Operations. This investment will allow NOAA to address deficiencies and risks associated with the infrastructure of the NOAA environmental satellite command and control centers at Wallops, VA and Fairbanks, AK. This initiative forms a cohesive approach to resolving known infrastructure problems by reducing facilities' threats and risks, and completing the renovation/repair of the Satellite Operations Control Center. These problems could jeopardize NESDIS' ability to control the Nation's environmental satellite systems and potentially lose in- orbit assets.

Construction ($16.0 million)

NOAA requests a total of $3.0 for the Honolulu laboratory. This investment will continue the replacement of the Honolulu Laboratory which consists of a main lab building and two annex building. This funding will enable the project to proceed with work needed to correct several deficiencies such as overcrowding, lack of laboratories, inadequate or nonexistent handicap access, and hazardous materials.

The total request of $12.0 million for National Weather Service (NWS) Weather Forecast Office Construction represents an increase of $2.5 million above the fiscal year 2001 enacted level. This continued investment will ensure the continuation of critical facility modernization efforts in the NWS. In fiscal year 2002, NWS plans to finalize construction of the new Weather Forecast Office in Caribou, Maine and complete the new Alaska Tsunami Warning Center in Palmer, Alaska. NWS also plans to complete modernization of the weather offices in Hilo, Hawaii and Kotzebue, Alaska.

The fiscal year 2002 Presidents Budget request includes a total of $1.0 million for the Coastal Services Center Wing. This investment will allow for construction of a new wing adjacent to the main facility of the Coastal Services Center (CSC) in Charleston, SC. This small expansion will add an estimated 6,000 square feet to house office space, a storage area and a loading dock. The funding will also allow for a partial demolition of CSC's obsolete and deteriorating structures. The demolition would eradicate some, but not all, of the structures that pose threats to CSC's inhabited buildings. Additional needs for security enhancements and other expansion remain under consideration in the comprehensive facilities plan being completed in fiscal year 2001.

Maintenance ($24.4 million)

The total request of $4.4 million for the National Marine Fisheries Service Facilities Operations and Maintenance represents an increase of $0.4 million above the fiscal year 2001 enacted level. This continued investment will be used to cover increased operation and maintenance costs of two key NMFS facilities, the new Santa Cruz, California Laboratory, and the Kodiak, Alaska Laboratory.

The total request of $4.6 million for Weather Forecast Office (WFO) Maintenance represents an increase of $0.3 million above the fiscal year 2001 enacted level. This continued investment will allow NWS to fund recurring maintenance contracts and address a backlog of over $7.0 million in deferred maintenance repair actions. WFOs provide forecasters with modernized facilities, supporting the advanced technology systems and the provision of weather service to the public. As the WFOs continue to age, the facilities require a significant investment in recurring and cyclic maintenance, including replacement of major facility support systems such as power backup and heating, ventilation, and air conditioning. The request will allow NWS to protect the $250 million capital investment in modernized facilities in accordance with GSA and private industry standards.

NOAA's request of $3.6 million for Facilities Maintenance, Repairs and Safety represents an increase of $1.7 million above the fiscal year 2001 enacted level. This continued investment will allow for remediation of NOAA's deteriorating facilities. NOAA's capital assets, totaling 496 installations spread across all 50 states are valued in the hundreds of millions of dollars. The majority of these facilities are over 30 years old, and 29 percent are over 40 years in age. To date, renovations have been relatively few, and maintenance has been deferred. NOAA has already identified over $50 million in maintenance and repair projects, and this continues to grow as a comprehensive facility assessment unfolds. Major systems in many facilities are

in imminent danger of failure, or are well past their useful lives. The requested funds will help address these facilities maintenance, repair and safety needs.

Funding in the amount of $1.0 million is requested for NOAA's Beaufort Laboratory. This investment will allow for repairs at NOAA's Beaufort, NC Laboratory. The funds will be used to address health and safety issues, primarily the installation of a sanitary sewage connection and electrical repairs. The Beaufort Laboratory is the Nation's second oldest marine research center—a national treasure—and is collocated with the Rachel Carson National Estuarine Research Reserve.

NOAA's request of $1.8 million for the GORDON GUNTER will allow for the upgrade of the vessel to meet modern safety standards and to provide a more capable platform to support fisheries research, stock assessment and other missions such as submersible operations. The upgrade will include modifications to an engine-room bulkhead that will enable the ship to meet modern safety standards for one-compartment damage stability, allowing a compartment to be fully flooded and the ship to remain afloat with stability. This funding also would provide positioning and instrumentation upgrades. The GORDON GUNTER, homeported in Pascagoula, MS, is a former Navy T-AGOS vessel which has been converted and currently serves in the Gulf of Mexico, the Caribbean Sea and the Southeast Atlantic Ocean.

Included in NOAA's fiscal year 2002 Presidents Budget request is $4.0 million for the ALBATROSS IV. This investment will allow for repairs and the extension of the ship's useful life until a new Fisheries Research Vessel (FRV) can be constructed for the Northeast Fisheries Science Center (NEFSC). In order to calibrate the new vessel with the ALBATROSS IV, the ALBATROSS IV must be upgraded and its service extended until a new vessel is completed. This calibration-overlap protects the integrity of long-term surveys.

Additional funding has also been requested for the FAIRWEATHER. This investment is identified under the Marine Transportation System crosscut.

The total request of $5.0 million for Boulder Facilities Operations represents an increase of $1.0 million above the fiscal year 2001 enacted level. This provides funds for rent charges levied by the GSA which owns and operates the facility. This is a "must pay" bill, without which the science programs would bear the burden.

Support ($16.5 million)

The President's Budget request for fiscal year 2002 includes $2.3 million for the Cooperative Observer Network, which represents an increase of $1.9 million above the fiscal year 2001 enacted level. This continued investment supports a nationwide network of over 11,000 volunteer operated weather observing sites used by NOAA to maintain the Nation's climate record and to provide data to local NWS field offices. These sites are staffed by citizens dedicated to maintaining climate records and assisting the NWS. In a recent report, the National Research Council recommended that NOAA take immediate steps to sustain and modernize this critical network. NWS plans to replace 900 rain gauges and 200 temperature sensors in fiscal year 2002. This is the first of an anticipated 3 year rescue effort which will result in the total replacement of 2,700 rain gauges and 5,000 temperature sensors.

The total request of $14.2 million for Aircraft Services represents an increase of $2.4 million above the fiscal year 2001 enacted level. This continued investment will provide an additional 300 flight hours for data collection for a total of 1,970 flight hours. Of these additional flight hours, 150 flight hours are specifically for hurricane surveillance and for severe winter storms. Another 150 flight hours will support measurements of ocean winds during high windspeed conditions, which are critical to planning for future satellite sensors. These flying hours will enable NOAA to more efficiently use its heavy aircraft and to maintain pilot proficiency during data collection under severe weather conditions.

Maintain Satellite Continuity and Severe Weather Forecasts ($712.3 million)

Critical to meeting our 21st Century mission is the continuity of NOAA's Satellites and Severe Weather Forecasts. In order to ensure our success, the fiscal year 2002 President's Budget Request includes a total of $712.3 million, of which $127.1 million is new funding. The programs that comprise this initiative are summarized in the preceding table and the program descriptions below.

Satellite and Data Services ($693.8 million)

NOAA's total request of $65.0 million for Environmental Observing Services represents an increase of $14.3 million above the fiscal year 2001 enacted level. This continued investment supports the operations of all of the NESDIS satellite systems, the ingesting and processing of satellite data, and the development of new product applications required for continuity of operations. NESDIS provides satellite command and control services on a 24 hours per day, 365 days per year schedule. Funding is required to keep up with increases in labor costs, software licensing,

communications, and ground system maintenance. Requirements have expanded due to greater demands on operations and control, greater amounts of data requirements for new products, requirements for more advanced software and the development of improved products, and increased demand to support users.

The total request of $146.3 million for Polar Orbiting Satellites represents an increase of $9.6 million above the fiscal year 2001 enacted level. This continued investment will allow for the continuation of spacecraft production (NOAA K-N'). It will also allow for completion of the instruments for the European Meteorological Operational (METOP) satellites which will replace NOAA's morning polar orbiting satellite during calendar year 2005. Funding is included for upgrading and replacing aging and deteriorating ground systems to allow for continuation of operations for the Polar K-N' series through the end of its lifetime in about 2012. These ground systems are needed in order to communicate with the satellites until the last of the series is decommissioned. In addition, funds provide for replacing and upgrading the aging product generation and distribution system.

Funding in the amount of $156.6 million is included in NOAA's budget request for the National Polar Orbiting Environmental Satellite System (NPOESS) represents an increase of $83.4 million above the fiscal year 2001 enacted level. This continued investment will allow for the convergence of NOAA's Polar program, the Department of Defense's (DOD) Defense Meteorological Satellite Program and National Aeronautic and Space Agency's (NASA) research and development into a single satellite system that will save the United States Government millions of dollars over the life of the program. NPOESS is essential to meeting both NOAA's requirements in weather forecasting, oceanography, climate and search and rescue services as well as the DOD's National Security mission. NOAA has only three remaining current generation satellites on the ground to use until the first NPOESS satellite is delivered in late 2008. NPOESS needs to stay on schedule as provided for in this fiscal year 2002 Budget Request to help ensure that polar data continuity is maintained. NPOESS satellites are critical for weather forecasting, climate observations, U.S. military operations on a worldwide basis, and search and rescue operations.

The total request of $293.3 million for the Geostationary Orbiting Environmental Satellite (GOES) Program represents an increase of $3.1 million above the fiscal year 2001 enacted level. This continued investment will fund the spacecrafts and launch services, including the launch vehicle and launch control personnel. Funding is necessary to maintain continuity of geostationary operations.

NOAA requests a total of $1.2 million for the Commercial Remote Sensing Licensing Program. This investment will ensure the timely review and processing of satellite license applications. Under the Land Remote Sensing Policy Act of 1992 (as amended in 1998), NOAA is charged with licensing and enforcing licenses of the U.S. private sector remote sensing industry. Funding will be used to establish a program to provide technical support for such reviews, support of an industry advisory mechanism, and computer infrastructure. Major monitoring and compliance activities will include review of quarterly licensee reports, on-site inspections, audits, license violation enforcement, and implementation of shutter control in national security and foreign policy crisis situations.

The total request of $31.4 million for Data and Information Services—operational activities represents an increase of $6.5 million above the fiscal year 2001 enacted level. This continued investment is for core operational activities and will increase the Data Centers capacity to ingest, process, and archive data as well as continue the rescue of valuable environmental data. Requirements have expanded due to growing customer demands for data and products, and increased data management has become a necessity as the volume of new data continues to grow. Combined with other funding for fisheries oceanography, habitat characterization, the climate reference network, climate database modernization, and environmental data systems modernization, these funds support NESDIS' Data and Information sub-activity request.

Severe Weather Forecasts ($18.5 million)

The total request of $3.7 million for the U.S. Weather Research Program (USWRP) represents an increase of $2.2 million above the fiscal year 2001 enacted level. This continued investment in research will improve the accuracy of hurricane landfall predictions for location, intensity, and rainfall estimates. Decreased error and uncertainty in hurricane forecasts will save lives and will help reduce the length of coastline recommended for evacuation during these powerful storms. This will allow localities to avoid millions of dollars worth of unnecessary preparations, and, at the same time, encourage those in the warned areas to have greater confidence in the accuracy of the warnings. The USWRP is a partnership between NOAA, other Federal Agencies, and universities.

NOAA's total request of $5.1 million for Automated Surface Observing Systems (ASOS) represents an increase of $1.3 million above the fiscal year 2001 enacted level. This continued investment will complete the acquisition of 346 new ASOS dewpoint sensors. The existing dewpoint sensors fail on average every ten days and have the highest failure rate in the ASOS suite of sensors, and consequently are in need of replacement. These funds will also complete the acquisition of 346 new ASOS processor units which are needed because the current processors are over capacity. Lastly, these funds will allow NOAA to begin acquisition of the all-weather precipitation gauge necessary for climate record continuity and aviation safety. In fiscal year 2002, NOAA will acquire 115 all-weather precipitation gauges.

The fiscal year 2002 total request of $5.9 million for the National Center for Environmental Prediction (NCEP)—Environmental Modeling Center represents an increase of $1.7 million above the fiscal year 2001 enacted level. This continued investment will sustain operations at NCEP's Environmental Modeling Center (EMC). The EMC develops the computer models and other numerical forecast products which provide the basic guidance that forecasters use in making weather and climate forecasts. Today, the EMC is overly dependent on external sources of funding for its operations, degrading its ability to transfer proven weather forecasting science into NWS operations. The National Research Council in its report *From Research to Operations in Weather Satellites and Numerical Weather Prediction: Crossing the Valley of Death*, states "Almost all of the Nation's operational weather and climate guidance products come from EMC, which does not presently possess the necessary resources to transfer many of the U.S. advances in observations and modeling to operations." In fiscal year 2002, NWS plans to provide direct base support for its suite of operational forecast models, including the aviation, regional, and global models.

NOAA requests a total of $3.8 million for Data Assimilation and the Joint Center for Satellite Data Assimilation. This request comprises $3.0 million for data assimilation and $0.8 million for the Joint Center for Satellite Data Assimilation. The investment for data assimilation will allow NOAA to improve data assimilation and modeling at the National Center for Environmental Prediction (NCEP). Data assimilation is the collection and processing of weather observations (satellite, aircraft, radar, data buoys, upper-air balloons) for use in operational numerical weather prediction models. These models are the foundation for all short and medium range and severe weather forecasts including aviation, marine, hurricane, rainfall, and severe weather. This critical funding request aims to improve forecasts through the use of enhanced satellite data and other data-sets in the NCEP prediction models, leveraging one of the Nation's largest capital investments in global and environmental observing systems. Investment in data assimilation ensures that the large investment in observing systems and computers has maximum benefit for the public.

In addition to data assimilation, $0.8 million will be used to establish the Joint Center for Satellite Data Assimilation with NWS, NESDIS and NOAA Research in order to accelerate and improve the use of satellite data in forecast models. The core scientific staff and computing facilities of this "virtual" Center will consist of current NOAA resources. This request will allow for NOAA to accelerate the use of current and future satellite data in NWS weather and climate prediction operations. In addition to the NOAA contributions, NASA, with a similar level of support, will be a partner in a coordinated national effort to realize the full potential of the vast quantities of new satellite data that are becoming available. This center will make more effective use of NOAA remotely sensed data as well as integrate NASA, Department of Defense, and international satellite data into NOAA's operational models.

Coastal Conservation Activities ($284.4 million)

Over the past several years NOAA has proposed, through various initiatives and programs, funding to address some of the most serious challenges facing the U.S. coasts and oceans. Through those programs NOAA has made significant progress in addressing a number of critical environmental issues. The Coastal Conservation Activities Initiative will continue to build on the progress made to preserve the Nation's coasts and oceans.

In the fiscal year 2002 President's Budget, NOAA requests $284.4 million to continue environmental programs that are critical to ensuring the continued preservation of our Nation's coastal and ocean resources. The fiscal year 2002 Budget Request includes resources to enhance our ability to effectively manage the National Marine Sanctuaries, enhance habitat protection through the National Estuarine Research Reserve System and strengthen and improve Marine Protected Area (MPA) programs and their conservation goals. These funds will be leveraged through improved Federal, state, local, tribal, and territorial coordination and collaboration to

fill shared information, technical and operational needs. Also included are additional resources to increase Coastal Zone Management grants to states to enable coastal states to address such issues of national importance as the impact of coastal storms, declining water quality, shortage of public shoreline access, loss of wetlands, deteriorating waterfronts, and the challenge of balancing economic and environmental demands in the coastal zone. With the funds requested in fiscal year 2002 NOAA will also continue to implement recommendations of the Coral Reef Task Force and enhance the recovery of threatened and endangered coastal salmon. The programs that comprise the Coastal Conservation Activities cross-cut are highlighted below.

Coral Reef Activities ($27.7 million

The total request of $27.7 million for Coral Reef Activities represents an increase of $0.7 million above the fiscal year 2001 enacted level. This continued investment will allow for NOAA's support for coral reef activities across the Nation. Funding will enable NOAA to continue implementing priorities of the U.S. Coral Reef Task Force and recommendations included in the America's Ocean Future Report. Working with state, territorial, and local partners, this level of funding will support research, monitoring, and local level projects to reduce human impacts and increase sustainable use of America's valuable coral reefs.

Coastal Zone Management Program ($75.4 million)

The total request of $75.4 million for the Coastal Zone Management (CZM) Program represents an increase of $12.2 million above the fiscal year 2001 enacted level. This includes an increase of $8.6 million for CZM grants, a technical change in the transfer from the CZM Fund, and an increase of $0.4 million for Program Administration. In addition, $10.0 million is requested for Nonpoint Pollution Implementation Grants, a separate but integral program, which will be discussed later.

The total request of $69.0 million for CZM Grants represents an increase of $8.6 million over the fiscal year 2001 enacted level. This continued investment will allow NOAA to provide direct grants to coastal states for implementing and improving their approved coastal management programs. Currently 33 of the 35 eligible coastal states have an approved coastal management program, with approval of the 34th state program, Indiana, expected in fiscal year 2002. Combined, these programs serve to manage and protect 99.9 percent of the Nation's shoreline to the benefit of the environment and the economy. The requested investment would provide resources for coastal states to more fully implement their coastal management plans. Specifically, NOAA provides grants to coastal states and territories to address issues of national importance such as the impact of coastal storms and flooding, declining water quality, shortage of public access to the shoreline, loss of wetlands, deteriorating waterfronts and harbors, and the challenge of balancing economic and environmental demands in increasingly competitive ports.

In order to streamline CZM administrative processes, NOAA proposes to consolidate all funding for CZM Program Administration under ORF. Doing so requires replacement of the $3.2 million that had been transferred from the CZM Fund (a non-ORF account) in prior years. In fiscal year 2002, the CZM Fund is proposed as a general offset to CZM Act activities.

The total request of $6.4 million for the CZM Program Administration represents an increase of $0.4 million above the fiscal year 2001 enacted level. This continued investment will support NOAA's national program administration responsibilities under the Coastal Zone Management Act (CZMA), which continues to grow. This request will assist NOAA's ability to bring together representatives from state, Federal, and tribal governments and the private sector, to address issues such as coastal hazards, habitat and polluted runoff. It will allow NOAA to address the increasing requests of the states (33 in the program, one state program in development) for support and technical assistance. This level of funding will also enable NOAA to maintain national support for the 25 National Estuarine Research Reserves.

Nonpoint Pollution Implementation Grants ($10.0 million)

NOAA requests a total of $10.0 million for Nonpoint Pollution Implementation Grants. This investment will provide states with resources to reduce nonpoint pollution, the greatest single threat to coastal water quality. Coastal waters are increasingly impacted by polluted runoff. Symptoms include the impacts of Pfiesteria in coastal waters of the eastern seaboard, nutrient over-enrichment in the Gulf of Mexico, the loss of salmon fisheries in the Pacific Northwest and local closures of shellfish beds and beaches throughout the country. NOAA will provide grants to states with approved plans to address the causes of these and other symptoms of the degradation of our coastal water quality.

National Estuarine Research Reserves ($26.3 million)

The total request of $26.3 million for the National Estuarine Research Reserves (NERRS) represents a decrease of $29.3 million below the fiscal year 2001 enacted level. This funding level supports an increase in operations of $1.7 million for a total of $16.4 million in the Operations, Research and Facilities (ORF) Account, and a decrease in one-time construction items of $24.5 million, for a total request of $9.9 million in the PAC Account. With regard to the increase for NERRS operations, these funds will improve the ability of NOAA and its state partners to understand, manage, and protect these special estuarine habitats and biodiversity. The NERRS is a network of protected areas established to improve the health of the Nation's estuaries and coastal habitats through long-term research, protection, and education and to address such issues as water quality, loss and degradation of habitat, and loss of species biodiversity. The increase will significantly enhance the monitoring and technical training programs at the 25 designated reserves, and ultimately lead to healthier estuaries, coastal water quality, and fisheries.

Of particular interest is the NERRS' System-Wide Monitoring Program (SWMP). The SWMP is a national monitoring system that will integrate water quality, and biological and land-cover change elements, making the information available to scientists and managers. The 25 existing reserves will expand their participation in SWMP by increasing spatial coverage of water quality stations, and by monitoring additional biological indicators. Reserve staff will also improve estuarine resource management by providing enhanced technical training for planners, policy-makers, and other state and local coastal decision-makers on water quality, habitat, invasive species, and sustainable ecosystem issues.

Funding of $9.9 million for infrastructure investments in the Procurement, Acquisition, and Construction (PAC) account includes resources to complement these activities by providing resources for research, education, and visitor facilities at multiple reserve sites across the Nation. The NERR system uses a competitive priority-setting process each year to fund the best projects from the long list of eligible proposals. At some sites, land acquisition from willing sellers may be a high priority to enhance the protection of key resources. At other sites, facilities and related structures, such as interpretive centers, laboratories, boardwalks, and boat docks may be the best use of funds to enhance the outreach, education, and research programs within the NERRS.

National Marine Sanctuaries ($52.0 million)

The total request of $52.0 million for the National Marine Sanctuaries represents an increase of $16.6 million above the fiscal year 2001 enacted level. This increase of $16.6 million is comprised of $3.6 million for operations (for a total ORF request of $36.0 million), and an increase of $13.0 million for new construction (for a total PAC request of $16.0 million). With regard to National Marine Sanctuaries operations, this continued investment will provide funding to upgrade the operating and technical capacity in the thirteen national marine sanctuaries. The results will improve protection of important sanctuary resources, including coral reefs, endangered marine mammals, sensitive habitats, and significant cultural resources. In addition to supporting the operations, this investment will provide for additional site characterization, additional enforcement capabilities, public education, and the implementation of key management changes. Changes are expected in a wide range of activities, including drafting and amending regulations, establishing new partnerships, expansion of outreach and education efforts, and additional research, monitoring and restoration.

The Congress has called for sufficient resources for operational staff, facilities and equipment, effective implementation of management plans, enforcement, and particularly for site characterization including cultural resources and inventory of existing natural resources. Elements that must be compiled for cultural and natural resource inventories include location of shipwrecks, data on marine mammals, fish, shellfish and sea birds, habitat types, and physical characteristics, such as bottom typography, water quality, and water temperature. The goal is to gather enough characterization information at each site to be able to effectively manage the resources. New funding will support these efforts and the Sustainable Seas Expeditions. This fiscal year 2002 Budget responds to Congressional direction and the recently passed National Marine Sanctuary Amendments Act.

With regard to the increase of $13.0 million for Marine Sanctuaries construction in the PAC Account, NOAA will continue to implement the detailed, comprehensive facilities plan developed in fiscal year 2000 in order to respond to the growing public interest in the ocean environment and the Marine Sanctuary System. NOAA will work in partnership with other Federal agencies and private institutions such as museums, aquaria, and foundations. NOAA will establish or upgrade facilities to en-

sure access to sanctuary resources and allow public appreciation of the unique marine habitats in those sanctuaries. These facilities provide important outreach and education functions for these special places, since many visitors are unable to visit the actual sanctuary sites which, in several cases, are many miles offshore or require individuals to be certified scuba divers in order to view firsthand these national treasures.

Within these funds, an estimated $6.5 million is targeted for the Dr. Nancy Foster Florida Keys Environmental Center to complete renovation and construction at this former Navy installation and properly support the multi-agency partnership and the Center's mandates to promote environmental education, protection, marine safety and rescue, and coastal stewardship. This center, which was dedicated last year, stands as a tribute to the late Dr. Nancy Foster, NOAA's Assistant Administrator for the National Ocean Service. One of the two buildings will host a state-of-the-art multi-agency (NOAA, National Park Service, Fish & Wildlife Service) visitor center. The other building will become the operations center for the Florida Keys National Marine Sanctuary and host office space; laboratory space; a diving locker; a maintenance area for mooring buoys, boats and vehicles; and dock space. The new facility will also provide consolidation of office space and boat docks that are currently scattered across multiple leased facilities in the Key West area.

Marine Protected Areas ($3.0 million)

NOAA requests a total of $3.0 million for Marine Protected Areas. This investment will strengthen and improve agency-wide Marine Protected Area (MPA) programs and their conservation goals. This effort supports NOAA's responsibilities for fulfilling the National Marine Sanctuaries Program, National Estuarine Research Reserve Program, Coastal Zone Management Program, and coral reefs. This funding will foster collaboration with the Department of the Interior and other Federal agencies, state, local, tribal and territorial governments as well as non-governmental partners. Efforts will focus on developing a supporting framework for effective communication and collaboration among MPA programs by creating a national system of marine protected areas including NMS, NERRS, and other Federal, state, and tribal marine protected areas. These funds will also support preparation of the first comprehensive inventory and assessment of the existing system of U.S. MPAs. The NOAA MPA Program will consist of a Marine Protected Areas Center, comprised of a small core staff in Washington, DC and two regional Institutes of Excellence.

Pacific Coastal Salmon Recovery Fund ($90.0 million)

The total request of $90.0 million for the Pacific Coastal Salmon Recovery Fund represents an increase of $0.2 million above the fiscal year 2001 enacted level. This continued investment will allow the states and tribes to continue support for habitat restoration and protection, research and enhancement, monitoring and evaluation, and salmon recovery planning and implementation efforts. Funding will be used to enhance Pacific coastal salmon recovery and for the purpose of helping share the costs of state, tribal and local conservation initiatives. Programs funded within this account will assist in the conservation of Pacific salmon runs, some of which are at risk of extinction in the states of California, Oregon, Washington, and Alaska. Funds provided to these states will have at least a 25 percent matching requirement. This request responds to current and proposed listings of coastal salmon and steelhead runs under the Endangered Species Act by forming lasting partnerships with states, local and tribal governments and the public for saving Pacific salmon and their important habitats.

Climate Services ($34.7 million)

From the storms of next week to the drought of next season to the potential human-induced climate change over the coming century, issues of climate variability and change will be continue to be a major issue for the Nation. Whether responding to the ongoing drought in the Pacific Northwest and its effect on power generation and endangered salmon, or in determining how much atmospheric carbon dioxide is taken up by the North American biosphere, these questions influence users from the Western water manager to the shapers of national policy. The challenge is to extend the research successes, maintain the observational backbone, and improve the capability to provide useful information services to our customers. Improved climate predictions will enable resource managers in climate sensitive sectors such as agriculture, water management, and energy supply to alter strategies and reduce economic vulnerability. Building on the understanding of the Earth's climate system that has resulted from the Nation's strong scientific research and numerical modeling programs, this Climate Observations and Services Program will begin the transition of research data, observing systems and understanding from experiments to applications, and from basic science to practical products.

NOAA maintains a balanced program of focused research, large-scale observational programs, modeling on seasonal-centennial time scales, and data management. In addition to its responsibilities in weather prediction, NOAA has pioneered in the research and operational prediction of climate variability associated with the El Niño Southern Oscillation (ENSO). With agency and international partners, NOAA has been a leader in the assessments of climate change, stratospheric ozone depletion, and the global carbon cycle. NOAA scientists have been leaders internationally in the Intergovernmental Panel on Climate Change (IPCC). It maintains national coordination through participation in the U.S. Global Change Research Program.

The agency-wide Climate Observations and Services activity represents a partnership that allows NOAA to facilitate the transition of research observing and data systems and knowledge into operational systems and products. During recent years, there has been a growing demand from emergency managers, the private sector, the research community, decision-makers in the United States and international governmental agencies and the general public to provide timely data and information about climate variability, climate change and trends in extreme weather events. The economic and social need for continuous, reliable climate data and longer-range climate forecasts has been clearly demonstrated. NOAA's Climate Observations and Services Initiative responds to these needs. The following efforts will be supported by this initiative:

Continuing Climate Services ($11.0 million)

The total funding request for NOAA's Continuing Climate Services is $11.0 million. These continued investments will allow NOAA to build on the climate activities started in fiscal year 2001.

NOAA's fiscal year 2002 budget request includes $3.0 million for the Climate Reference Network. In order to ensure NOAA's capability to monitor very long-term changes of temperature and precipitation, a climate reference network consisting of several hundred stations must be developed by making use of the historical data from the best sites in the network of 11,000 cooperative observing sites. This climate reference network will build on data from stations identified as those with the longest environmentally stable records, most dedicated observers, and most reliable data with few interruptions.

Also included in NOAA's request of $1.0 million for improving the Availability of Climate Data and Information: $1.0 million. As the observational capabilities increase and the observing networks expand, it is essential that data management and dissemination systems are in place to make the resulting data and information widely and easily accessible to public and private sector decision makers. During recent years, NOAA has struggled to respond adequately to questions from industry, the general public, and the Government regarding potential changes in weather and climate events. NOAA is developing the required infrastructure to assemble, develop, and communicate the data, information, and knowledge about the trends, likelihoods, and future expectations of climate and weather events.

The request for funding for Baseline Observatories is $2.0 million. Funding for this activity is for operations at NOAA's remote manned Global Atmospheric Baseline Observatories, measuring up to 250 different atmospheric parameters relevant to the study of climate change at: Barrow, AK; Mauna Loa, HI (since 1957); American Samoa; and the South Pole, Antarctica (also since 1957). These observations are critical to the collection and continuity of the world's longest atmospheric time series, supplying the scientific community with information on the state and recovery of the ozone layer, global carbon dioxide, and other trace gases impacting the global climate.

NOAA's request for Ocean Observations in fiscal year 2002 is $5.0 million. NOAA maintains the sustained global observing and data stewardship system necessary for climate research and forecasting as well as the long-term monitoring system necessary for climate change detection and attribution. The observation network is based on a set of "core" observations (e.g., temperature, surface wind stress, salinity, sea level, carbon dioxide), consisting of both in-situ and remotely sensed measurements, that have been identified in NOAA and other national and international reports as needed to satisfy research and operational climate requirements.

Regional Assessments, Education and Outreach ($1.9 million)

NOAA requests a total of $1.9 million for Regional Assessments, Education and Outreach. This investment will allow for regional assessments, education and outreach related to climate variability. The impacts of climate variability from season-to-season or year-to-year manifest themselves on regional and local levels. The goal

is utilization of climate variability information by regional and local managers and decision-makers to maximize economic gain and mitigate potential harmful impacts.

Weather-Climate Connection ($0.9 million)

NOAA requests a total of $0.9 million for Weather-Climate Connection. This investment will assist in understanding predictions variability beyond the El Niño Southern Oscillation (ENSO) and predicting the weather-climate connection. As during El Niño, other sub-seasonal tropical fluctuations can also lead to shifts in the Pacific storm track, affecting the paths of storms approaching the U.S. west coast, and influencing weather across the entire country. Sub-seasonal tropical-mid-latitude interactions thereby provide a potentially important additional source of predictability beyond ENSO. NOAA will expand its diagnostic and modeling efforts to understand the relationship between sub-seasonal tropical variability and changes in the frequency, location and intensity of extreme weather events over the United States, and document the structure of variations in tropical rainfall on weekly to monthly time-scales, as well as air-sea interactions in both tropical systems and in mid-latitude oceanic and land-falling storms.

Carbon Cycle ($2.3 million)

NOAA requests a total of $2.3 million for the Carbon Cycle. This investment, as part of a multi-agency effort, will allow NOAA to establish a network of more densely spaced airborne and tall-tower based sampling sites over North America. The U.S. scientific community recently completed a plan for an integrated carbon cycle science program which aims to quantify, understand and project the evolution of global carbon sources and sinks in order to better predict future climate.

Ocean System for Improved Climate Services ($7.3 million)

NOAA requests a total of $7.3 million for the Ocean System for Improved Climate Services. This investment will contribute to the global operational ocean-observing system by enhancing its present components and establishing new components. Of the $7.3 million requested, $3.2 million is required to support the U.S. commitment to deploy and maintain 1,000 ARGO profiling floats in the proposed global array of 3,000 floats. This commitment requires a deployment of 280 ARGO floats per year. The remainder of this request, $4.1 million, supports other observational components including Arctic Ocean fluxes, ocean reference stations, oceanic carbon, and augmentation of the volunteer observing ship (VOS) instrumentation. Finally, investments are to be made for data management and assimilation. Based on a firm scientific foundation, this ocean observing system is closely coupled with other United States and international observing efforts, and will greatly improve the data available for understanding climate variation.

Climate Change Assessments ($0.7 million)

NOAA requests a total of $0.7 million for Climate Change Assessments. This investment will continue contributions to environmental assessments that have become the primary tool to deliver climate information to governments, industry, the scientific community and the general public. Over the past two years NOAA has led and contributed to Ozone assessments under the Montreal Protocol, the Intergovernmental Panel on Climate Change (IPCC), and U.S. National Assessments. This investment will support NOAA's leadership in assessing climate change and its global impact on the United States and other communities.

High Performance Computing and Communications Program/Geophysical Fluid Dynamics Laboratory: $7.0 million

The total request of $7.0 million (in the PAC Account) for the High Performance Computing and Communications (HPCC) Program and Geophysical Fluid Dynamics Laboratory represents an increase of $3.0 million above the fiscal year 2001 enacted level. This continued investment will provide full-year support for the High performance supercomputer system at NOAA's Geophysical Fluid Dynamics Laboratory (GFDL). The system will be used full-time to attack some of the most difficult but critical obstacles to developing and testing new and more realistic models for predicting climatic variability, detecting climate change, and forecasting hurricanes. Expansion of GFDL's supercomputer is needed to answer questions regarding long-term global warming and to evaluate various scenarios reflecting different levels of anthropogenic influences on the atmosphere.

Comprehensive Large-Array data Stewardship System ($3.6 million)

The total request of $3.6 million for the Comprehensive Large-Array data Stewardship System (CLASS) represents an increase of $1.6 million in the Procurement, Acquisition and Construction (PAC) Account. This continued investment will afford

efficient management of high volumes of data, including radar and satellite data, as well as data from radiosondes and ocean data buoys. This data is critical to the joint U.S. Global Change Research Program (USGCRP) and the scientific community. Significant increases in the volume of data require a rapid expansion in storage capacity, currently located in Asheville, NC. Similarly, telecommunications and automated access systems upgrades are needed to ensure easy and efficient access to the data.

Modernization of NOAA Fisheries ($143.8 million)

The fiscal year 2002 President's Budget Request for the National Marine Fisheries Service (NMFS), referred to as "NOAA Fisheries," follows Congressionally enacted levels in fiscal year 2001 and invests in core programs needed for NOAA to meet its mission to manage fisheries, rebuild stocks, and protect endangered species such as sea turtles and whales. NOAA Fisheries modernization funds will be allocated within NMFS to ensure that existing statutory and regulatory requirements are met for fisheries and protected species management programs (including the Magnuson-Stevens Act, National Environmental Protection Act, Endangered Species Act, Marine Mammal Protection Act, and other statutory requirements). In fiscal year 2002, there are sufficient funds for NMFS to meet its statutory and regulatory requirements.

This budget request builds upon last year's effort to begin the modernization of NOAA Fisheries. The Modernization of NOAA Fisheries Initiative encompasses a long-term commitment to improve the NMFS' structure, processes, and business approaches to meet its mission of sustaining the Nation's living marine resources and their habitat. This initiative focuses on improving NMFS' science, management, and enforcement programs and beginning to rebuild its aging infrastructure. These improvements will result in measurable progress in the biological and economic sustainability of fisheries and protected resources. In order to ensure the viability of these modernization efforts, the fiscal year 2002 President's Budget Request includes the following program investments:

Science ($54.6 million)

A total of $1.9 million is requested for research and monitoring activities for the South Florida ecosystem, an increase of $0.6 million over the fiscal year 2001 enacted level. As a result of the U.S. Army Corps of Engineers construction projects within the Florida Everglades, NMFS must monitor the impact of inland restoration efforts and the changing freshwater inflow on Florida Bay habitats, nutrient flow, hydrodynamics, and ultimately on measurable ecosystem productivity and health.

The total request of $15.0 million for Expanding Annual Stock Assessments represents an increase of $13.3 million above the fiscal year 2001 enacted level. This continued investment will provide for additional scientific survey data collection to improve NMFS' ability to make accurate, timely stock predictions. Funding at this level would add 829 chartered ship days toward the deficit of 2,564 days identified in the NMFS Stock Assessments Improvement Plan as needed for adequate stock assessment coverage. Included in this increase is $1.0 million to enhance the assessment of marine mammal population status and trends as required by the Marine Mammal Protection Act.

A total request of $2.0 million for fisheries oceanography represents a $2.0 million increase above the fiscal year 2001 level. This request is comprised of two increases, $1.5 million for NMFS and $0.5 million for fisheries oceanography within the National Environmental Satellite, Data and Information Service (NESDIS). The $1.5 million increase will enable NMFS to assess how long-term environmental factors affect fish stocks. By better identifying the potential environmental causes of fish population fluctuations, NMFS will be able to improve its stock predictions and resultant management actions. The $0.5 million increase will enable NESDIS to explore using Synthetic Aperture Radar technology and data in fishery resources monitoring. This investment would build on applications demonstrated in October 1999 using RADARSAT-1 imagery in Alaska, and would result in radar data and products useful in fisheries enforcement, NMFS laboratories and for other agencies such as the Coast Guard.

NOAA requests a total of $1.0 million to promote environmentally sound marine aquaculture. NOAA will improve the aquaculture regulatory framework by developing and implementing of a code of conduct for responsible aquaculture. NOAA will also address the important environmental aspects of aquaculture in the non-indigenous species area, especially for shrimp viruses.

NOAA requests a total of $1.0 million for Pacific highly migratory species research. This request would fund growing and critical research needs as a new Fishery Management Plan for these species is implemented. Activities include: con-

ducting stock assessments and biological studies for four major tuna species and three species of sharks, conducting research to evaluate the extent of bycatch and effectiveness of mitigation measures in purse seine fishing using fish aggregating devices, and developing and implementing assessment methodologies tailored for highly migratory species.

A total request of $6.0 million for Cooperative Research represents an increase of $0.5 million over the fiscal year 2001 enacted level. This request will expand cooperative research activities in the Southeast and will involve fishermen in designing and conducting research programs, utilizing their expertise and insights in resource survey design and interpretation. By working together to design and implement data collection programs, these partnerships between NMFS and the industry significantly strengthen fisheries research. This Southeast cooperative research effort compliments similar efforts, including Northeast Cooperative Research funded at $5.0 million, cooperative research coordinated by the Northeast Consortium funded at $5.0 million and, and National Cooperative Research efforts, funded at $3.0 million.

A total request of $4.4 million for expanding economic and statistics research represents a $1.4 million increase over the fiscal year 2001 level. This request is needed to conduct economic and social assessments of management alternatives by improving NMFS' economic and social science staff capability, and initiation of data and applied research programs. This funding will enable NMFS to better evaluate and predict the economic and community impacts of potential management actions, and satisfy statutory, regulatory and Executive Order requirements for assessing the benefits and costs of fisheries management and protected species management actions.

NOAA requests a total of $8.0 million for the National Fisheries Information System. This investment will begin the implementation of a National Fisheries Information System to improve the quality, timeliness, coverage and access to data collected by state and Federal entities for use in the science and management of fisheries. This system will be developed in cooperation with the fishing industry, states, interstate fisheries commissions, and other stakeholders as outlined under section 401 of the Magnuson-Stevens Act. The funding provided to the Atlantic States Marine Fisheries Commission for regional implementation activities in fiscal year 2001 is included in addition to this funding. The proposed system would improve the accuracy and effectiveness of existing data collection programs by establishing common data collection, information technology, and quality standards for regional programs, and integrating the results into unified Web-enabled information system. The proposal will also fill critical information gaps through initiation of new data collection programs that will subsequently improve living marine resource policy decisions by reducing data uncertainties.

NOAA requests a total of $1.0 million to reduce fishery impacts on essential fish habitat. This request funds research that will focus on the effects of specific fishing activities on essential fish habitat, comparing those impacts with other sources of habitat degradation, monitoring habitat recovery in areas where fishing has been curtailed, and developing management strategies to ensure sustainable harvesting practices.

NOAA requests $4.0 million for additional Fishery Observers—Improving Data Collection. This investment will provide for increased observer coverage to minimum levels around the country as required by regulation or to optimal levels as recommended by fisheries scientists for statistical validity, and initiates coverage in fisheries that were previously not observed. Observers are increasingly essential to managing fisheries and marine mammal stocks. To improve the quality of data collected by observers and to provide a more sound base for fishery management decisions, the plan includes resources to provide better coordination and consistency of NMFS observer program policies and procedures. It also provides for the development of technological enhancements to make the future observer program less costly and more efficient.

A total request of $10.0 million for Fisheries Habitat Restoration represents an increase of $2.0 million over the fiscal year 2001 level. These funds will expand NMFS involvement in community-based restoration projects. This highly successful national effort encourages partnerships with groups outside NOAA and has regularly leveraged appropriated funds by factors of five to six, and by as much as ten to one. Presently, NOAA receives many more high-quality habitat restoration proposals than it has funds to support. The requested funds would enhance national restoration efforts to meet this enthusiastic demand.

NOAA requests a total of $0.3 million for Habitat Characterization. This investment will allow NESDIS to develop maps of fishery habitat distributions in space and time, and to answer important questions with such maps. A computer mapping

capability will be created that will allow spatial/statistical delineations (stratification) of the landscape. Such maps can represent inferred ecosystem "potentials" that are critical in monitoring, assessment, and management. The system will allow rapid iteration of the mapping process, thus affording opportunities to test, modify, and document model criteria, statistical mapping technique, and data selection. In this manner, habitat maps can be adaptively maintained.

Management ($41.9 million)

NOAA requests a total of $1.5 million to refine essential fish habitat designations. This request funds programs to collect critical scientific data needed to identify essential fish habitat more precisely for managed species, enhancing the effectiveness of fishery management actions, and filling data gaps that can result in litigation.

NOAA requests a total of $3.5 million for the Northeast Fisheries Management program. This investment will enable NMFS to continue rebuilding overfished and overcapitalized Northeast fisheries including groundfish and scallops by reducing the amount of fish takes by fishermen, thus giving the fish stocks time to recover. Funding will also be used, in part, to implement new and innovative cooperative research efforts in the Region.

The total request of $15.6 million for Regional Councils represents an increase of $2.5 million above the fiscal year 2001 enacted level. This continued investment will support all eight Regional Councils' increased workload from new programs and regulations as a result of implementing the Sustainable Fisheries Act amendments to the Magnuson-Stevens Act. The Regional Councils are integral partners with NOAA in the management of the Nation's fisheries. NOAA is the Regional Fisheries Councils' only source of funding to carry out their mission.

The total request of $6.3 million for marine sea turtle activities represents an increase of $3.0 million over the fiscal year 2001 enacted level. This investment will allow NOAA to recover Atlantic and Pacific marine sea turtle stocks threatened by domestic and international fisheries interactions as well as inadequate conservation of marine turtles on nesting beaches.

The total request of $4.5 million for dolphin conservation and recovery represents an increase of $1.0 million over the fiscal year 2001 enacted level. This investment will allow NOAA to expand current activities in dolphin stock identification and assessment, to reduce mortality incidental to commercial fishing activities, and to initiate efforts to use bottlenose dolphins as an indicator of the health of the ecosystems they occupy.

The total request of $3.5 million for Atlantic salmon represents and increase of $1.5 million over the fiscal year 2001 enacted level. This investment will allow NOAA to conserve and restore healthy populations of Atlantic salmon in the Gulf of Maine Distinct Population Segment (DPS) and their habitats. NOAA will use this investment to expand the monitoring of Atlantic salmon population dynamics, expand habitat assessment and conservation, enhance scientific knowledge related to human resource usage and development activities that are affecting species survival, and strengthen evaluations to minimize risk through coordinated planning, innovative partnering, and on-site involvement in restoration, conservation, and protection activities.

The total request of $7.0 million for Northern Right Whales represents an increase of $2.0 million over the fiscal year 2001 enacted level. This investment will allow NOAA to expand current Northern Right Whale population and health assessments and recovery efforts in the North Atlantic and in the North Pacific.

Enforcement ($47.3 million)

The total request of $47.3 million for Enforcement Activities represents an increase of $10.0 million above the fiscal year 2001 enacted level. This continued investment will allow NOAA to modernize its fisheries and protected species enforcement programs. Improved enforcement is essential to ensuring that fisheries regulations are effective and yield conservation benefits for the industry and the public. Of the total funding amount, $7.4 million (of which $6.1 million is new funding) is included for additional support, continued modernization and expansion of the vessel management system (VMS) program. The VMS national program is capable of accommodating nearly 10,000 vessels throughout a number of different fisheries. The request also includes $39.9 million (of which $3.9 million is new funding) to expand and modernize base enforcement programs. These programs include Alaska and west coast groundfish enforcement, protected species enforcement, state and local partnerships, specialized Magnuson-Stevens Act investigatory functions, community oriented policing and problem-solving, and swordfish/Patagonian toothfish import investigations.

Modernization of the Marine Transportation System (MTS) $20.1 million

Since our Nation's founding, maritime trade has been vital to economic prosperity. NOAA's lineage dates back to 1807 when President Thomas Jefferson called for charting the coasts and harbors. Today, more than 95 percent of U.S. foreign trade moves by sea. In 1998, about 2.4 billion tons of cargo moved on our waterways and through our ports. U.S./foreign waterborne commerce grew about 23 percent from 1993 to 1997—about 4.6 percent per year. Trade is projected to at least double by 2020. Vessels have also grown dramatically; over the last 50 years, the length, width, and draft of commercial vessels has doubled, pushing the limits of many ports and posing significant safety concerns. Ensuring safe and efficient port operations is vital to maintaining the competitiveness of the U.S. port industry and exports. Growth in ferry, cruise line, and recreational boating is contributing to increased congestion on our waterways. Nearly half of all goods in marine commerce are petroleum products or other hazardous materials. One key to reducing risk is to invest in the national information infrastructure that supports the safe and efficient movement of goods and people.

In 1998, Congress directed Federal agencies to produce an assessment of the U.S. Marine Transportation System (MTS) and a plan for modernizing government navigation services. This fiscal year 2002 request is NOAA's effort to direct a set of targeted investments to expand and capitalize on its existing programs in Mapping and Charting, Survey Backlog, Geodesy, Tide and Current Data, Response and Restoration, and Fleet Replacement to further the goals of this ongoing effort. This is a first step toward developing a 21st century transportation system that can address the major issues faced by the country in maritime safety, security, infrastructure, the environment, and competitiveness.

NOAA maintains the Nation's suite of nautical charts, the coastal water level observations system, and the geodetic positioning reference system needed to ensure safe navigation. NOAA also maintains the scientific expertise to respond to hazardous releases when they occur. NOAA charts are developed from NOAA's hydrographic and shoreline surveys, tide and current measurements, and national geodetic/geographic positioning data, as well as information from other sources. Demonstration projects have shown that these programs can provide the accurate data necessary for determining precise under-keel and overhead/bridge clearances and support near zero visibility docking, allowing commercial vessels to more safely navigate and efficiently load and move cargo in and out of depth-limited harbors. NOAA's integrated suite of surveying, charting, water level, and positioning services is capable of increasing the efficient movement of goods while significantly reducing the risk of marine accidents and resulting environmental damage. When accidents do occur, NOAA can provide the necessary support to ensure a scientifically-based response and restoration of damaged coastal resources. Economic benefits include reducing vessel fuel consumption and port pollution, supporting just-in-time delivery of goods, enhancing the competitiveness of U.S. exports, and restoration of important coastal resources that support tourism, fishing, and other ocean- and coastal-dependent industries. Specific program increases are described in detail below.

NOAA requests an increase of $3.6 million for Electronic Navigational Charts (ENCs). This continued investment will allow for the ongoing production and maintenance of ENCs and the ability to enhance and expand the full suite of ENCs to a total of 200 from the 70 in existence at the end of fiscal year 2000. ENCs provide a more complete picture of coastal waterways.

NOAA requests an increase of $1.0 million for Shoreline Mapping. This investment will allow for a more accurate national shoreline. An increased emphasis on shoreline mapping is required to keep pace with the growing stress on our Nation's marine transportation system and to assist states and coastal managers.

NOAA requests an increase of $0.5 million for the National Spatial Reference System (NSRS). This investment will increase the Nation's access to the Continuously Operating Reference Stations (CORS), a set of Global Positioning System (GPS) stations, and the mainstay of the NSRS. This investment will expand the number of National CORS, expand the Federal Base and Cooperative Base Network stations connected to the national standard for vertical heights, which are used for all applications that require surveying. These activities will provide better access to accurate and consistent height data for a wide-range of economic pursuits.

NOAA requests a total of $0.5 million to Implement Forecast Models. This investment will enhance tides and tidal current services to the user by obtaining new current meter measurements at locations critical to the navigation community and by accelerating the development of nowcast/forecast products for users of oceanographic data.

NOAA requests a total of $3.0 million for Coastal Storms. This investment will build upon existing NOAA environmental monitoring and data management capa-

bilities and will enhance our efforts to provide Marine Transportation System users, as well as coastal resource managers, with the data and tools needed to safely maximize commercial shipping, mitigate hazards, and sustain the environmental health of coastal communities and resources when disasters strike. Initial efforts will focus on a pilot project in Florida and include updating shallow water bathymetry, adding sensors to National Water Level Observation Network stations, and developing a hydrodynamic model for improved forecasting applications.

NOAA requests an increase of $2.0 million for Spill Response and Habitat Restoration. This investment will develop and distribute tools and guidance to assist decision makers when releases of contaminants occur within the Marine Transportation System and other coastal environments. These funds will enable NOAA to more accurately evaluate the effectiveness of spill response measures, leading to improved response techniques as well as better methods of restoring injured resources.

The total request of $9.5 million for the FAIRWEATHER repair and activation represents an increase of $2.7 million above the fiscal year 2001 enacted level. This continued investment will complete the refurbishment and reactivation of the FAIRWEATHER and help reduce the survey backlog, a high marine transportation priority. This project was directed by Congress in 2001 and makes efficient use of this vessel which has been located at NOAA's Pacific Marine Center. With its home port in Alaska, the FAIRWEATHER will provide a platform that will help reduce the critical hydrographic survey backlog.

Other Key NOAA Programs

The total request of $14.0 million for Ocean Exploration represents an increase of $10.0 million above the fiscal year 2001 enacted level. Despite covering 70 percent of Earth's surface, the oceans remain largely unexplored and unknown. Not surprisingly, most of the oceans' resources remain untapped. Our best scientists believe that fewer than 25 percent of the species that live in the oceans have ever been identified. Even within America's own Exclusive Economic Zone (EEZ), less than five percent of the ocean floor has been mapped in high resolution. In fact, prior to fiscal year 2001, the United States did not even have a concentrated program of ocean exploration. As a result, NOAA has pursued a course of ocean resource management without adequate decision-making data and information being available to policy makers, regulators, and commercial users of the ocean's resources.

However, today we live in an age of technological innovation. There are many opportunities that simply were not available in earlier decades. We now can completely rethink how we might conduct exploration in Earth's oceans. Developments in sensors, telemetry, power sources, microcomputers, and materials science have greatly improved our ability to go into and study the undersea frontier.

The benefits of such a program of exploration are potentially enormous. For example, gas hydrates comprise more than 50 percent of all of our planet's carbon—and potentially hold more than 1,000 times the fuel in all other estimated reserves combined! In addition, there are certain to be other benefits which currently are beyond our ability even to conceive. With 95 percent of the underwater world still unknown and unseen, what remains to be explored may hold clues to the origins of life on earth, cures for human diseases, answers to how to achieve sustainable use of our oceans, links to our maritime history, and information to protect the endangered species of the sea.

We are stewards of our oceans' resources. We need to explore and know more about our oceans if we are to effectively manage them. We need to explore the oceans in the same way that the United States has successfully explored space. We need to determine what our marine resources are, their relative abundance, and the rates at which they can be used and replenished. Accurate knowledge of the oceans is essential for environmental, economic, and national security.

The fiscal year 2002 budget increase will enable NOAA to fund six major and several minor interdisciplinary voyages of discovery that will map the physical, geological, biological, chemical, and archaeological aspects of parts of the U.S. EEZ. NOAA will conduct missions of exploration in the Gulf of Mexico, South Atlantic Bight, Northwest Hawaiian Islands, Northeast Pacific, California, and the Gulf of Alaska. Education and outreach is a major component of NOAA's Ocean Exploration Initiative. NOAA will carry-out this program relying on partnerships with universities, the private sector, and other agencies. NOAA's Ocean Exploration Initiative will help us to fulfill our national strategic goals to Sustain Healthy Coasts, Recover Protected Species, and Build Sustainable Fisheries.

Marine Environmental Research ($11.6 million)

The total request of $11.6 million for Marine Environmental Research represents an increase of $1.8 million above the fiscal year 2001 enacted level. This continued

investment will support ongoing operations at OAR's Atlantic Oceanographic Meteorological Laboratory (AOML) and the Pacific Marine Environmental Laboratory (PMEL). The requested funds will enable AOML's Remote Sensing Division to reactivate its field measurements that provide data for major community health-related decisions in contaminant-release emergencies in Florida and elsewhere. Coral reef monitoring activities are also supported. These funds will also enable PMEL's Fisheries Oceanography program to continue ocean measurements planned for the Gulf of Alaska and the Bering Sea. These funds are important to the study of the potential influences of climate changes on recent shifts in the species composition of these ecosystems including declines in salmon and steller sea lion populations.

NOAA requests a total of $2.0 million for the Estuary Restoration Act. This investment will allow for NOAA-wide activities mandated by the Estuary Restoration Act of 2000. NOAA will work with other partners to implement a national estuary habitat restoration strategy designed to ensure a comprehensive approach towards habitat restoration projects. Healthy estuarine ecosystems provide a number of benefits pertaining to wildlife habitat, commercial and recreational fisheries, water quality, flood control, erosion, and outdoor recreation. NOAA's activities include the development of scientifically sound monitoring protocols and standards for coastal habitat restoration projects throughout the United States and its protectorates. NOAA will develop restoration databases that provide quick and easy access to accurate and up to date information regarding all projects funded under the Estuary Restoration Act of 2000. This work will provide scientists and resource mangers with information critical to successful estuary habitat restoration efforts.

NOAA requests a total of $19.8 million for the Commerce Administrative Management System (CAMS). This investment will allow for the full benefit and value of CAMS to be realized in NOAA. CAMS is in the final stages of completion, expected in fiscal year 2003, and adequate funding will ensure that CAMS is deployed in a timely manner, allowing all modules to progress toward completion. Once fully deployed, CAMS will contribute in significant ways to maintaining a clean NOAA financial audit through systematic controls rather than through labor-intensive manual efforts. It will provide managers with on-line, real-time, and accurate financial information in support of their programmatic missions, and will be legally compliant. Requested funding for CAMS is vital to preserve NOAA's ability to have a satisfactory financial accounts system and allow NOAA and DOC to meet statutory obligations under the Federal Managers' Financial Integrity Act (FMFIA) and the Chief Financial Officer Act (CFO Act).

The total request of $63.8 million for Marine Services represents an increase of $1.9 million above the fiscal year 2001 enacted level. This continued investment will allow NOAA to operate its fleet of 15 vessels capable of safely collecting hydrographic and coastal assessment data, conducting fishery independent scientific and survey operations, and conducting sustained oceanographic and atmospheric data collection in various marine environments and provides funds for outsourcing to meet some data-collection requirements. The request includes an increase of $1.0 million to provide days-at-sea, primarily through University-National Oceanographic Laboratory System (UNOLS) and charter vessels, to support research in the Gulf of Mexico concerning the interactions of the Mississippi River plume, nutrient loading, and resulting effects of hypoxia on Gulf fisheries. These funds will also maintain or increase day-at-sea levels supporting other NOAA programs, including the science programs in NOS and the sanctuary program. The request also includes an increase of $0.9 million which will be used to pay the increased costs for operating the ADVENTUROUS' and to add days-at-sea on fisheries research vessels. The ADVENTUROUS, which will replace the TOWNSEND CROMWELL, is a larger and more capable vessel that will carry more scientists and complete more research on a daily basis.

NOAA's Budget and Financial Management

For the fiscal year 2000, NOAA received an unqualified opinion on NOAA financial statements from an independent auditor. The fiscal year 2000 audit represents the second consecutive year NOAA has received a clean audit and demonstrates the intensive efforts made by NOAA to improve financial management. NOAA continues to place a high priority on improving fiscal and financial management in order to increase accountability and efficiency.

Over the past several years, NOAA has been working to respond to Congressional concerns stemming from the NOAA budget structure. The Congressional Appropriation Committees have challenged NOAA to make recommendations to simplify its budget structure. NOAA has taken several actions that address the restructuring of its budget and financial management processes. The outcome of these actions is already apparent and demonstrated in its improved budgetary communications as

well as in the improved accuracy of its documentation (e.g., sustaining a clean audit and improved timeliness in the distribution of funds). NOAA continues to work toward meeting the challenges of restructuring the NOAA budget and is excited about the improved efficiency a new budget structure will bring.

As evidenced by NOAA's improving financial and budgetary management, NOAA is doing its part to exercise fiscal responsibility as stewards of the Nation's trust as well as America's coastal and ocean resources. And, in the same way that NOAA is responsible for assessing the Nation's climate, we are responsible for assessing our management capabilities. It is within this broader management context that NOAA continues looking for opportunities to improve. As in past years, NOAA's fiscal year 2002 Budget Request includes measures which track results to the level of public investment. NOAA will continue to leverage its programs and investments by developing those associations that most efficiently and economically leverage resources and talent, and that most effectively provide the means for successfully meeting mission requirements.

Senator GREGG. Thank you for that comprehensive presentation on what NOAA is up to these days and where the money is going. I appreciate it.

Senator Inouye was here before anybody else, including myself, so I will turn to him first.

Senator INOUYE. Thank you very much, Mr. Chairman.

I wanted to come by today because Hawaii in a real sense is the NOAA State. I wanted to come by to thank you, Mr. Gudes, for all that you have done for us and continue to do so.

Mr. Chairman, if I may, I have just one question, and I would like to submit the rest.

Senator GREGG. As you wish.

JURISDICTIONAL AUTHORITY OF INTERIOR

Senator INOUYE. Mr. Gudes, we have had an ongoing problem with Interior as to who has jurisdiction over 3 miles from shore. What is the present situation? I know that the legal counsel of Justice issued an opinion which called into question Interior's authority, but we gather that Interior continues to exert management authority over marine resources.

Mr. GUDES. Are you talking about specifically in the Northwest Hawaiian Islands, Senator?

Senator INOUYE. Yes.

Mr. GUDES. In the Northwest Hawaiian Islands, I thought that basically had been settled at the end of last year, partly through the legislation that you put forward in terms of the marine sanctuary authorization as well as the former President's Executive order on the Northwest Hawaiian Islands.

We do work closely with Interior in a number of areas. They do run National Parks which have coral reefs; we work on coral reefs. But in the case of the Northwest Hawaiian Islands, the land site, if you will, is a national refuge, and after 3 miles is the Northwest Hawaiian Islands—I guess currently, a "coral reef preserve" is the right term—with legislation telling us to move and hold public hearings toward becoming a marine sanctuary.

Senator INOUYE. As you know, Palmyra is an important addition. At the present time, we have been advised that Interior is exerting strong influence and jurisdiction over the resources of Palmyra. Is that true?

Mr. GUDES. In the case of Palmyra, I think they actually were given jurisdiction under the previous administration—it is south,

as I understand it, not in the Northwest Hawaiian Islands. In the case of Palmyra, I think they did. In the case of the Virgin Islands, they have jurisdiction over the undersea national parks. In American Samoa, actually, which you are very familiar with, we have a marine sanctuary, and they actually have a new national park. Both of us are very interested in preserving corals. We are working very hard in terms of corals, as you know and your staff knows. I think about 70 percent of the funding that this committee gave us for corals is going to the Pacific, and the Northwest Hawaiian Islands is a major area that we are focusing on.

FISHERIES LAB CONSTRUCTION

Senator INOUYE. Can you tell us about the status of the fisheries lab construction?

Mr. GUDES. Yes. This committee has actually previously given us appropriations over some number of years for I want to say about $4.5 million or so. This year's budget request is $3 million for the Honolulu laboratory. In total, we are going to need about another $34 million to finally build that lab to the specifications that we have, the design that we have.

I think it is very significant, because we have been trying for some number of years to get funding in the President's request up to you, and to move ahead and get that lab built.

Senator INOUYE. Thank you very much.

Thank you, Mr. Chairman.

Senator GREGG. Over what period are you going to need that $34 million?

Mr. GUDES. We will be back going into the 2003 process and probably the 2004 process, realistically, the way most NOAA construction projects have worked over time. Chairman Stevens has just come in—the Juneau laboratory, for example, has really started, I think, around 1991 in a similar fashion where Senator Stevens had some money put in, and it was not—really, last year was the first time we got a President's request for $1 million, and this year, we have over $11 million. So it will probably take some number of years.

Senator GREGG. As is the tradition in this committee, when the chairman of the full committee arrives, we recognize him.

Senator STEVENS. Thank you very much for the courtesy. I have visited three other committees so far this morning, and this is where I am going to sit for a while, so I will wait my turn.

Thank you.

Senator GREGG. Senator Hollings.

HURRICANE TRACKING AND FORECASTING

Senator HOLLINGS. First, that is about as good a presentation as I have heard since I have been here over several years, and I commend you for it.

I am still hung up on Hurricane Mitch. What caused Hurricane Mitch to turn tail and start back inland in an opposite direction? You say we have got to do some more studying. From the studies on air currents and hurricanes, what causes that?

Mr. GUDES. Senator, there are a number of factors that affect where a hurricane will steer, where it will go. A lot of it has to do

with the boundary conditions, the area where the hurricane is moving into. A lot of it has to do with water temperature; when the sea surface temperature gets over 80 degrees, it is a much higher probability of feeding the energy; a hurricane has an energy engine.

In the case of a number of hurricanes, it has to do with other meteorological conditions. For example, when we see a lot of these hurricanes come up the East Coast, and then they turn out, it is often because we have some frontal action that takes place that is a blocking motion toward that hurricane, and as it goes into colder water, it tends to lose energy.

In the case of Mitch—Jack or Louisa—do we know why it went south the way it did? I will have Jack Kelly respond, who is head of the Weather Service.

Mr. KELLY. There a host of factors, as Scott explained, that influence where a hurricane goes. With Mitch, you had a stronger weather system to the north, which prevented it from going in the direction everyone anticipated it to go, so it got pushed south. Everyone thought that that would not materialize as strongly as it did, and the storm would have gone to the north. So you just had a stronger air mass to the north, and it shifted to the south and then went stationary.

What really caused the damage in Central America was not so much the winds with that storm but the fact that it went stationary and rained for 3 or 4 days and dumped tens of inches of rain per day over the mountainous areas.

Senator HOLLINGS. But there is really no inadequacy of our hurricane studies. I mean, we have the plane up there and so on, right in the middle of it.

Mr. KELLY. No, Senator. What it is is an inadequacy of our understanding of how the atmosphere unfolds many days in advance. In spite of all the progress that we have made, we really do not have perfect knowledge on how the atmosphere will respond, and we make mistakes on forecasts.

Senator HOLLINGS. But there is nothing money-wise that we can do to improve it, is there?

Mr. KELLY. The U.S. Weather Research Program will have the universities try to understand better how the atmosphere unfolds, and in terms of that, yes, we can do that. In terms of satellites and aircraft to monitor what is happening, we have enough satellites and enough aircraft. The question is how will the atmosphere unfold in the next 24 to 48 hours, and we do not know that with perfect certainty.

Senator HOLLINGS. Thank you.

I like your presentation on the satellites. We both remember Bernard Schwartz from Loral coming in and saving that contract from Ford, and on time and under cost, getting that geostationary satellite up first.

STELLER SEA LION ISSUES

Let me ask a question now that both sides are represented here. Some kind of sea lion ruling held up the budget, the appropriations process, the Congress, and the Government until December because of Fisheries not taking a position, or a ruling or whatever.

All that I remember is that you said, or somebody over in NOAA said that we ought to get in there earlier and get the information out or make the decision early so the same issue will not get into one of those political snarls.

Have you corrected that?

Mr. GUDES. I am watching Senator Stevens as I answer this.

Senator HOLLINGS. And look at Senator Murray, too—oh, she has gone.

Mr. GUDES. The Steller sea lion issue took place over some period of time. It was not just last year—it probably started in the early 1990's with closed areas starting and some people arguing that we had not done enough to space out the fishing pressure and the sea lions.

Definitely since the biological opinion and since the judge allowed us to proceed with fishing again, we have been working very hard with the North Pacific Fisheries Management Council in Anchorage, to try to find every opportunity that we can to be sensitive to the impact on fishermen, to allow the maximum amount of fishing that we can in a way that still protects the sea lions. We are still under the Endangered Species Act, we still have a finding of jeopardy, we are still working with the courts, and we still have to find a way to work to protect those sea lions. Their populations have been declining. So we are trying every opportunity that we can.

We had an emergency rule that allowed jig and line fishing to take place there. We have been doing some satellite tagging to take a look at how far the sea lions go from the rookery areas. Actually, we are finding that a lot of them actually go about 10 miles out rather than 20 miles, and we are working with the Council on that issue.

Then, finally, often we talk about science and data, and this committee and this Congress came forward and gave us $43 million last year to start putting together the best science to deal with this issue, and we have been doing that—Bill Hogarth and the people at Fisheries and Jim Balsinger and the people up in Alaska have been doing everything they can to try to get this research and this effort going expeditiously to really try to solve this problem.

We are extremely sensitive and extremely knowledgeable of the economic impact that it has had and the impact that it has had on Alaska, and we are trying everything we can to work with them.

HOLLINGS MARINE LABORATORY

Senator HOLLINGS. Very good. Let me make the record on the marine science center that is just opening up down at Fort Johnson. This is the most modern, updated marine scientific research center tied in with medical research. At that site, we also have the agricultural research center, which is the most modern and updated one of the Federal Government.

Now, it has just come to my attention that the American Health Foundation along with Rockefeller University in New York City are interested in the study of proteomics. They tell me that with the human genome—and we can look at the morning news and hear about all the things being done with cancer—but that is for the study of human genes. They say the genes give a message to the proteins, and the proteins overlap, and if they overlap too fast, it

is like stepping on the gas, or if they overlap too slow, it is like stepping on the brakes. But at the earliest stage, it can be studied and researched with what they call a geomagnetic resonance imager. There has got to be a follow-through to that marine science center working on medicine. If they can do that, Dr. Burley and others who have won Nobel Prizes up there in New York are convinced that we can get to the prevention of cancer, because at the early stage, it is very effective; down the road, the proteins have hundreds of thousands of mutations, and it is way too late. That is why we just treat it, treat it, and treat it all over the country. But this gene research is a thrust and endeavor to prevent it. The "big blue" IBM has promised free of cost to follow through with this and correlate all the information that we can get, so we are looking at that very closely.

Mr. GUDES. Senator, I will just say that we are very excited about the Hollings Marine Laboratory at Fort Johnson. I totally agree with you that working with the Medical University of South Carolina, with the partners that we have there in the State of South Carolina—Margaret Davidson is here from the Ocean Service, which that lab comes under, and if there is anybody we have who really knows how to bring in different people into issues and really make a result that is bigger than the sum of the parts, it is Margaret. In terms of the marine sciences, there are any number of drugs that have been found by using marine organisms—that is part of what ocean exploration is about as well—and we are really excited about the laboratory there and the role it can play in NOAA and actually with the country.

Senator GREGG. Thank you.

Senator Stevens.

Senator STEVENS. Thank you very much.

We welcome you as the spokesman for NOAA, Mr. Gudes. I want you to know that obviously, there is nothing personal in my comments.

FINDINGS ON STELLER SEA LIONS

I would ask first, though, have your people been briefed by the North Pacific University's Marine Mammal Consortium on their findings regarding the Steller sea lion?

Mr. GUDES. I believe so, Senator. Let me ask Dr. Hogarth, the head of Fisheries.

Mr. HOGARTH. Yes.

Mr. GUDES. Yes, we have.

Senator STEVENS. You realize that they do not believe there is an endangered species there, that there is just one species. Your people singled out the eastern portion of the species to declare them under the Endangered Species Act.

I urged the Secretary to be briefed by them. I wonder why we have ignored them. I also wonder why NOAA ignored its own study that showed that sea lions rarely go beyond 10 miles from a haul-out. In preparing your biological opinion, you set aside a basic finding of your own scientists—that sea lions rarely go beyond 10 miles—and required that we protect 20 miles from a haul-out. This has had a devastating effect on the fishery. The Coast Guard urged you not to do it for safety reasons, and your people rejected that.

I wonder why we should wait for another study when you have ignored your own findings in the past. And you refused to accept the findings of the North Pacific University's Marine Mammal Consortium.

We are going to be in for another battle, that is for sure, if NMFS now comes up with another unproven theory, ignores the Marine Mammal Protection Act, ignores the Magnuson-Stevens Act, and uses the Endangered Species Act to bring about a collision course with the State of Alaska over the most significant source of employment in our State, the fisheries from Kodiak to Atka. Then we are going to have another battle. I may lose, but I have got to tell you, it will be another battle.

I do not understand why NOAA will not get with it and pay attention to its own studies.

I am told that you are now on another course, having lost the round on the biological opinion. I am told that there is a draft Environmental Impact Statement using the same unproven theories to put another level of environmental attack on our commercial fisheries.

Are we now facing a situation where the biological opinion is subject to an agency-generated Environmental Impact Statement, as required supposedly by the Endangered Species Act, when there is still no agreement that we are dealing with an endangered species?

How far do I have to go. I am asking you, in order to keep my people at work? North Pacific University's Marine Mammal Consortium says that these mammals are not being depleted because the food chain is based upon pollock. It says that they are depleting for a whole series of reasons, and they believe that despite the depletion, they should not be listed as an endangered species.

What do I have to do—ask the Commerce Committee to have a special hearing on this in order to expose this? How do I get some kind of response to the truth and to scientific fact in relation to pollock and the sea lion?

Mr. GUDES. Mr. Chairman, I will ask Dr. Hogarth in a second if he would like to respond as well, but I would say that, as I often point out to NOAA employees, I am the one non-scientist in NOAA leadership, but I do get a chance to look at some of these issues and try to understand them in their entirety, and I think one of the problems that we have in Alaska—and I think the Steller sea lion is just one example—is conflicting messages on laws, on what we are required to do. And when we tend not to do what some people believe we are tasked to do under the law, the courts move in, and they say, "NOAA, we are going to take this authority away from you." And I think in part with Steller sea lions, that is part of what happened.

A year ago, we had a situation where a Federal judge stepped in and shut down all the fisheries——

Senator STEVENS. Yes, but keep in mind—you prepared three biological opinions that the courts did not disturb. You changed the scientists and the lawyers involved, and you came up with a fourth and a fifth that the court would not accept.

I do not understand how you could destroy your own credibility with the courts any more than you did in that process.

But beyond that, how are you going to get your credibility back? The North Pacific Regional Council—and I believe it includes the top national marine fisheries scientists from Seattle—have agreed on a set of rules to protect the sea lions and still allow the fisheries to go forward.

I am told that Washington people, particularly the lawyers, have said that that recommendation will not be followed, and it will not be defended in court.

Now let me tell you a little story about Roosevelt. In World War II, when Roosevelt wanted to start the lend-lease program, he called in the Secretary of the Navy, and he said, "Mr. Secretary, I want to start this program, and I want to let the British have some of our gear, but it is up to you to work this out. Now go and work out a program—we will call it lend-lease—so we can get this material to them so they can defend themselves."

The Secretary of Navy came back the day after that and said, "Mr. President, I am sorry to tell you that my lawyers tell me that it is not possible."

The President said, "Which lawyer?" This is God's truth—he said it—"Which lawyer?"

And he said, "My chief counsel."

And the President said, "Mr. Secretary, you go back to that legal group, and the first person you find who is a lawyer and who agrees with me is your new general counsel."

I would suggest to you that if you have some problem with your legal office that it be remedied. I was the chief counsel for the Department of the Interior, and I know that Government lawyers are bent upon finding a different client than the public at times. But these people had better not hold up a decision by the Regional Council's decision that is based upon science and supported by the North Pacific University's Marine Mammal Consortium and by your top scientists in the field. Lawyers are not going to deter us from seeing that that opinion is enforced.

Mr. Hogarth, what are you going to do with it when it comes to Washington?

Mr. HOGARTH. Thank you.

EIS ON STELLER SEA LIONS

There are several things going on. Number one, the draft Environmental Impact Statement was required by the courts, and it is a draft.

Senator STEVENS. Wait a minute. The court that required the biological statement also required the Environmental Impact Statement? Under the same act?

Mr. HOGARTH. The courts required us to do a programmatic EIS to open the fishery. That is——

Senator STEVENS. Just a minute. Where were your lawyers? The Marine Mammal Protection Act protected the sea lions to start with. They should have defended on that basis. The Magnuson-Stevens Act protected those. Never before have we had an Environmental Impact Statement or a biological opinion on a marine mammal.

Mr. HOGARTH. Because if it was considered endangered, it was under the Endangered Species Act.

Senator STEVENS. That is strange. You began with three biological opinions that were accepted. You change the personnel. It is filed; you go to court and do not defend it, and the court says you are not properly defending it, go and write another one. You go back with a fifth one, and the court says it is still insufficient and puts into effect a moratorium that puts all my people out of work. Now, that is bad management and bad law.

I want you to know that I am not going to give up on this. You are allowing the courts to make a decision affecting one species which destroys opportunities for commercial fishing and at the same time subjects you to further restrictions under the Endangered Species Act, and you are already subject to a third because you have to comply with the Magnuson-Stevens Act.

I do not understand why you do not stand up and tell that court what the law is. The law is clear—Congress did not intend the Endangered Species Act to override the Magnuson-Stevens Act. Congress did not say that you had to have an Environmental Impact Statement every time you made a decision under the Magnuson-Stevens Act.

These significant decisions are not yours to make. The decisions are made by the regional councils. The Secretary makes the decision that you might have to have an Environmental Impact Statement once in a while, but you as an agency do not because you do not have jurisdiction. The jurisdiction is with the regional council.

Someone had better read the Magnuson-Stevens Act. Beyond that, did you know that the emergency provisions that you used were from the Magnuson-Stevens Act? There is no emergency provision in the Endangered Species Act. I do not know what kind of lawyers you have down there, but they did not study the law like I did. Somehow we have got to get control over this.

Now, is it true that you are going to hold up fishing until you get the approval of the Environmental Impact Statement?

Mr. HOGARTH. No, sir. Right now, we have a group that was set up by the Council called the Reasonable and Prudent Alternative (RPA) Committee, to look at reasonable and prudent alternatives. They have made a recommendation to the Council, and the Council has made that recommendation to us. That is under review right now, and it looks very good. One thing we are looking at is in the Steller conservation area, we have always had some kind of limits, even back in 1998. They have removed all of those limits, so right now, we are looking to see if we should approve that. They will be in place for the second half of this year.

I have set up a process so hopefully we will not go through another issue like we went through last fall. We have set up a process for any disagreements to be resolved, and if they cannot resolve them in the region, they will come to me with the options, and I will make the decision.

We are going——

Senator STEVENS. Excuse me. I do not want to be offensive, but the Magnuson-Stevens Act gave the regional councils the right to make the decisions that you are making. The reasonable and prudent alternatives are decided by the regional council.

Mr. HOGARTH. That is correct.

Senator STEVENS. I understand you are now negotiating with the plaintiffs in a lawsuit what is a reasonable and prudent alternative.

Mr. HOGARTH. The plaintiffs are part of that committee. The Council put them on the committee. The plaintiffs have come forward and said that they may go forward and ask the judge for another injunction if we implement all this because they feel like they have deviated so far from the biological opinion.

Senator STEVENS. I hope they do, because we will then amend the Magnuson-Stevens Act for sure and take them out of it entirely. What is a group of plaintiffs in a lawsuit doing on a committee of the Magnuson-Stevens Act which deals with the regional council's activities?

Mr. HOGARTH. Because the Council felt it was better to have them part of the process than to have them taking potshots, I guess. So they are part of it, but they are one member out of 11, if I am not mistaken.

Senator STEVENS. Well, I do not remember the good Lord inviting the Devil to the last supper, my friend.

They have no business trying to decide the outcome of this by negotiation. We did not create regional councils for negotiation. We created them for decisionmaking. The courts have got to get out of the business of making those decisions, and you brought them into it by letting the Endangered Species Act be part of this process. It is not part of this process.

Mr. HOGARTH. If I can do anything about it, we are going to get them back out of it. I do not think the courts should make those decisions, either.

There are several things that have happened that I think are very positive. There is some data from Sea Grant on the Steller sea lions and the use of rookeries and the haul-outs. There is some scat data and food habits and so on that shows very little reliance on pollock. There is also the telemetry data that we have done, which shows that about 92 percent of the adults go no further out than 10 miles, and 88 percent of the sub-adults do not go any further than 10 miles.

Senator STEVENS. You had that study even before you even made the last biological opinion.

Mr. HOGARTH. We have a lot more data now that has been utilized by this RPA Committee. We also will, in my opinion, reinitiate the consultation for the 2002 season, because I think there is so much more data that is available to look at, and that biological opinion needs to be reinitiated and revisited for the 2002 season. But for the second half of this year, there will be changes again made based on your rider and the additional data that we have. So there will be some changes the rest of this year.

The only thing I can tell you is that things are being done differently than they were in the last go-around, and they will continue to be done differently. We are in constant contact with the Council and the region. There is a 4-hour conference to go over everything. We are having regular conversations. We have a different process set up so that we do not come to a stalemate. It is all transparent. We have never let a biological opinion be reviewed in draft form before; this one will be. I have released three biological opin-

ions—the Hawaii long line was released as a draft; the Pellagic long line for the South Atlantic was released, and this one will be released in draft form to get input before it is finalized.

Senator STEVENS. We are going to have to go back, I am sure. My two colleagues are on the conference committee, as I am. The Marine Mammal Act was passed because Congress did not believe the Endangered Species Act applied to marine mammals. It was passed after the Endangered Species Act was in place. The Marine Mammal Act was the result of Congress' intention to protect marine mammals under that Act, and that was Muskie's Act.

Somehow, we have got to get a sense of the history here and understand that the Endangered Species Act was not designed to protect marine mammals. It is not Congress' intention that it be so used. But no one in your department has ever argued that. Why did we need the Marine Mammal Protection Act if the Endangered Species Act, which was already in existence, was effective as far as marine mammals were concerned?

We have to get to where we have management control under scientific principles. But what is happening is that more and more of these environmental litigation agencies are destroying your agency with litigation that is just too redundant.

I have taken too much time, and I apologize, but somehow, this has got to come to a halt. We cannot afford it. My people are not that rich that they can keep going to court with your agency and these environmental organizations. They work on donated funds. They do not make enough money to do this, and they are being squashed out of this business because they cannot afford legal fees. Are you aware of this? They just cannot do it.

Mr. GUDES. Can I respond?

Senator HOLLINGS. Yes, surely. Mr. Chairman, you are asking the gentleman to explain Congress, and even I cannot do that. But the record should show that I heard about this controversy, so I asked about this Mr. Bill Hogarth, and let the record show that they said he is a good man.

Senator STEVENS. I know he is.

Senator HOLLINGS. Yes, and he has withstood your wrath better than I can.

Do you have any comment, Mr. Hogarth or Mr. Gudes? No kidding—it is a serious problem, and the Senator from Alaska is right on target about the seriatim of the enactments with respect to the Endangered Species Act and the Marine Mammal Protection Act. Our frustration is that you are disregarding the recent Act and the real controlling Act.

NMFS LAWSUIT BACKLOG

Mr. GUDES. I am not a lawyer, and I am talking to some of the authors of the Magnuson-Stevens Act, so I want to be careful. But I think the general issue that you have raised is much more than just Steller sea lions in Alaska. We have 110 or so lawsuits right now. It is not just from environmental groups, as you said, Senator. It is from both sides. When someone, even with something that has nothing to do with the Endangered Species Act, is not happy with the decision—sometimes it happens at the Council—they go to court. Often, when I go to these fisheries meetings with Bill, I feel

as though I am in a law school class instead of talking about fisheries. Very often, we are talking about the Administrative Procedures Act, and when is this rule going to come forward, and Notice of Rulemaking.

Senator HOLLINGS. What can this subcommittee do to undo that logjam? I mean, having 110 lawsuits backed up—something is wrong there.

Mr. GUDES. Well, some of it is probably more appropriate—although the three of you are on the Commerce, Science, Transportation Committee of the authorization committee—but it is a problem in terms of the laws and the conflicting laws and how the laws are being used.

Senator STEVENS. Well, could I make a suggestion? These decisions that are theoretically based on science should not be appealable to courts to be handled by a bunch of lawyers who do not understand. If there is going to be an appeal, it ought to be to a group of scientists.

Mr. GUDES. Well, Bill just helped solve an issue on summer flounder by working with the States. We had a situation where we had two conflicting laws, but more important than that, we had two conflicting Federal judges, one of whom was saying one thing and one of whom, here in Washington, D.C. was saying something different.

Senator STEVENS. What they do, Scott, is they find a judge where they know what he is going to decide. I can tell you what the judge in Seattle is going to decide, or the one here, or the one down in San Francisco.

Mr. GUDES. And Senator Hollings, part of what you did last year was give us funding through your leadership to try to respond to things like NEPA, to try to get some of our EISs updated. In the case of Steller sea lions, it was giving us the idea to do some of the research and get the data that we need to be able to determine—that is part of it, because sometimes when we lose in court, it is because we do not have good enough data. And this is not only Department of Commerce, this is Department of Justice; they are the ones who litigate for us in court. This is a bigger issue.

To end, Mr. Chairman, I understand exactly everything that you have said and your passion about this issue. We are in a situation where, if we do not do things right, we will end up back in the court, right or wrong, with the judge shutting down the fishery again, and we do not want that to happen.

Senator STEVENS. You are right. As a matter of fact, let us get off fish and look at the airport and SeaTech. For 19 years, we have been waiting for that Seattle runway to be completed, and every time it is just about ready to go, there is another lawsuit and another review by some judge, and we are told to do something different.

You are about to get in the same position, where every year, everything you do will be reviewed by some court, and a group of lawyers will tell you what to do, when you thought your decisions were based on scientific data.

So I think we have got to find some way to make these decisions appealable to a group of scientists. Tell the courts they can only get involved if someone has violated the law. They are substituting

their feelings—not even their judgment, but their feelings—about the science, rather than allowing our scientists to make the decisions and see if they were the right decisions. I think these cases should be appealable to a scientific process and not the legal process.

Mr. GUDES. If I could, one final comment on what Bill mentioned. Secretary Evans very strongly said to both Bill and me that he wants an open process that brings in everyone who is affected, and Bill has really worked very hard on biological opinions, on EISs, as he referred to, to try to open up that process, to bring in stakeholders, to bring in the Fisheries Management Councils ahead of time.

Senator Inouye talked to us about long line issues and biological opinion issues—very similar—Endangered Species Act issues, and in this case, sea turtle interactions. So it is not a Marine Mammal Protection Act, it is what you would argue is an Endangered Species Act issue. And Bill went out and met with the Fisheries Management Council and with all the commercial fishermen in the area, and at least opened up the process in a way that had not been done before. That did not mean that what finally came out of NOAA and Fisheries was what those fishermen wanted to see, but it was a much more open and transparent process, and that is what we are working toward.

FACTOR'S CONTRIBUTING TO STELLER SEA LION DECLINE

Mr. HOGARTH. I would just like to say one final thing, that we are doing two other things to take a look at this. We have reconstituted the Steller sea lion recovery team with new members, and it will get to work right away. We hope we have a good group there to take another look.

Also, we have gone outside and gotten a group to look at how to integrate Marine Mammal, Magnuson-Stevens, and ESA, because as an agency, I do not think we have really integrated them as they should be, and that is what has caused many of the problems. We are supposed to have that report back by the first of June, and then we can move forward.

Senator STEVENS. I hope that you will show all of those people the videos of the killer whales and the young sea lions.

Mr. HOGARTH. That has been documented, too, yes, sir.

Senator STEVENS. And the picture of the stomach of the one that had 17 Steller sea lion tags in the stomach.

The Endangered Species Act apparently does not deter killer whales, which are increasing in number and overwhelming in our area. And if you listen to the consortium people, they will tell you that it is a combination of factors that are leading to the decline of the Steller sea lion, and one of them is predation. We are not taking them; other mammals are taking them. So I do not think we should base a recovery for the sea lions entirely upon stopping man from harvesting pollock.

Incidentally, your people also overlooked the fact that pollock as a biomass is about four times the size it was when we passed the Magnuson-Stevens Act.

Mr. HOGARTH. It was an all-time record last year, the biomass.

Senator STEVENS. So I do not understand anyone saying there is not enough pollock for sea lions. But the problem lies in where they are located and where the Steller sea lions are located. The fatty fish are no longer there. If you want to do anything for us, find some way to restore the fatty fish and the Steller sea lion will come back.

Mr. HOGARTH. Yes. I have to agree with that.

Senator STEVENS. Thank you.

Senator HOLLINGS [presiding]. Our distinguished chairman is momentarily on the floor with the education bill.

Senator Inouye.

Senator INOUYE. I have no questions.

Senator HOLLINGS. Very good. And thank you, Senator Stevens.

CRITICAL BACKLOG IN HYDROGRAPHIC SURVEYS

With respect to the critical backlog in the surveys, Mr. Gudes, what are we doing there, with the marine transportation system?

Mr. GUDES. I think the number is somewhere around 32,000 nautical miles of critical backlog. Actually, the largest event of that is in Alaska, Senator Stevens' State.

We are doing a number of things. One, we have about $20 million in this budget for private contracting for hydrographic surveys. That is the first time that our budget actually has fully funded where Congress has been asking us to use more private sector. On the Gulf of Mexico, for example, we use all private sector ships.

We are modernizing the *FAIRWEATHER*. This is a NOAA ship, the sister ship to the *RAINIER*, which has six launches and is very capable. This committee came forward and gave us funding last year, and our budget actually has the funding to complete the modernization of that ship. The sister ship, the *RAINIER*, which is currently operating off Alaska, is actually our most productive hydrographic ship and is very capable.

This is an area that we are focused on more and more in trying to work down that backlog. I think we are working down about 4 percent per year. We would like to do better than that. It is a very important issue, and we are working in the most critical areas.

COASTAL STORMS INITIATIVE

Senator HOLLINGS. Under the funding for the modernization of the marine transportation system, you have a $3 million item there. Is that for the National Ocean Service, a pilot program there?

Mr. GUDES. Yes, most of this comes under the National Ocean Service. Which specific program—the Coastal Storms?

Senator HOLLINGS. Yes. What are we getting there for that $3 million?

Mr. GUDES. I think the $3 million that you are talking about is the Coastal Storms Initiative; is that correct?

Senator HOLLINGS. Right.

Mr. GUDES. Coastal Storms is really taking a look at how much of the American population is moving to areas just like Isle of Palms, where we have more and more people living who are in danger of coastal storms, evacuation routes. It is about doing better bathymetric models, better slosh models, taking existing current

meters and providing oceanographic and atmospheric sensors. It is really about taking a look at the whole system and doing a better job. It includes the Weather Service as well, working in hydrology and floods.

The first prototype that is in this budget actually proposes an effort in northeastern Florida, Jacksonville and the St. John's River area.

Senator HOLLINGS. Let me ask one final question, because we have to move on to the Small Business Administration.

FUNDING FOR PACIFIC SALMON RECOVERY

With respect to the Pacific salmon funding for coastal salmon, we had $100 million, and now it is $90 million. I was surprised that the Bush administration put that $90 million in, because there is some question that the money is all being used for Columbia River salmon, and they have the dams there, and it is not doing what was intended.

What is your comment on that?

Mr. GUDES. The Pacific Coastal Salmon program, habitat restoration program, is about $90 million. It is a high priority to us. It really is a grant to States to work on habitat with a memorandum of understanding——

Senator HOLLINGS. But can you enumerate for the committee any successes at all?

Mr. GUDES. It is having an impact in States like Washington, where we really have good community-based efforts to restore watersheds, to bring back the salmon.

I would say, Mr. Chairman, that primarily it is in coastal areas. When Congress created the first appropriation, it gave us funding for Columbia River tribes, Native American groups. There is an issue this year that is significant which has to do with the drought in the Northwest, and one of the issues is—I think the State of Washington is using some of those funds to buy water rights, because in the Columbia River, we are going to have a real problem where we are not going to be able to get salmon back down the river. So that is an issue up the Columbia River.

There is a related program, as you know. We fund the Mitchell Act hatcheries on the Columbia River—I want to say $16 or $18 million—which NOAA has been responsible for since we were created as an agency.

ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. The record will remain open for any further questions.

The committee thanks you for your outstanding presentation. Thank you very much, Mr. Gudes.

Mr. GUDES. Thank you, Senator. Thank you, Senator Inouye.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

WEATHER BUOYS IN THE NORTHEAST

Question. How many weather buoys currently cover the Northeast fishing grounds?

Answer. NWS operates 11 marine buoys and Coastal Marine Automated Network Systems (C–MAN) in the Northeastern United States (ie. North of 40 degrees). This includes 7 marine buoys and 4 C–MAN Stations. Canada also operates 8 marine buoys off the coast of Nova Scotia.

Question. Are there any holes in the coverage?

Answer. NOAA is aware of some recent concerns with buoy coverage from various marine associations. NOAA will review these issues and report back to the Committee as soon as possible.

Question. Does NOAA own all of these buoys?

Answer. Yes, the 11 marine buoys and C–MAN stations in the Northeastern United are base funded and owned by NOAA. Of note, NOAA currently operates a total of 136 buoys and C–MAN stations. This includes 108 base funded and 28 reimbursable stations.

Question. What did the 1997 National Research Council Report say about the adequacy and priority for buoys in the Northeast?

Answer. The 1998 NRC study recommended that a core network of buoy and C–MAN stations should be established and maintained. The report recommended the network should be based on NOAA's 1995 Marine Observation Plan (MAROB) which called for additional buoys. However, the NRC stated the exact number and placement of additional buoys should be determined through an objective assessment and numerical analysis. With regard to priorities, the NRC study stated "where and how fast changes should be made were beyond the scope of the study".

Question. Is NOAA currently considering moving any of these buoys? If so, why?

Answer. No, NOAA does not plan to move any of these buoys. NOAA has received a request from the Cape Cod Commercial Hook Fishermen's Association to move the Nantucket Marine Buoy (#44008). However, the current location is optimal for NWS mission needs and provides critical observations to other marine users in the area.

Question. If coverage is inadequate for the fishing fleet, how many more buoys would be required to complete the coverage? Please provide a plan for complete buoy coverage.

Answer. NOAA is aware of some recent concerns with buoy coverage from various marine associations. As indicated in the previous response, NOAA will review these issues and report back to the Committee as soon as possible.

Question. How long would it take to bring these buoys online?

Answer. NOAA would need to review the current situation and assess the need for additional buoys. The deployment schedule for a buoy varies from 1–2 years. The actual deployment time can depend on the type of buoy, availability of a Coast Guard ship to deliver the buoy, production capacity at the National Data Buoy Center, and marine weather in the deployment area.

NMFS COOPERATIVE RESEARCH

Question. I've noticed that your budget request for the National Marine Fisheries Service (NMFS) includes an increase for Cooperative Research. This idea shows great promise for the future of fisheries management, but only if your fisheries scientists and managers are equipped and willing to use the data that is being collected. Can you demonstrate that they are willing and equipped to do so?

Answer. NOAA's fiscal year 2002 request includes $3.5 million for NMFS cooperative research implementation under the Northeast Fisheries Management Programs line item. These funds cover the NMFS costs associated with cooperative research in the Northeast, including specific research design, field scientific staff, data assimilation and analysis, program administration, and application of the research results to Council management issues. These NMFS cooperative research implementation funds complement our $16 million request for specific cooperative research activities to utilize the expertise and insights of fishers in research including resource survey design and interpretation. For the Northeast, this two-part request provides both the resources for NMFS and the industry to ensure future cooperative research programs are successful and provide needed data.

FISHERIES LAWSUITS

Question. As you know, NMFS' untimely action in the Ninth Circuit Court last year resulted in a temporary shutdown of one four nation's biggest fisheries. A NEPA-related lawsuit could threaten the lobster fishery in New England. How do

you intend to approach the backlog of litigation? What is your plan to avoid this kind of backlog in the future? How are you planning to reduce the agency's risk to litigation? What steps are you taking to ensure that the entire staff of the agency is not pulled into litigation, and away from the science and regulations that they are required to implement? Many of the lawsuits involve a debate about the science. How is NMFS evolving to ensure that it makes decisions based upon the most up-to-date and sound science? You have requested $8 million for NEPA in fiscal year 2002. How do you intend to spend these funds?

Answer. NOAA is certainly concerned about NMFS' litigation load, as it has approximately doubled in the last five or six years. Some of this increase is inevitable. The more species or populations an agency lists under the Endangered Species Act, the more litigation will ensue. Another example is the Sustainable Fisheries Act, which in 1996 increased NMFS' responsibilities to rebuild overfished fisheries, minimize bycatch, and protect essential fish habitat. Those who believe NMFS has gone too far in conserving fish stocks and habitat have sued the agency, and so have those who think NMFS has not done enough to protect fish stocks.

NMFS may be able to avoid other lawsuits in the future if it can improve its compliance with procedural statutes such as the National Environmental Policy Act and the Regulatory Flexibility Act. We have new guidelines for complying with the Regulatory Flexibility Act, and recently received an honorable mention from the Small Business Administration for our improved performance under that statute. We have a task force working now, with assistance from a contractor, to identify ways to better manage our decision making process by incorporating all of these procedural requirements more efficiently. We expect to make improvements in our compliance with procedural statutes that will result in better decision making, as well as ameliorate our litigation problems. Where possible, we have tried to continue programs in addition to meeting the needs associated with the court cases. However, in many cases this has not been possible and ongoing programs have suffered as staff have had to work on issues associated with the cases.

The $8 million appropriated in fiscal year 2001 will address two primary needs. First, there is an immediate need to update numerous Environmental Impact Statements (EISs) around the country. The short-term needs of the agency to comply with court ordered deadlines and reduce the overall vulnerability to NEPA-related lawsuits will be addressed by allocating $5.6 million among the regions to support the highest priority projects. Second, NMFS is in need of systemic change to address the demands of NEPA on a continuing basis. We have established a task force and contracted for a study to aggressively review the agency's decision making process and compliance with all applicable law including NEPA.

The $8 million continued in the fiscal year 2002 budget will be used to build on the task force recommendations and institute a management process that improves the decision making and integration of the agency's growing statutory, regulatory, and legal requirements. Additionally, the fiscal year 2002 budget request includes several items that will improve the agency's science. For example, proposed funding of $13.3 million for additional stock assessments, and $1.4 million for more socioeconomic analysis. Support for these requests would provide better data for the management arena and help reduce future litigation regarding science.

HEADQUARTERS OFFICE SUPPORT

Question. According to your budget request, it appears that there are 14 staff offices that report to you, is that true?

Answer. Of the 14 functional activities shown on the organizational chart accompanying the budget request, only nine (9) may be appropriately described as staff offices reporting to the Under Secretary (e.g., Chief Scientist, Public and Constituent Affairs, Policy and Strategic Planning, Sustainable Development and Intergovernmental Affairs, Legislative Affairs, International Affairs, General Counsel, Military Affairs, and Federal Coordinator for Meteorology). The resources supporting the Federal Coordinator for Meteorology are requested to be transferred from the National Weather Service to the Under Secretary and Associate Offices in fiscal year 2002.

Program Coordination and Executive Secretariat are operationally integrated with the Office of the Deputy Under Secretary. The resources for the NOAA High Performance Computing Center are carried in NOAA's Office of Oceanic and Atmospheric Research.

Finally, the Office of Finance and Administration and the Office of Marine and Aviation Operations are operational offices supporting the NOAA mission.

Question. What is the mission of each of these offices?

Answer. The Under Secretary for Oceans and Atmosphere and Administrator of NOAA formulates policies and programs for achieving the objectives of NOAA and has the authority for program execution. The Assistant Secretary for Oceans and Atmosphere and Deputy Administrator of NOAA assists the Under Secretary/Administrator in formulating policies and programs and directs their execution.

The Deputy Under Secretary for Oceans and Atmosphere serves as a key advisor to the Under Secretary/Administrator and Assistant Secretary/Deputy Administrator on all program and policy issues and is responsible for ensuring the timely and effective implementation of NOAA policies and objectives; oversees the development of and recommend policies and programs to meet NOAA's objectives; coordinates the implementation of policies promulgated by the Under Secretary/Administrator and Assistant Secretary/Deputy Administrator; coordinates actions required of NOAA in response to Executive Branch policy decisions; develops, plans, and coordinates major program efforts; and exercises delegated authority in committing NOAA to courses of action; assists the Under Secretary/Administrator and Assistant Secretary/Deputy Administrator in the administration of programs and operations of NOAA; and represents NOAA in executive level liaison with other Federal agencies, the Congress, and private industry. The Executive Secretariat and the Program Coordination Office are part of the Deputy Under Secretary's office.

The Chief Scientist of NOAA is the principal scientific advisor to the Under Secretary. The Chief Scientist is NOAA's principal spokesperson on scientific and technological issues, formulates and recommends scientific policy to the Under Secretary/Administrator, and provides guidance to NOAA Line and Program Offices on scientific and technological issues; is NOAA's primary point of contact with the National Science Foundation, the National Academy of Sciences, the National Academy of Engineering, and other national and international science and technology organizations; superintends a continual process of independent peer evaluation to determine the quality and relevance of NOAA's science and technology programs, products, services, and professional staff, and recommends where and how improvements should be made; ensures that all NOAA services are based on sound science, that NOAA research programs are designed to improve existing NOAA services or establish the basis for needed new services, and that NOAA's research laboratories are meeting the agency's mission goals; and fosters sound research strategies and scientific program development within NOAA to meet long-range societal needs and emerging scientific and technological opportunities.

The Office of Public and Constituent Affairs provides advice and counsel to the Office of the Under Secretary, Assistant Administrators, Program and Staff Office Directors and their staffs on media and constituent relations. The Office of Public and Constituent Affairs: establishes policies for communicating NOAA's activities to the media, constituencies and other audiences both internally and externally; provides a wide range of services to the media including responding to all inquiries, planning and conducting press conferences and media briefings; provides services to the public and NOAA's constituencies including writing fact sheets and press releases, responding to inquiries, coordinating conferences, briefings and luncheons, and responding to other constituency needs; serves as NOAA's central focus for internal communications; work with public and private sector organizations for collaborative outreach projects, planning and conducting ceremonies; produces video news releases and slide shows, full-length videos or films, maintains libraries of existing NOAA photographs, slides, film, videos and television news footage; responds to all public mail with materials updated and maintained by the correspondence unit; and coordinates the office's activities with the Office of Public Affairs, Department of Commerce.

The Office of Sustainable Development and Intergovernmental Affairs provides advice and counsel to the Office of the Under Secretary, and the Department of Commerce on matters dealing with sustainable development and intergovernmental affairs. The Office, through consultation within NOAA and with the Department of Commerce, identifies opportunities for the deployment of coordinated interagency/intergovernmental policy strategies which recognize the importance of linking economic and environmental goals; provides advice and assistance on intergovernmental issues affecting NOAA; facilitates new partnerships among governments, private industry, academic institutions, trade and professional associations to bring Federal, state, and local resources to bear on economic problems aggravated by conflicts over resource management and other issues; supports the Secretary of Commerce and Under Secretary/Administrator on policies to encourage positive relationships between economic growth and environmental protection; reviews proposed NOAA policies and programs to assess their impacts on state, local and regional governments; prepares reference documents, and coordinates studies and analyzes

data that will be the basis for recommendations to NOAA management in its areas of responsibility.

The Office of Policy and Strategic Planning provides advice and counsel to the Office of the Under Secretary to achieve NOAA's goals through policy development, planning, and monitoring of appropriate agency policies. The Office develops and evaluates in coordination with the Assistant Administrators, and Program and Staff Office Directors, policies, strategies, and long-range plans for new initiatives and modification of existing programs; conducts and coordinates planning research and program and economic evaluations to provide a rigorous analytical basis for identifying changing national needs in NOAA's mission areas, identifies strengths and weaknesses in NOAA's programs to respond to national needs, and designs new strategies and approaches to achieve NOAA's high priority mission objectives; updates, as appropriate, the NOAA Strategic Plan; coordinates all NOAA activities implementing the National Environmental Policy Act (NEPA) and ecology and environmental conservation matters; and serves as the focal point for the Department's NEPA compliance and implementation.

The Office of Legislative Affairs coordinates all NOAA contacts with the Congress other than those relating to appropriations; and is responsible for the planning, direction, and coordination of legislative programs that are of immediate concern to the Office of the Under Secretary. The Office serves as the primary liaison for NOAA with the members and staff of the Congress; identifies and tracks all legislation of interest to NOAA, keeping the Assistant Administrators and Office of the Under Secretary informed; assists in the development of positions setting forth NOAA's views on the merits of proposed or pending legislation, receives requests for preparation of testimony before the Congress and coordinates responses to questions submitted for the record by members and staff; directs and coordinates NOAA cross-cutting and special interest congressional and legislative activities; provides leadership to improve communications and coordination among legislative activities within Line and Program Offices and provides oversight of those programs; and coordinates the Office's activities with the Office of Legislative and Intergovernmental Affairs, Department of Commerce.

The Office of International Affairs, which includes the Deputy Assistant Secretary for International Affairs, is responsible for planning and coordinating NOAA's international programs and carries out, as directed by the Office of the Under Secretary, tasks of special interest related to international activities. The Deputy Assistant Secretary for International Affairs exercises a leadership role in establishing policies, guidelines, and procedures for NOAA's international programs, including the coordination of NOAA's major international activities including those programs that overlap Assistant Administrators' or Program Directors' interests or responsibilities; provides support for the development and coordination of NOAA's international policies regarding "trade and environment" issues and the negotiation of trade agreements; coordinates NOAA's interactions on international issues with other Federal departments and agencies, as well as other bureaus within the Department of Commerce; develops Administration policy on international issues affecting NOAA; coordinates NOAA's participation in U.S. delegations to international fora; and participates in the negotiation of international agreements and appropriate representation of NOAA and the Department of Commerce at international fora on environmental issues.

The Office of General Counsel assists the General Counsel of NOAA in carrying out his/her statutory functions established by Reorganization Plan No. 4 of 1970.

The Office of Military Affairs facilitates coordination and joint planning with the military services and other Department of Defense ("DOD") offices as required, on programs of mutual organizational interest.

The Office of the Federal Coordinator for Meteorological Services and Supporting Research, more briefly known as the Office of the Federal Coordinator for Meteorology, is an interdepartmental office established to ensure the effective use of federal meteorological resources by leading the systematic coordination of operational weather requirements and services, and supporting research, among the federal agencies.

Question. Are they in any way duplicative of each other or duplicative of similar offices within the NOAA Line Offices?

Answer. Similar positions exist in the NOAA line offices, however, the work they complete is not duplicative. The staff supporting the Under Secretary and Associate Offices are responsible for producing NOAA-wide workproducts.

Question. How many people, Full-Time Equivalents (FTEs), detailees, and contractors work in each of these offices? What is each office's budget level? Which accounts in NOAA's budget support these offices?

Answer. See attached table entitled "Resource Analysis for Under Secretary and Associate Offices".

RESOURCE ANALYSIS—UNDER SECRETARY AND ASSOCIATE OFFICES, MAY 2001

[Dollars in millions]

	FTE	Detailees	Amount
USEC [1]	12	.....	$3.2
DUS [2]	8	8	.7
Chief Scientist	5	.....	.6
Public & Constituent Affairs	36	5	3.7
Policy & Strategic Planning	10	.....	1.2
Sustainable Development & Intergovernmental Affairs	10	.....	1.2
Legislative Affairs	21	.....	2.0
International Affairs	8	.....	.8
General Counsel	129	.....	10.6
Military Affairs [3]	.....	.....	.....
Federal Coordinator for Meteorology [4]	11	.....	.8
Subtotals [5]	250	13	24.9
Detailees	13	.....	.....
Totals	263	.....	24.9

[1] Includes Offices of Assistant Secretary for Oceans & Atmosphere and Deputy Administrator. Also includes $1.7 million in GSA rent and utilities for all Under Secretary and Associate Offices with exception of Office of General Counsel and OFCM.

[2] Includes resources supporting Program Coordination Office (7 detailees, 1 contractor) and Executive Secretariat (4 FTEs) which are operationally integrated with the office of Deputy Under Secretary. As of May 7, 2001, Office of Deputy Under Secretary was supplemented by one contractor position.

[3] Military Affairs is supported by non-NOAA detailees from Department of Defense.

[4] Resources shown above are as of May 2001. The fiscal year 2002 budget request reflects the Congressionally-approved transfer of $1,059,000 and 12 FTE from the National Weather Service base to Corporate Services' base.

[5] Includes 10 Presidential Appointees and 6 Schedule ''C'' appointments.

Question. Which accounts in NOAA's budget support these offices?

Answer.

[Dollars in millions]

	Amount
Direct Appropriations	17.4
Mgt Fund	5.9
Earnings	1.6
Total	24.9

Question. Is it your intention to continue to support all of these offices, or are there some offices which you intend to terminate?

Answer. Yes, NOAA will continue to support all of these offices.

REAL FACILITY AND EQUIPMENT NEEDS

Question. The Committee is concerned that NOAA continues to defer its real facility, construction, and equipment needs into the outyears, without regard for the costs associated with putting off critical repairs. In the fiscal year 2002 Budget request, NOAA is asking for $1 million in the Construction Account for critical repairs to the Beaufort Laboratory. Will this funding be sufficient to address all of the Lab's critical infrastructure concerns?

Answer. The $1 million for Beaufort Lab repair projects requested in fiscal year 2002 is not sufficient to complete all of the required repair and renovation work. These funds would allow NOAA to address the two highest priority repairs: major electrical repairs and the planning, design and construction of a sewage and water system hookup to the Town of Beaufort system to avoid potentially harmful releases into the environment from the antiquated septic system.

Question. What level of funding is required to solve the Beaufort problem?

Answer. An additional $2 million (total of $3 million) would be required to complete the full suite of identified repairs at the facility. These additional needs include: Replacement of obsolete modular space (mobile homes that house laboratory

and office space); replacement of the fish sampling platform; upgrade of shop electrical equipment; renovation of the radiation building; replace multiple heat pumps and AC units; window replacement; damaged seawall replacement; final electrical system renovations; mechanical renovation in the Main lab; elevator replacement; repair/conversions of old, damaged turtle rearing pens; lighting efficiency upgrades; fire alarm system evaluation; and refurbish the coatings on salt water tanks.

Question. If resources are available this year, could you use them to solve this problem?

Answer. Yes, the required repairs at Beaufort could be completed with additional resources.

Question. Please provide a prioritized list of all of NOAA's needed facilities upgrades.

Answer. See attached list entitled "NOAA Facilities Maintenance, Repair & Safety".

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NOS	NC—Beaufort, NC, Lab	10	.....	Major Electrical Repairs (1,154 comb)	$270,480
NOS	NC—Beaufort, NC, Lab	10	.....	Elect. upgrade—ADP Bldg, Satwater Tower, Dock	.....
NOS	NC—Beaufort, NC, Lab	10	.....	Structural repairs	.....
NOS	NC—Beaufort, NC, Lab	10	.....	Repair bridge to Pivers Island	.....
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	10	.....	Electrical Distrib. System Repair	.....
NMFS	TX—Galveston, TX, Lab	10	.....	Complete rehab of lab—Phase III—Design	100,800
NMFS	TX—Galveston, TX, Lab	10	.....	Complete rehab of the laboratory—phase I	.....
NMFS	TX—Galveston, TX, Lab	10	.....	Complete rehab of lab—Phase II	.....
NMFS	HI—Honolulu, HI, Lab	10	.....	Auto-fire alarm system (all bldgs)	.....
NMFS	AK—Juneau, AK, AFSC Subport	10	.....	Replacement and repair of dock	.....
NMFS	AK—Juneau, AK, AFSC Subport	10	.....	Replace subport floats (funded and in progress)	.....
NMFS	AK—Juneau, AK, Auke Bay Lab	10	.....	Design Spec. to Repair Subport Pier Facing	.....
NMFS	AK—Juneau, AK, Auke Bay Lab	10	.....	Freight Elevator Elim.&Crane Install. (completed 1997)	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	10	.....	Replace light fixtures in basement aquarium	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	10	.....	Further Planning studies for LaJolla Remed. Project	.....
NMFS	AK—Little Port Walter, AK, Lab	10	.....	Install fire suppress. systm kitchen (completed 1997)	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	10	.....	Structural analysis and repair—Main lab	.....
OAR	FL—Miami, FL, AOML	10	.....	Electrical Upgrade of Lab Building	.....
NMFS	CT—Milford, CT, Lab	10	.....	Seawater tank supports	.....
NMFS	CT—Milford, CT, Lab	10	.....	Structural Investigations	.....
OAR	MI—Muskegon, MI, GLERL Lab	10	.....	Erosion repair and control	.....
OAR	MI—Muskegon, MI, GLERL Lab	10	.....	Safety and security repairs—GERL	.....
NMFS	RI—Narragansett, RI, Lab	10	.....	Construct chemical storage building	.....
NMFS	RI—Narragansett, RI, Lab	10	.....	Facility Chiller Replacement	.....
NMFS	FL—Panama City, FL, Lab	10	.....	Replace HVAC—Study mold problem	378,000
NMFS	MS—Pascagoula, MS, Lab	10	.....	Replace old dock bldg	728,000
NMFS	AK—Pribilof Islands, AK, St. Paul Lab	10	.....	St. Paul Catwalk repair	.....
NMFS	NJ—Sandy Hook Lab	10	.....	Travel for Construction Inspection	.....
OFA	WA—Seattle, WA Western Regional Ctr	10	.....	Fence repairs	72,800
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	10	.....	Abate mold and install controls	95,200
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	10	.....	East Building Ventilation system upgrade	896,000
OFA	WA—Seattle, WA, Western Regional Ctr	10	.....	Emergency Repairs Child Care Center (80k–100k)	.....
NMFS	CA—Tiburon, CA, Lab	10	.....	Structural integrity of Tiburon Physiology Bldg	.....
NMFS	MA—Woods Hole, MA, N.E. Science Ctr & Lab	10	.....	New Bulkhead	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Construct chemical storage building	.....

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Install fueling and safety equipment	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Upgrade laboratory electrical system	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Replace sand filters—Aquarium	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Repair basement ceiling—Aquarium	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	New Warehouse @ Otis AFB (land/100k)	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	10	.....	Public Aquarium Electrical Panel Replacement	.....
NMFS	CT—Milford, CT, Lab	9	.....	Construct chemical storage building	.....
OAR	AK—Barrow, AK, GMCC Observatory	9	A	General rehab 8 projects	.....
NWS	AK—Barrow, AK, WSO	9	A	City Water Line Connection—NWS FUNDED	.....
OAR	AK—Barrow, AK,GMCC Observatory	9	A	New garage/Replace storage bldg	.....
NOS	NC—Beaufort, NC, Lab	9	A	Replacement of fish sampling platform	29,400
NOS	NC—Beaufort, NC, Lab	9	A	Construct Sanitary Sewer Collection System	823,200
OAR	CO—Boulder, CO, Table Mountain Observatory	9	A	New Roof Building I–10–C	.....
NOS	SC—Charleston, SC, Coastal Services Center	9	A	CSC Building #2 Fire Alarm	.....
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	9	A	Sanitary Sewer System	.....
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	9	A	Replace deteriorated water mains	.....
OAR	CO—Fritz Peak, CO Observatory	9	A	Pave Loading Dock/Entranceway Steps	.....
OAR	CO—Fritz Peak, CO Observatory	9	A	Install fire detection system	.....
OAR	CO—Fritz Peak, CO Observatory	9	A	Peak Exterior Stairs	.....
OAR	CO—Fritz Peak, CO Observatory	9	A	Replace power receptacles	.....
OAR	CO—Fritz Peak, CO Observatory	9	A	Main Lab: replace switchgear, elec. panls, etc	.....
NMFS	OR—Hammond, OR, Pt. Adams Field Station	9	A	Mezzanie Structural Reinforcement	.....
NMFS	AK—Juneau, AK, Auke Bay Lab	9	A	Chemical Fume Hoods for Safety at Lab (10 hoods)	140,000
NMFS	AK—Juneau, AK, Auke Bay Lab	9	A	ABL foundation leak repair (NMFS completed 1997)	.....
NOS	HI—Kihei, HI Marine Sanctuary	9	A	Upgrade non-conforming electrical wiring	.....
NOS	HI—Kihei, HI, Marine Santuary	9	A	Repair foundation columns of Main Building	.....
NOS	HI—Kihei, HI, Marine Santuary	9	A	Main Building Roof Replacement	.....
NOS	HI—Kihei, HI, Marine Santuary	9	A	Visitors Activity Center Roof Repair	.....
NOS	HI—Kihei, HI, Marine Santuary	9	A	Repair insect damaged beams & joists (Main Bldg.)	.....
NMFS	AK—Kodiak, AK, Gibson Cove	9	A	Rmvl of electrical safety hzrds in main bldg & pier	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	9	A	Concrete stairway Concrete stairway repair	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	9	A	Repair/replace concrete pad under water tower	.....
NMFS	AK—Little Port Walter, AK, Lab	9	A	White House masonry repairs & Weir Cabin Roof Replac	560,000
NMFS	AK—Little Port Walter, AK, Lab	9	A	Panabode found; Weir warehse repairs (CIP funds)	.....
NMFS	AK—Little Port Walter, AK, Lab	9	A	Correct nonconforming hazardous electrical wiring	.....

NMFS	AK—Little Port Walter, AK, Lab	9	A	Replace power generator system (cip funds, almost compl)	
NMFS	AK—Little Port Walter, AK, Lab	9	A	Install communications system (LO done)	
NMFS	AK—Little Port Walter, AK, Lab	9	A	Install Automatic Fire Alarm/All Bldgs. (in progress)	
NMFS	AK—Little Port Walter, AK, Lab	9	A	Weir Hoist-Rail support beam footbridge replacmt	
NMFS	AK—Little Port Walter, AK, Lab	9	A	Replace unsafe fire escapes and structures	
NWS	Pac.Is—Majuro & other Pacific WSOs; Marshall Is, Lihue, AmSamoa, Wake, WSOs	9	A	Relocate hydrogen generators	
OAR	HI—Mauna Loa, HI, GMCC Observatory	9	A	Emergency Electrical Repairs	
NMFS	FL—Miami, FL S.E. Fisheries Science Center	9	A	Ground electrical receptacles—Main Lab (Safety Funded)	
NMFS	FL—Miami, FL S.E. Fisheries Science Center	9	A	Life Safety Modifications—Annex (Safety Funded)	
NMFS	FL—Miami, FL S.E. Fisheries Science Center	9	A	Replace card reader system	
NMFS	CT—Milford, CT, Lab	9	A	Masonary and concrete repairs	89,600
OAR	MI—Muskegon, MI, Fld Sta	9	A	Renovate Bldg. I	717,360
NMFS	RI—Narragansett, RI, Lab	9	A	Replace Trailers (see e071)	
NMFS	RI—Narragansett, RI, Lab	9	A	Fire Detection System for Trailers	
NMFS	OR—Newport, OR, Lab	9	A	Exhaust fumehoods vertically from roof	11,200
NMFS	OR—Newport, OR, Lab	9	A	Improvement of facility fire protection sys. (done by LO)	
NMFS	OR—Newport, OR, Lab	9	A	Fire Safety in Aquaculture Lab	
OMAO	VA—Norfolk, VA, Atlantic Marine Center	9	A	Bulkhead Repairs	
OMAO	VA—Norfolk, VA, Atlantic Marine Center	9	A	Dockside fire sup. sys. (study funded, sys. not needed)	
OMAO	VA—Norfolk, VA, Atlantic Marine Center	9	A	Patch Bulkhead	
OAR	TN—Oak Ridge, TN, AT&D Lab	9	A	Upgrade darkroom exhaust ventilation	
OAR	TN—Oak Ridge, TN, AT&D Lab	9	A	Replace Walker Branch site bldgs	
OAR	TN—Oak Ridge, TN, AT&D Lab	9	A	Replace electrical wiring—main bldg	
OAR	TN—Oak Ridge, TN, AT&D Lab	9	A	Flooring Reinforcements	
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	A	Construct concrete reinforced sampling bldg	
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	A	Replace Stairway/Rehab. Generator Bldg	
NMFS	FL—Panama City, FL, Lab	9	A	Investigate condition of piles	
NMFS	FL—Panama City, FL, Lab	9	A	Replace HVAC system	
NMFS	FL—Panama City, FL, Lab	9	A	Replace Boiler and controls	
OAR	CO—Platteville, CO	9	A	General bldg rehab. (incl. Fencing & ground impr.)	
NMFS	AK—Pribilof Islands, AK, St. Paul Lab	9	A	Sewage System Upgrade	
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	A	Masonry Repairs	106,400
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	A	Ceiling Asbestos Removal	1,624,000
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	A	Asbestos Removal Study	
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	9	A	Demolish Pilot Plant	1,008,000
OFA	MD—Silver Spring Metro Center	9	A	Plaza Tiles	
NWS	Various NWS Sites—60 WSOs	9	A	Hydrogen valve repl:NWS FUNDED, DONE	
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	9	A	Second Means Egress&Handicap Access—Aquarium	
NWS	AmSam—American Samoa, Pago Pago WSO	9	B	Arch. Upgrade for WSO (delete—WSO to be replaced)	336,000

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NOS	CO—Boulder, CO, Table Mountain Observatory	9	B	General Building Rehab—F–6	16,800
OAR	CO—Boulder, CO, Table Mountain Observatory	9	B	Renovate bldg E–12–B	72,800
OAR	CO—Boulder, CO, Table Mountain Observatory	9	B	Renovate bldg I–10–C	168,000
NOS	CO—Boulder, CO, Table Mountain Observatory	9	B	Resurface roof—F6 Lab	.....
NOS	CO—Boulder, CO, Table Mountain Observatory	9	B	Resurface driveway & parking lot	.....
NOS	SC—Charleston, SC, Coastal Services Center	9	B	CSC bulding #2 roof (funded by NOS)	.....
OAR	CO—Erie, CO, Field Sta	9	B	Erie Facilities upgrade	72,800
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	9	B	Roof replacement (NWS Funded)	.....
OAR	CO—Fritz Peak, CO Observatory	9	B	Cottage: repair/upgrade mech, elec. wins., doors, tiles; paint	29,904
OAR	CO—Fritz Peak, CO Observatory	9	B	Renovate ceiling and lighting	77,280
OAR	CO—Fritz Peak, CO Observatory	9	B	Replace Cottage roof	.....
OAR	CO—Fritz Peak, CO Observatory	9	B	Replace HVAC & hot water system	.....
OAR	CO—Fritz Peak, CO Observatory	9	B	Replace lightning protection	.....
OAR	CO—Fritz Peak, CO Observatory	9	B	Main Lab: replace exterior equipment elevator	.....
NMFS	TX—Galveston, TX, Lab	9	B	Variable speed drive pump	60,480
NMFS	TX—Galveston, TX, Lab	9	B	Replace Salt Water Tanks	64,960
NMFS	TX—Galveston, TX, Lab	9	B	Variable air controls for the buildings 213 & 302	67,200
NMFS	OR—Hammond, OR, Pt. Adams Field Station	9	B	Replace termite damaged wood storage building foundation	33,600
NMFS	HI—Honolulu, HI, Lab	9	B	Central Air Conditioning	.....
NMFS	HI—Honolulu, HI, Lab	9	B	Electrical upgrade	.....
NWS	TX—Houston, TX, WSO	9	B	Complete—NWS FUNDED	.....
NMFS	AK—Juneau, AK, Auke Bay Lab	9	B	Genetics lab foundation repair & reinforcement	95,200
NMFS	AK—Juneau, AK, Auke Bay Lab	9	B	Eng. Design for Repl. Water Line Auke Creek Hatchery	448,000
NMFS	AK—Kodiak, AK, Gibson Cove	9	B	Refurbish Sanitary Sewage Treatment Unit	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	9	B	Repair the deterioration of the exterior walkway edges	50,400
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	9	B	Boiler retubing and repair	.....
NMFS	AK—Little Port Walter, AK, Lab	9	B	General rehab—safety systems upgrade	.....
OAR	FL—Miami, FL, AOML	9	B	Replacement of cooling tower	29,344
OAR	FL—Miami, FL, AOML	9	B	Roof Replacement	56,168
OAR	FL—Miami, FL, AOML	9	B	Replacement of Existing York 250 Ton Cent. Liq. Chiller	306,880
NMFS	CT—Milford, CT, Lab	9	B	Seawater Chiller (NMFS funded)	.....
NMFS	RI—Narragansett, RI & Milford, CN Labs	9	B	Replace Service Entrance Switchgear & Generators	240,800
NWS	TN—Nashville, TN, Upper Air Facility	9	B	Replace doors on upper air bldg	.....
OAR	TN—Oak Ridge, TN, AT&D Lab	9	B	New roof for modular office bldg	56,000
OAR	TN—Oak Ridge, TN, AT&D Lab	9	B	Replace roofing—main bldg (funded by DOE)	.....

OAR	TN—Oak Ridge, TN, AT&D Lab	9	B	Repl. Roof Ship./Rec. Bldg. (funded by OAR)	.....
NMFS	CA—Pacific Grove, CA	9	B	Rehab of heating & ventilation system (LO done)	.....
NMFS	CA—Pacific Grove, CA	9	B	Roof Drain Repairs (completed by NMFS)	.....
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	B	Restore solar power sys.; rehab main lab (w/o A&E, etc)	61,600
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	B	Repair roof/water catchmain sys.; rehab main lab	168,000
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	B	Rehabilitate government house (Bldg. 2)	168,000
OAR	AmSam—Pago Pago, AmSamoa, GMCC Observatory	9	B	Rehabilitate Govt. Employee Housing (bldg. 1)	.....
NWS	AK—Palmer, AK, Tsunami Warning Ctr	9	B	Basement water damage repairs (NWS Funded)	.....
NMFS	FL—Panama City, FL, Lab	9	B	Replace Overhead htrs	3,920
NMFS	FL—Panama City, FL, Lab	9	B	Upgrade Electrical system	11,200
NMFS	FL—Panama City, FL, Lab	9	B	Foundation erosion engineering evaluation	22,400
NMFS	FL—Panama City, FL, Lab	9	B	Shoreline Stabilization	22,400
NMFS	FL—Panama City, FL, Lab	9	B	Dock and bulkhead stability study	56,000
NMFS	FL—Panama City, FL, Lab	9	B	Engineering Evaluation	64,960
NMFS	MS—Pascagoula, MS, Lab	9	B	Replace Chapman Warehouse	147,840
NMFS	MS—Pascagoula, MS, Lab	9	B	Replacement of Floor and Wall Coverings	.....
NMFS	MS—Pascagoula, MS, Lab	9	B	HVAC repairs (funded 1997, not complete)	.....
OAR	CO—Platteville, CO	9	B	Remove Asbestos Floor Tile	.....
NMFS	AK—Pribilof Islands, AK, St. Paul Lab	9	B	Rehab of Garco Building—St.Paul	84,000
NWS	AK—Pribilof Islands, AK, St. Paul WSO	9	B	Reroof Composite Building (NWS funded)	.....
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	B	Chiller #3 Replacement (funded by OAR)	.....
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	B	Chiller Plant Upgrade (funded by OAR)	.....
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	9	B	Chiller Plant Upgrade Design	.....
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	9	B	Fire alarm system—all buildings	.....
OFA	WA—Seattle, WA, Western Regional Ctr	9	B	Roof replacement bldg 3, incl. canopy	504,000
OFA	WA—Seattle, WA, Western Regional Ctr	9	B	Roof replacement bldg 4	657,664
NWS	OR—Sexton Summit, OR, WSO	9	B	Repair/replace water line to Weather Svc Station	67,200
NWS	LA—Slidell, LA, NEXRAD	9	B	Flood control dyke around NEXRAD (Funded by LO)	.....
NWS	AK—Barrow, AK, WSO	8	A	Upgrade heating systems (NWS Funded)	.....
NWS	Eastern Region—10 WFOs	8	A	Install 10 fire detection and alarm systems	224,000
OAR	CO—Erie, CO, BAO	8	A	OAR Tower safety repairs & replacement	39,200
OAR	CO—Erie, CO, Observatory	8	A	BAO Trailer & Storage Space Upgrades	39,200
OAR	CO—Fritz Peak, CO Observatory	8	A	Install inter. stairs, firedr/wall, janit. closet (Desgn funded)	63,168
OAR	CO—Fritz Peak, CO Observatory	8	A	New Roof and Lighting—Main Lab Bldg	95,200
OAR	CO—Fritz Peak, CO Observatory	8	A	Cottage Site Grading/Drainage	.....
OAR	CO—Fritz Peak, CO Observatory	8	A	Site grading, paving, install parking area	.....
OAR	CO—Fritz Peak, CO Observatory	8	A	Flammable Liquid & Gas cylinder storage area	.....
OAR	CO—Fritz Peak, CO Observatory	8	A	Bldg. & Site security system upg. DOC sy funded	.....
NMFS	TX—Galveston, TX, Lab	8	A	Bldg demolition—East Lagoon Bldg	91,840
NMFS	TX—Galveston, TX, Lab	8	A	Construct Boat Barn	247,520

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NWS	KS—Goodland, KS, WFO	8	A	Installation of LED Exit Lights	6,944
NWS	KS—Goodland, KS, WFO	8	A	Condensing Units Disconnect Switches	10,080
NWS	KS—Goodland, KS, WFO	8	A	Installation of Smoke Detectors (NWS Funded)	.....
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	A	Marina Shop Life Safety Upgrade	39,078
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	A	Fire/intrus. detect. & fire suppress. systm (Complete Secyfnds)	.....
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	A	Remed. unprotect wiring/Marina Bldg (NMFS complete 1997)	.....
NMFS	AK—Juneau, AK, AFSC Subport	8	A	Crane for Subport Pier	168,000
NMFS	AK—Juneau, AK, Auke Bay Lab	8	A	Replace gangway to the ABL Float with a new covered gangway	85,120
NMFS	AK—Juneau, AK, Auke Bay Lab	8	A	Relocation of Sewage Pumping Tank & Pier Decking	112,000
NMFS	AK—Juneau, AK, Auke Bay Lab	8	A	Arrest earth movement in parking lot	224,000
NMFS	AK—Kodiak, AK, Gibson Cove	8	A	Replace heating boiler (completed by LO)	.....
NMFS	AK—Kodiak, AK, Gibson Cove	8	A	Install fire detection & security alarm systems	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	8	A	Replace space heaters w/HVAC sys. in Library	50,400
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	8	A	Walkway Coating Repair (810 combined)	448,000
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	8	A	Upgrade exhausthoods & exhaust fans (NMFS completed 1997)	.....
NMFS	AK—Little Port Walter, AK, Lab	8	A	Implement Safety Measues, Railings, Eyewash, etc	.....
NMFS	WA—Manchester, WA Field Station	8	A	Correct electrical safety issues	11,200
NMFS	WA—Manchester, WA Field Station	8	A	Provide retaining wall outside bldg. 13	28,000
NMFS	WA—Manchester, WA Field Station	8	A	Electrical Upgrade and exterior lighting	42,000
NMFS	WA—Manchester, WA Field Station	8	A	Provide Adequate Lateral Bracing	65,296
NMFS	WA—Manchester, WA Field Station	8	A	Install fire hydrant	78,400
NMFS	WA—Manchester, WA Field Station	8	A	Dock/pile repair	103,712
NMFS	WA—Manchester, WA Field Station	8	A	Replace fume hoods (NMFS funded)	.....
NWS	AK—McGrath, AK, WSO	8	A	Water treatment system (NWS Funded)	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	A	Entrance modification	.....
OAR	FL—Miami, FL, AOML	8	A	Miscellaneous Electrical Repairs	26,096
OAR	FL—Miami, FL, AOML	8	A	Structural Study of Concrete Decks	59,472
NMFS	OR—Newport, OR, Lab	8	A	Install mag. door rel.& close gapsfire doors (LO done)	.....
OMAO	VA—Norfolk, VA, Atlantic Marine Center	8	A	Eng. Study on Bulkhead Replacement	106,400
OAR	TN—Oak Ridge, TN, AT&D Lab	8	A	Structural investigation	.....
NWS	CA—Oakland, CA, Upper Air Facility	8	A	Facility repairs	84,000
NMFS	CA—Pacific Grove, CA	8	A	Upgrade Emergency lighting system	6,608
NMFS	FL—Panama City, FL Lab	8	A	Install carbon monoxide detector	2,240
NMFS	FL—Panama City, FL, Lab	8	A	Fire alarm & lighting	49,616
OFA	WA—Seattle, WA Western Regional Ctr	8	A	Master fire panel upgrade for WRC campus	112,000

OFA	WA—Seattle, WA Western Regional Ctr	8	A	Hangar door lead based paint abatement & repair, bldg 32 & 33	288,288
OFA	WA—Seattle, WA Western Regional Ctr	8	A	Structural renovation of pedestrian skybridges, Buildings 1, 3 & 4	338,240
OFA	WA—Seattle, WA Western Regional Ctr	8	A	Install bird netting as an emergency remedy to potential hlth. problem	370,048
OFA	WA—Seattle, WA Western Regional Ctr	8	A	Fire alarm panel replacement for buildings 3, 4 and 8	448,000
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	8	A	Install chemical lab fume hoods	.....
OFA	WA—Seattle, WA, Western Regional Ctr	8	A	Repair skybridges	338,240
OFA	WA—Seattle, WA, Western Regional Ctr	8	A	Auto. Fire sprinkler System, Bldg. 8 ofc	118,720
NMFS	CA—Tiburon, CA, Lab	8	A	Replace Lab Hoods (NMFS Funding)	.....
NWS	AK—Valdez, AK, WSO	8	A	Safety hazard correction	.....
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	8	A	Hurricane shutters	198,240
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	8	A	Screen Walls	333,760
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	8	A	Strengthen Ext. Walls	991,200
NOS	NC—Beaufort, NC, Lab	8	B	Repl. of pkg.heat pump & AC unit—Larva Rearing Lab	6,468
NOS	NC—Beaufort, NC, Lab	8	B	Repl. thru-wall heat pump in Ecology Wing Main Lab	31,634
NOS	NC—Beaufort, NC, Lab	8	B	Upgrade shop electrical equipment	58,240
NOS	NC—Beaufort, NC, Lab	8	B	Renovation—Radiation Bldg. (Survey Prop. #6)	109,015
NWS	NY—Buffalo, NY WFO	8	B	Replace upper air inflation building (UAIB)	196,000
NWS	Eleven Sites	8	B	UPS Replacements	616,000
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	8	B	Resurface asphalt roadways to PTWC	212,800
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	8	B	Structural repair of residences damaged by ants	.....
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	8	B	Replace concrete window sills	.....
NESDIS	AK—Fairbanks, AK, Gilmore Creek CDA Sta	8	B	Paint 4 Exterior Buildings	28,000
NESDIS	AK—Fairbanks, AK, Gilmore Creek CDA Sta	8	B	Road Pavement Repair (funded by LO)	.....
OAR	CO—Fritz Peak, CO Observatory	8	B	Upgrade electrical service	.....
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	B	Replace heating boiler in station main bldg	28,000
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	B	Repair Termite-damaged Foundation	58,430
NMFS	OR—Hammond, OR, Pt. Adams Field Station	8	B	Combine & upgrade elect. svcs on site (NMFS completed)	.....
NMFS	HI—Honolulu, HI, Lab	8	B	Main Building Roof	32,032
NMFS	AK—Juneau, AK, Auke Bay Lab	8	B	Structural repair of General Purpose Bldg. roof	134,400
NMFS	AK—Juneau, AK, Auke Bay Lab	8	B	Hydronics System Repair to Main Bldg	.....
NMFS	AK—Juneau, AK, Auke Bay Lab	8	B	Repair foundation, ABL Main Bldg (NMFS funded)	.....
NOS	HI—Kihei, HI, Marine Santuary	8	B	Repair old Garage and construct Shed endwall (fund LO)	.....
NMFS	AK—Kodiak, AK, Gibson Cove	8	B	Repair timber/retain. walls/timber pier repair	89,600
NMFS	AK—Kodiak, AK, Gibson Cove	8	B	Replace bldg exterior closure (LO funded)	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	8	B	Replace Seawater chiller sys., incl. cool tower & Pumps	168,000
NMFS	WA—Manchester, WA Field Station	8	B	Marine Net-pen System Repair	196,000
NWS	AK—McGrath, AK, WSO	8	B	Correct heating problems (6 residences)	247,520
NWS	AK—McGrath, AK, WSO	8	B	Replace electrical panel, etc. (NWS Funded)	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	B	Packaged Heat Pump Replacements	10,416
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	B	Replace Fresh-Air Unit	22,400

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	B	Repair 2nd Flr interior walls of the east wing	33,600
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	B	Paint exterior of the buildings	89,600
NMFS	FL—Miami, FL S.E. Fisheries Science Center	8	B	Replace condensing unit—Main Lab	.....
OAR	FL—Miami, FL, AOML	8	B	Caulking AOML windows	11,200
OAR	FL—Miami, FL, AOML	8	B	Replace condensing unit—Lab Building	.....
NWS	TX—Midland/Odessa, TX, Upper Air Facility	8	B	Replace doors on upper air bldg (funded by NWS)	.....
NMFS	CT—Milford, CT, Lab	8	B	Building 1 HVAC Upgrades	280,000
NMFS	CT—Milford, CT, Lab	8	B	Heat Exchangers (NMFS funded)	.....
NMFS	RI—Narragansett, RI, Lab	8	B	Re-pave Entrance Road and Parking Lot	61,600
NMFS	RI—Narragansett, RI, Lab	8	B	Replace HVAC System—Lab Building	168,000
NMFS	RI—Narragansett, RI, Lab	8	B	Replace Facility Office/Storage Bldg	196,000
NMFS	RI—Narragansett, RI, Lab	8	B	Replace Greenhouse (NMFS Funded)	.....
OMAO	VA—Norfolk, VA, Atlantic Marine Center	8	B	Replace Windows	89,600
OMAO	VA—Norfolk, VA, Atlantic Marine Center	8	B	Replace HVAC Systems Building 1	476,000
OMAO	VA—Norfolk, VA, Atlantic Marine Center	8	B	Roof Replacement (funded by ONCO)	.....
OAR	TN—Oak Ridge, TN, AT&D Lab	8	B	New shipping/receiving and storage bldg	196,000
OAR	TN—Oak Ridge, TN, AT&D Lab	8	B	HVAC system replacement in main bldg (pd DOE)	.....
NMFS	CA—Pacific Grove, CA	8	B	Electrical repairs	10,080
NMFS	CA—Pacific Grove, CA	8	B	Exterior concrete repairs and modification	33,600
NMFS	CA—Pacific Grove, CA	8	B	Reroofing	39,200
NMFS	FL—Panama City, FL, Lab	8	B	Replace windows	4,704
NMFS	FL—Panama City, FL, Lab	8	B	Replace Entrance doors	8,400
NMFS	FL—Panama City, FL, Lab	8	B	Upgrade Lighting	11,200
NMFS	FL—Panama City, FL, Lab	8	B	Replace pilings	11,984
NMFS	FL—Panama City, FL, Lab	8	B	Paint Buildings	28,448
NMFS	FL—Panama City, FL, Lab	8	B	Replace roof system—main bldg	.....
NMFS	MS—Pascagoula, MS, Lab	8	B	Boiler and pump replacement	33,891
NWS	PA—Pittsburgh, PA WFO	8	B	Overhaul PBZ UAIB	72,800
OAR	CO—Platteville, CO	8	B	Electrical upgrade & repair	.....
NMFS	AK—Pribilof Islands, AK, St. Paul Lab	8	B	Rehab staff quarters—St. Paul	308,000
NWS	AK—Pribilof Islands, AK, St. Paul WSO	8	B	Electric & furnace renovation (NWS Funded)	.....
NWS	UT—Salt Lake Cty, UT, Tremonton Radar Site	8	B	Improve Access Road: NWS FUNDED	.....
OFA	WA—Seattle, WA Western Regional Ctr	8	B	Asphalt repairs and seal coating of parking lots at BLD 1, 3, 4 and road surfaces area	149,539
OFA	WA—Seattle, WA Western Regional Ctr	8	B	Replace (7 HVAC roof top units, Building 3)	802,576
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	8	B	Electrical upgrade—West bldg	63,028

NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	8	B	Ceiling grid system and tiles East building	168,000
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	8	B	Replace boiler in east building	224,000
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	8	B	Roof replace—East, West bldgs, & library (NMFS funded)	.....
OFA	WA—Seattle, WA, Western Regional Ctr	8	B	Asphalt repairs & Seal coating parking lots 1, 3, 4 & surfaces	149,539
OFA	WA—Seattle, WA, Western Regional Ctr	8	B	Replace HVAC controls & operators	235,200
OFA	WA—Seattle, WA, Western Regional Ctr	8	B	Roof replacement Bldg. 1 incl. canopy	598,080
NWS	FL—Tampa, FL, Ruskin Upper Air Facility	8	B	Replace doors on upper air bldg (funded by NWS)	.....
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	8	B	Water plant upgrade (funded by NESDIS)	.....
NWS	FL—West Palm Beach, FL, WSO	8	B	Roof replacement: NWS FUNDED	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	8	B	Repl. windows—Aquar. & Maint. Bldgs. (NMFS part fnd)	61,600
NOS	SC—Charleston, SC, Coastal Services Center	8	C	Inst. new HVAC in bldg #2 (funded by NOS—contr. prob.)	319,200
NMFS	WA—Manchester, WA Field Station	8	C	Electrical upgrade of armored power cable to facility	112,000
NMFS	WA—Manchester, WA Field Station	8	C	Upgrade seawater delivery system	112,000
OAR	HI—Mauna Loa, HI, GMCC Observatory	8	C	General construction	.....
OMAO	VA—Norfolk, VA, Atlantic Marine Center	8	C	Building 2 office space	184,800
OAR	OK—Norman, OK Nat'n. Severe Storms Lab	8	C	Repair of Norman radar dome facility (OAR funded)	.....
NMFS	FL—Panama City, FL, Lab	8	C	Replace/repair underground dosmestic water lines	5,600
NMFS	FL—Panama City, FL, Lab	8	C	Repairs for walk in freezer	11,200
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	8	C	Seal Pool Upgrades—Aquarium	448,000
NWS	UT—Salt Lake City, UT, Upper Air Facility	8	D	Paint exterior and seal exterior walls (funded by NWS)	.....
NWS	AmSam—American Samoa, Pago Pago WSO	7	B	Residence repairs: NWS FUNDED	.....
NWS	AK—Barrow, other AK WSOs: Nome, St. Paul, Annettels, McGrath, AK	7	B	Energy conservation renovations	56,000
NOS	NC—Beaufort, NC, Lab	7	B	Window Replacement—Admin. Wing	23,520
NOS	NC—Beaufort, NC, Lab	7	B	Window Replacement Project—Fisheries Wing	119,952
NOS	NC—Beaufort, NC, Lab	7	B	Electrical ystem renovation—Main Lab	151,312
NOS	NC—Beaufort, NC, Lab	7	B	Mechanical Renovation, Main Lab (Ecology wing)	175,392
NOS	NC—Beaufort, NC, Lab	7	B	Seawall Replacement—North Side of Pivers Island	486,864
NOS	NC—Beaufort, NC, Lab	7	B	Misc. building upgrade—Main Lab (completed)	.....
OAR	CO—Fritz Peak, CO Observatory	7	B	Main Laboratory Rehab	69,776
NMFS	TX—Galveston, TX, Lab	7	B	Roof Repairs—Bldgs. #302 & #306	.....
NMFS	AK—Juneau, AK, AFSC Subport	7	B	Subport Drainage and Paving	280,000
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	7	B	Freight Elevator Upgrade (incl. A/E des. & Tvl)	78,400
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	7	B	Office heaters, a–201, library (NMFS funded)	.....
NMFS	WA—Manchester, WA Field Station	7	B	Dicap ramp and exterior repairs	39,200
OAR	HI—Mauna Loa, HI, GMCC Observatory	7	B	Repair Access Road	33,600
NWS	AK—Nome, AK, WSO	7	B	Heating system Renovation (Removal asbestos)	19,600
OMAO	VA—Norfolk, VA, Atlantic Marine Center	7	B	Replace bulkhead—Parcel 1	4,032,000
OAR	TN—Oak Ridge, TN, AT&D Lab	7	B	Main Bldg. Floor Finish Replacement	72,800
OAR	TN—Oak Ridge, TN, AT&D Lab	7	B	Replace siding—main bldg (funded by DOE)	.....
NMFS	CA—Pacific Grove, CA	7	B	Refurbish heating and ventilation system	22,400

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NMFS	FL—Panama City, FL, Lab	7	B	Replace roof system—other than main bldg	62,272
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	7	B	Replace heating system—West bldg	324,800
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	7	B	Replace Generators 1 & 2	201,600
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	7	B	Roof Repair—funded by NESDIS	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	7	B	Replace Ceiling—Aquarium	106,400
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	7	B	Replace Floor Coverings (tile)—Aquarium	106,400
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	7	B	Replace Fac. Elec. Svc. Entrance—Maint. Bldg	224,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	7	B	Install new mech. system—Aquarium	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	7	B	Replace emergency generator	.....
NWS	AK—Yakutat, AK, WSO	7	B	Water/electrical system renovation	56,000
NOS	NC—Beaufort, NC, Lab	7	C	Engineering study for bridge repair	.....
NOS	SC—Charleston, SC, Coastal Services Center	7	C	Correct sinkhole problem	28,000
NESDIS	AK—Fairbanks, AK, Gilmore Creek CDA Sta	7	C	Construct Vehicle Maintenance Facility	2,576,000
OAR	MI—Muskegon, MI, Fld Sta	7	C	Build New Harbor (CG funding harbor dredging)	403,200
NMFS	RI—Narragansett, RI, Lab	7	C	New storage building: NMFS FUNDED	.....
NMFS	MS—Pascagoula, MS, Lab	7	D	Replace roof, upgrade roof insulation	194,040
NMFS	MS—Pascagoula, MS, Lab	7	D	Old Wing Window Renovation Replmt. (funded by LO)	.....
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	6	.....	Construct water recycling facil: CIP FUNDED	.....
NOS	NC—Beaufort, NC, Lab	6	A	Elevator Replacement	130,536
OAR	CO—Boulder, CO, Table Mountain Observatory	6	A	Replace Bldg. T–2	112,000
NMFS	OR—Hammond, OR, Pt. Adams Field Station	6	A	Lighting improvement	17,920
NMFS	HI—Honolulu, HI, Lab	6	A	Replace the outside stor. structure—NMFS complete 1997	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	6	A	Replace Generator	89,600
NMFS	OR—Newport, OR, Lab	6	A	Electrical Repairs	6,720
NMFS	OR—Newport, OR, Lab	6	A	Replace existing roof on 2 bldgs (incl. A/E Design & Tvl)	756,000
NMFS	FL—Panama City, FL, Lab	6	A	Handicap Access./Safety/Exit Sign	46,144
OAR	CO—Platteville, CO	6	A	Rehab Warehouse Office Space	106,400
NWS	AK—Pribilof Islands, AK, St. Paul WSO	6	A	Emergency communication system	95,200
OFA	WA—Seattle, WA Western Regional Ctr	6	A	Improve HVAC duct distrubution to American Society for heating, refrigeration, a/c engine	623,056
NOS	SC—Charleston, SC, Coastal Services Center	6	B	Exterior Survey	50,400
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	6	B	Replace some heaters throughout facility	84,000
OAR	FL—Miami, FL, AOML	6	B	Roof replacement—Lab Bldg (OAR Funded)	.....
NMFS	CT—Milford, CT, Lab	6	B	Replace Roofing—Several buildings	95,200
NMFS	CT—Milford, CT, Lab	6	B	Repave Parking Lot	95,200
NMFS	CT—Milford, CT, Lab	6	B	Building 2 HVAC Upgrade	140,000

NMFS	CT—Milford, CT, Lab	6	B	New Storage/Office Building	252,000
NMFS	OR—Newport, OR, Lab	6	B	Renovate seawater sand filter system; repair temp rms	36,736
OAR	TN—Oak Ridge, TN, AT&D Lab	6	B	Upgrade HVAC system in wind tunnel bldg (funded DOE)	.....
NOS	MD—Oxford, MD, Lab	6	B	Construct new storage bldg (funded QP4AOX)	.....
NMFS	FL—Panama City, FL, Lab	6	B	Resurface parking lot and roadway	118,832
NMFS	AK—Pribilof Islands, AK, St. Paul Lab	6	B	Rehab of Laboratory Bldg—St. Paul	196,000
OAR	NJ—Princeton, NJ, ERL Geophysys. Dynam. Lab	6	B	Exterior Repairs (Masonry & Link Roofs)	50,400
OFA	WA—Seattle, WA, Western Regional Ctr	6	B	Replace 7 HVAC rooftop units, bldg 4	802,592
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	6	B	Painting and Doors (NESDIS funded)	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	B	Replace Siding—Aquarium Building	95,200
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	B	Install new HVAC System—Laboratory	448,000
NWS	AK—Barrow, AK, WSO	6	C	Water treatment system (funded by NWS)	.....
NOS	NC—Beaufort, NC, Lab	6	C	Repair/Conversion of old turtle rearing pens	448,000
NWS	AL—Birmingham, AL, WFO	6	C	Underfloor water sensor	5,600
NMFS	OR—Hammond, OR, Pt. Adams Field Station	6	C	Restore emergency generator system	33,600
NMFS	OR—Hammond, OR, Pt. Adams Field Station	6	C	Wet Lab Repair & Maintenance	231,840
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	6	C	Install Riprap Revetment	761,600
NMFS	WA—Manchester, WA Field Station	6	C	Develop Freshwater recycle system	180,320
NMFS	RI—Narragansett, RI, Lab	6	C	Replace sea water system	392,000
NWS	LA—New Orleans, LA, WFO	6	C	Walter Filtration System	22,400
NMFS	OR—Newport, OR Lab	6	C	Replace Seawater Heating system	16,800
OMAO	VA—Norfolk, VA, Atlantic Marine Center	6	C	Security Upgrade (ASC/EASC Secy. Proj. funded)	.....
NMFS	FL—Panama City, FL, Lab	6	C	Install temperature alarms, walk-in freezers	2,240
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	C	Install security system—Laboratory (ASC secy. funded)	.....
NOS	NC—Beaufort, NC, Lab	6	D	Fire Alarm System Evaluation	11,760
NOS	NC—Beaufort, NC, Lab	6	D	Underground Outflow collector system	15,758
NOS	NC—Beaufort, NC, Lab	6	D	Lighting Efficiency Upgrade	73,472
NWS	KS—Goodland, KS, WFO	6	D	Lighting Efficiency Upgrade	17,024
NMFS	AK—Juneau, AK, Auke Bay Lab	6	D	Modify fire sprinkler system in fish house and pier	212,800
NOS	HI—Kihei, HI, Marine Sanctuary	6	D	Repair asph.concrete drivewy & parking lot (done by LO)	.....
NMFS	WA—Manchester, WA Field Station	6	D	Upgrade building and site for ADA accessibility	95,200
NMFS	WA—Manchester, WA Field Station	6	D	Install High Security Locks (funded by Security)	.....
NMFS	WA—Manchester, WA Field Station	6	D	Intrusion detection system (completed w/security fnds)	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	6	D	Replace doors and frames	67,200
NMFS	FL—Miami, FL S.E. Fisheries Science Center	6	D	Restroom Renovation	75,040
OAR	FL—Miami, FL, AOML	6	D	Fire Alarm System Evaluation	17,920
OAR	FL—Miami, FL, AOML	6	D	Lighting Efficiency Upgrade	93,632
OAR	MI—Muskegon, MI, GLERL Lab	6	D	Finish new boat maintenance bldg	39,368
OMAO	VA—Norfolk, VA, Atlantic Marine Center	6	D	Security Upgrades	56,000
OMAO	VA—Norfolk, VA, Atlantic Marine Center	6	D	Handicapped Accessibility	280,000

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
OAR	TN—Oak Ridge, TN, A&TD Lab	6	D	Modify restrooms for handicapped accessibility (DOE fnd)	
NMFS	FL—Panama City, FL, Lab	6	D	Replace Entrance Gate	10,080
NMFS	FL—Panama City, FL, Lab	6	D	Replace irrigation pumps	12,085
NMFS	FL—Panama City, FL, Lab	6	D	Replace doors	16,800
NMFS	FL—Panama City, FL, Lab	6	D	New Emergency Generator	84,000
OFA	WA—Seattle, WA Western Regional Ctr	6	D	Facility Condition survey	280,000
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	6	D	Handicapped Access	106,400
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	D	Handicapped Access. Renovations—Cottage	61,600
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	D	Handicapped Access. Renovations—Lab Bldg	252,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	6	D	Renovate public restrooms—Aquarium (NMFS funded)	
NOS	NC—Beaufort, NC, Lab	5	B	Sea wall repair	200,704
NMFS	FL—Miami, FL S.E. Fisheries Science Center	5	B	Install new roof—Annex—NMFS FUNDED	
NWS	AK—Pribilof Islands, AK, St. Paul WSO	5	B	Residence renovation	16,800
OAR	NJ—Princeton, NJ, ERL Geophys. Dynam. Lab	5	B	Repair & resurface parking lot—OAR funded	
OFA	WA—Seattle, WA, Western Regional Ctr	5	B	Carpet Replacement Bldg. 1	320,656
NWS	VA—Sterling, VA, R & D Ctr	5	B	Resurface Roadway (Funded by LO)	
NMFS	CA—Tiburon, CA, Lab	5	B	Replace roof 2nd floor admin bldg (NMFS funded)	
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	5	B	Replace roof—ops bldg	212,800
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	B	Replace sea water supply system—NMFS funded	
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	B	Repave parking lots at Aquarium/Cottages	
NWS	GA—Atlanta, GA, WSO	5	C	Parking lot extension (NWS funded)	
NOS	NC—Beaufort, NC, Lab	5	C	Refurbish Coatings on Salt Water Tanks	5,264
NWS	AL—Birmingham, AL, WFO	5	C	Construct WFO Storage Building	56,000
NWS	TX—Brownsville, TX, WFO	5	C	Construct WFO storage bldgs	56,000
NWS	FL—Jacksonville, FL, WFO	5	C	Construct WFO Storage Building	56,000
NMFS	AK—Kodiak, AK, Gibson Cove	5	C	UFAS (ADA) upgrade	67,200
NWS	FL—Melbourne, FL, WSO	5	C	Replace ceiling and lights (funded by NWS)	
NWS	AL—Mobile, Alabama, WFO	5	C	Construct WFO Storage Building	56,000
NWS	TN—Morristown, TN, WFO Site	5	C	Construct WFO Storage Building	56,000
NMFS	OR—Newport, OR Lab	5	C	Upgrade Emergency distribution	44,800
NMFS	OR—Newport, OR, Lab	5	C	Balance air pressure in Aquaculture Lab	112,000
OAR	TN—Oak Ridge, TN, AT&D Lab	5	C	Wind Tunnel Bldg. Addition	420,000
NMFS	FL—Panama City, FL, Lab	5	C	Replace boat house doors	3,920
OFA	WA—Seattle, WA Western Regional Ctr	5	C	Utility vault replacement	112,000
NWS	VA—Sterling, VA, R & D Ctr	5	C	Storage Building (NWS funded)	

NESDIS	VA—Wallops Island, VA, Data Acquis. Station	5	C	Resesl Antenna Found	72,800
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	5	C	Construct equip. storage bldg (funded by NESDIS)	.....
NOS	NC—Beaufort, NC, Lab	5	D	Split type heat pump sys. replacement—radiation bldg	4,234
NOS	NC—Beaufort, NC, Lab	5	D	Exterior Rehab.—Nine Buildings	74,144
NOS	SC—Charleston, SC, Coastal Services Center	5	D	CSC Building #2 Former Boilder Room	28,000
NWS	TX—Corpus Christi, TX, WFO	5	D	Exterior lighting (funded by Security)	.....
OAR	CO—Fritz Peak, CO Observatory	5	D	Handicap Accessibility Modifications	268,576
NMFS	TX—Galveston, TX, Lab	5	D	Construct Freezer Building (NWS Funded)	.....
NWS	KS—Goodland, KS, WFO	5	D	New water softner/water filtering system	3,472
NWS	KS—Goodland, KS, WFO	5	D	Install New Temperature Control System (NWS Funded)	.....
NMFS	HI—Honolulu, HI, Lab	5	D	Air Conditioning Upgrade	22,400
NMFS	HI—Honolulu, HI, Lab	5	D	Complete restroom upgrade—NMFS FUNDED	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	5	D	Repl. inadeq. windows, doors & louvers	336,000
NMFS	WA—Manchester, WA Field Station	5	D	Fire Support system	67,200
NMFS	WA—Manchester, WA Field Station	5	D	Foundation corrections	282,912
NMFS	WA—Manchester, WA Field Station	5	D	Site Paving (NWS Funded)	.....
NMFS	FL—Miami, FL S.E. Fisheries Science Center	5	D	Rebuild Parking lot	42,560
NMFS	FL—Miami, FL S.E. Fisheries Science Center	5	D	Replace windows	134,400
NMFS	FL—Miami, FL S.E. Fisheries Science Center	5	D	Remodel Bathrooms	168,000
OAR	FL—Miami, FL, AOML	5	D	Replace Exterior Doors and Frames	6,944
OAR	FL—Miami, FL, AOML	5	D	General Repairs to Exterior of Storage Bldg	11,021
OAR	FL—Miami, FL, AOML	5	D	Solar Film Replacement	24,304
NMFS	OR—Newport, OR Lab	5	D	Install handling unit smoke detectors	7,280
NMFS	OR—Newport, OR Lab	5	D	Powerwash roofs	33,600
NMFS	OR—Newport, OR Lab	5	D	Install Environmental Controls System	84,000
OMAO	VA—Norfolk, VA, Atlantic Marine Center	5	D	HVAC Upgrades	56,000
OMAO	VA—Norfolk, VA, Atlantic Marine Center	5	D	Handicapped elevator access (delete—part of E1271)	.....
OAR	TN—Oak Ridge, TN, AT&D Lab	5	D	Paving and Landscaping	50,400
NMFS	CA—Pacific Grove, CA	5	D	Access control system	11,200
NMFS	CA—Pacific Grove, CA	5	D	Retrofit light fixtures	13,440
NMFS	CA—Pacific Grove, CA	5	D	UFAS compliance	168,000
NMFS	CA—Pacific Grove, CA	5	D	Fence maintenance repair (Funded by Security)	.....
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	5	D	Complete Asphalt Paving Repairs (NMFS completed)	.....
OFA	WA—Seattle, WA, Western Regional Ctr	5	D	lighting upgrade, bldg. 4	195,888
NWS	Southern Region, NWS multiple locations	5	D	Refurbish radar domes and towers (NWS funded)	.....
NWS	Southern Region, NWS multiple locations	5	D	Rehab upper air bldgs & radomes (funded by NWS)	.....
NESDIS	VA—Wallops Island, VA, Data Acquis. Station	5	D	Upgrade Water & Sewer	392,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Renovate Restrooms—Lab	72,800
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Pier & Bulkhead Water Service	78,400
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Replace existing elevator—Lab	123,200

NOAA FACILITIES MAINTENANCE, REPAIR & SAFETY—Continued

LO	State/Installation Name	Priority		Project Description	Remaining Funds Req'd
		Rank	Cat		
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Replace Elevator—Maintenance Bldg	123,200
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Install sprinkler system—laboratory	168,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Install sprinkler system—Aquarium	336,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Install new entrance—Laboratory	.....
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	5	D	Repl handcppd ramp at main entry to Lab Bldg	.....
NWS	NM—Albuquerque, NM, WFO	4	C	Parking lot Extension	16,800
NWS	AL—Birmingham, AL, WFO	4	C	Parking Lot Extension	16,800
NWS	TX—Brownsville, TX, WFO	4	C	Parking lot Extension	16,800
NWS	TX—Corpus Christi, TX, WFO	4	C	Water line to UAIB	3,360
NWS	TX—Corpus Christi, TX, WFO	4	C	Parking Lot Extension	16,800
NMFS	OR—Hammond, OR, Pt. Adams Field Station	4	C	Enclose lean-to & add sliding doors	56,000
NWS	FL—Jacksonville WFO	4	C	Parking lot Extension	16,800
NOS	HI—Kihei, HI, Marine Santuary	4	C	General upgrade of Visitor Center	67,200
NOS	HI—Kihei, HI, Marine Santuary	4	C	General upgrade of Main Building (part. compl. by LO)	115,360
NWS	TN—Knoxville, TN, WFO	4	C	Parking lot Extension	16,800
NWS	LA—Lake Charles, LA, WFO	4	C	Parking Lot Extension	16,800
NWS	AR—Little Rock, AR, WFO	4	C	Parking lot Extension	16,800
NMFS	FL—Miami, FL S.E. Fisheries Science Center	4	C	Interior painting	50,400
NWS	TX—Midland/Odessa, TX, WFO	4	C	Parking Lot Extension	16,800
NWS	AL—Mobile, AL, WFO	4	C	Parking Lot Extension	16,800
NMFS	WA—Mukilteo, WA, Field Station	4	C	Sea Water System	46,816
OAR	MI—Muskegon, MI, GLERL Vessel Ops Facility	4	C	New boat maintenance bldg (OAR funded)	.....
NMFS	FL—Panama City, FL, Lab	4	C	Seawater system	231,840
OFA	WA—Seattle, WA Western Regional Ctr	4	C	Smoking shelters & signs	44,800
OFA	WA—Seattle, WA Western Regional Ctr	4	C	Halon fire suppression system replacement	104,944
NWS	FL—Tampa, FL, Ruskin WSO	4	C	Parking lot repair: NWS FUNDED	.....
NOS	SC—Charleston, SC, Coastal Services Center	4	D	Security Fence Installation	61,600
NOS	SC—Charleston, SC, Coastal Services Center	4	D	Demolition of 2 towers & assoc. small buildings	72,800
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	4	D	Replace existing water sprinkler system	185,920
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	4	D	Clear & Grub for Security Access (NWS funded)	.....
NWS	HI—Ewa Beach, HI, Tsunami Warning Ctr	4	D	PTWC Solar Hot Water & outdoor Lighting DOE fund	.....
NWS	TX—Ft. Worth, TX, WFO	4	D	OPS Room Lighting	5,600
NWS	TX—Ft. Worth, TX, WFO	4	D	Loading Dock	11,200
NMFS	OR—Hammond, OR, Pt. Adams Field Station	4	D	Oil cedar shake roofs	5,600
NMFS	HI—Honolulu, HI, Lab	4	D	Painting and relighting-NMFS FUNDED	.....

NMFS	AK—Juneau, AK, Auke Bay Lab	4	D	Replace sec. gates at ABL & Subport (NMFS complet 1997)	.....
NMFS	CA—La Jolla, CA, S.W. Fisheries Science Ctr	4	D	Painting and relighting (NMFS Funded)	.....
NMFS	WA—Manchester, WA Field Station	4	D	Upgrade Bldg. lab counters, sinks, shelves (NMFS funded)	.....
OAR	FL—Miami, FL, AOML	4	D	Seal Coating of Access Drives & Parking Lots	10,192
NOS	MD—Oxford, MD, Lab	4	D	Replace pump house windows & doors (QP4AOX)	.....
NMFS	FL—Panama City, FL, Lab	4	D	Install Security Screens	5,320
NMFS	MS—Pascagoula, MS, Lab	4	D	Cork removal	42,336
NWS	TX—San Antonio, TX, WFO	4	D	Misc. interior repairs	8,400
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	4	D	Install New HVAC System—Cottage	84,000
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	4	D	Upgrade Interior Finishes—Lab Bldg	235,200
NMFS	AK—Kodiak, AK, Gibson Cove	3	C	Complete bldg interior (LO funded)	.....
NOS	SC—Charleston, SC, Coastal Services Center	3	D	Seismic Survey	72,800
NMFS	OR—Hammond, OR, Pt. Adams Field Station	3	D	Paint main bldg	44,800
NMFS	OR—Newport, OR, Lab	3	D	Replace fluorescent lights w/energy efficient fixtures	44,800
NMFS	OR—Newport, OR, Lab	3	D	Replace fluorescent lights w/energy efficinet fixtures	56,000
NMFS	WA—Seattle, WA, NW Fisheries Science Ctr, Montlake	3	D	Exterior Painting—All Bldgs	151,200
NMFS	MA—Woods Hole, MA, NE Fisheries Science Center	3	D	Construct new park lots	.....
NOS	NC—Beaufort, NC, Lab	2	D	Infrared Scan and Reliability Testing	2,464
NOS	SC—Charleston, SC, Coastal Services Center	2	D	Resurfacing exterior grounds	95,200
NMFS	FL—Panama City, FL, Lab	2	D	Repair Fence	13,888
NMFS	MS—Pascagoula, MS, Lab	2	D	Underground sprinkling system	19,404
NMFS	MS—Pascagoula, MS, Lab	2	D	Refurbishing of Existing Warehouses	42,336
NMFS	MS—Pascagoula, MS, Lab	2	D	Laboratory Cabinets	48,451
OFA	WA—Seattle, WA Western Regional Ctr	2	D	Art works restoration	280,000
NMFS	OR—Hammond, OR, Pt. Adams Field Station	1	D	Cedar shingle roof coating (NMFS completed 1996)	.....

OCEAN EXPLORATION AND EDUCATION PROGRAMS

Question. In recent years, NOAA has expanded its role into exploratory oceans research and education. This expanded role is evident in NOAA's Ocean Exploration, Sustainable Seas, and JASON Programs. What is your goal in expanding NOAA's mission into these areas?

Answer. NOAA's expanded role in ocean exploration is actually overdue. It can be traced back to the 1970 report of the Stratton Commission which recommended that NOAA develop U.S. Leadership in Ocean Exploration. In October 2000, the report of the President's Panel on Ocean Exploration, "Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration", recommended (page 33) that a single lead agency be designated as, ". . . in charge and accountable for the Program and its budget." NOAA has had over 30 years of experience in managing the conservation, sustainable use, and commercial aspects of our oceans. Recognizing our stewardship role regarding the oceans, the Secretary of Commerce offered NOAA to the President as lead agency for the new national effort in ocean exploration. Congress also recognized NOAA's role by appropriating $4 million in NOAA in fiscal year 2001 to begin the program.

The chief goal of the Ocean Exploration Program (OE) is to increase our body of knowledge by collecting scientific data on areas of the ocean, particularly the U.S. Exclusive Economic Zone (EEZ), where no or inadequate data exist today to serve NOAA and other policy and decision-makers in managing ocean resources. We will engage in the search and systematic investigation of the oceans for the purpose of discovery, and will record the findings for future research. We also intend to educate America's school children and the general public on ocean science and related issues. The purpose of the Program is to gain fuller knowledge of the fundamental aspects of ocean phenomena and of observable facts without specific applications toward processes or products in mind. Thus, it differs somewhat from NOAA's traditional applied research role which is intended to solve specific management concerns.

Ocean exploration efforts such as Sustainable Seas Expeditions (SSE) and JASON do not represent an expansion of NOAA's mission. Instead, they represent mechanisms for integrating much of NOAA's exploration and research activities in a more cohesive manner. Exploration linked to: (1) learning more about areas we know nothing or very little about; (2) addressing scientific hypotheses related to the resources we are mandated to manage and protect; and (3) educating the public whose behavior can affect these resources provides a solid foundation for existing NOAA programs. The information derived from these efforts is inextricably linked to how NOAA does business.

Given the regional nature of ocean exploration efforts such as SSE, these endeavors also provide the opportunity for existing programs to collaborate on shared problems. This is especially true in relation to marine protected areas whose boundaries often do not reflect the true nature of dynamic oceanic processes. Exploration provides the impetus for looking beyond these boundaries and striving to understand how these processes influence the resources the areas were established to protect. In the long term, this approach provides much needed information for identifying, implementing, and monitoring more meaningful management strategies.

The mission of The JASON Foundation for Education is to excite and engage students in science and technology, and to motivate and provide professional development for their teachers through the use of advanced interactive telecommunications. JASON expeditions, supported by extensive professional development for teachers and award-winning curricula, feature live, interactive broadcasts from distinctive sites on our planet through advanced technologies in robotics, fiber optics, television production, computer science, mechanical and electrical engineering, and satellite communications. Far behind the exploration of space and the investment of educational programs based on space exploration, NOAA is facing a deficit of programs and resources to meet the basics in educating our nation's youth on the importance of oceans and coastal areas. The JASON Project helps NOAA meet the challenge of educating the public about the importance of marine resources, particularly those protected by the National Marine Sanctuaries.

Question. Why is NOAA the best agency for this field of research? Do you have any concerns that a shift toward this kind of research will come at a cost for your mission-critical programs?

Answer. Ocean exploration is a part of NOAA's mission and the President's budget request reflects a balance that will serve all NOAA missions. In fact, rather than detract from existing programs, Ocean Exploration, Sustainable Seas and JASON complement and benefit other programs by improving the quantity and quality of information available, providing for additional education and outreach, and by in-

creasing the effectiveness of NOAA at-sea missions by engaging in multidisciplinary voyages. These efforts actually provide a means to strengthen NOAA's other programs by providing basic information that is critical for making decisions related to targeting additional research and managing resources. Up to now, NOAA has not had a mechanism like SSE for integrating traditional scientific research with manned and unmanned submersible operations with a focus on improving our programs. Nor has NOAA had an effective mechanism, such as the Ocean Exploration program, to search and systematically investigate the oceans for the purpose of discovery, and record the findings for future research and application. Ocean exploration provides the agency with a means to both gather essential basic information about the oceans to provide information critical for selecting new areas requiring the attention of our programs and evaluate the effectiveness of existing programs and management measures.

Question. In fiscal year 2002, you are asking for $18.5 million in funding for these programs. How do you intend to spend this money?

Answer. In fiscal year 2002, the $14 million Ocean Exploration money will be spent as follows: $1 million (7 percent) for eight (8) full-time-equivalents and related operating expenses to manage the program; $1.4 million (10 percent) for education and outreach to stimulate interest in ocean sciences among the youth of America, and better inform all Americans about the oceans and their importance to life on Earth; $11.6 million (83 percent) on Science, which includes 6 major and several minor multidisciplinary Voyages of Discovery to observe and record the biological, chemical, geological, and archaeological characteristics of the ocean areas being studied. Major voyages will include expeditions to the Gulf of Maine, South Atlantic Bight, Gulf of Mexico, Baja to the Bearing Sea, the Northwest Hawaiian Islands, and one of the Polar Regions.

In terms of SSE, fiscal year 2002 represents the last year of the original five-year project. The funds invested in SSE will build on the ecosystem approach established this year in conjunction with the Islands in the Stream expedition. The fiscal year 2002 request for $2 million for "Sanctuaries and SSE Data Collection" includes about $900,000 to support SSE. Specifically, the money will be invested in ensuring that the proper mix of resources are available (ships, submersibles, sampling equipment, personnel) to collect qualitative (visual) and quantitative (environmental data, bathymetric information) data in existing marine protected areas and other critical habitats along the west coast of North America from Baja California to the Bering Sea, Alaska areas that are environmentally important, and that are under increasing pressure from human activities. The data collected will be targeted at supporting existing management efforts, as well as continuing to educate the public that uses and influences these areas. The remaining portion of the $2 million request, about $1.1 million will be used to support non-SSE habitat and cultural resource characterization and science missions in the National Marine Sanctuary System.

In fiscal year 2002, JASON ($2.5 million) will focus on one or more of NOAA's National Marine Sanctuaries. Using these "living laboratories", JASON will focus the minds of America's youth on the marine sanctuaries and broaden the knowledge and understanding of their resources and importance. NOAA's National Marine Sanctuary System is working with JASON and the Institute for Exploration on a pilot education effort. The goal of this joint effort is the creation of a pilot educational effort using these new technologies like telepresence, distance learning and virtual experience learning techniques with interactive capabilities. The initial program will be linking, in real time, Monterey Bay National Marine Sanctuary in Monterey, California and the Mystic Aquarium in Mystic, Connecticut. This joint effort will include the creation and testing of new underwater video equipment; the usage of new and emerging transmission technologies including satellite, broadband lines and web based programs; new "immersion" or virtual and interactive learning technologies; the creation of new marine science-based curriculum; and the evaluation of the video technologies, transmission techniques and educational accomplishments. The JASON Project funding is a pass-through grant.

Question. What do you expect to learn from this research? How do these programs benefit the American Public? How do they benefit NOAA?

Answer. The chief product and benefit of the Ocean Exploration program will be knowledge. The value of collecting and having this knowledge available is comparable to the value of education itself—which is not quantifiable. The result will be a better informed science community, and better information for policy and decision-making. With 95 percent of the underwater world unseen and unknown to man, what remains to be explored may hold clues to the origins of life on Earth, cures for diseases, answers to how to achieve sustainable use of ocean resources, links to our maritime history, or information to protect endangered species. The potential re-

turn on investment is immense, but exploration and the collection of knowledge should be considered a success regardless of what is ultimately discovered.

The SSE program will also visit areas that have never been seen before and gather new information about our ocean resources, primarily in the National Marine Sanctuaries. The information on habitat, fish, marine mammals, cultural resources, and other resources will provide a foundation for stimulating ideas, generating questions, and influencing future efforts to understand more about these resources. These areas may provide the Nation with new resources that we currently have no knowledge of, or that require a level of protection and management from adverse influences that we know little about. The effort will also provide the managers of existing marine protected areas with additional information critical to their programs.

OE and SSE also benefit both NOAA and the nation by providing for a broad program of exploration of ocean resources across many scientific, cultural, and technological disciplines, and among many participants. These two projects provide the Government—NOAA—with a means to build an in-house capability for (a) directly engaging in undersea research using our own resources; and (b) helping to direct the efforts of other undersea research efforts conducted by private institutions to help address mandated needs. The programs promote discovery-based science, collaboration, education and outreach.

The JASON Project helps NOAA meet the challenge of educating the public about the importance of marine sanctuaries and resources they protect. The JASON Project offers students and teachers in grades 4 through 9 a comprehensive, multimedia approach to enhance teaching and learning in science, technology, math, geography, and associated disciplines. JASON excites and engages students in science and technology, and motivates and provides professional development for teachers. This education of our Nation's children is a clear benefit to the American public and is an important part of NOAA's mission.

The SSE project and the collaboration with the National Geographic and other public and private institutions has proven to be a catalyst for new education and outreach partnerships and activities. The National Marine Sanctuary Program, as well as other NOAA programs that support SSE, have been the focus of unprecedented coverage from local and national media. Numerous products, including over 300 print articles and a variety of long-term workshops on topics such as marine resources, teacher education, marine geographic information systems, and others that use the information collected, are just some of the results.

The information gained to date from SSE has been applied directly to current management issues in the Sanctuaries, i.e., the management plan revision for the Channel Islands, California site and the Tortugas 2000 Initiative for the Florida Keys. Similar direct benefits are expected from OE expeditions. OE and SSE are collaborating on the "Islands in the Stream" expedition set for May through September 2001 in the Gulf of Mexico and the U.S. east coast. This expedition targets specific areas along the Gulf Stream as it flows from Belize and along the Eastern U.S. Coast. The expedition includes characterization of Marine Protected Areas in Mexico, the anoxic zone beneath the Texas-Louisiana border, and the area of high productivity along Florida's Big Bend. It, and other expeditions will provide valuable opportunity for academic collaboration and heightened public awareness of coastal processes through exposure by National Geographic media. With knowledge as the chief product and benefit of OE, expeditions aim to characterize ecological systems in near-totality, looking at biota, geology, food web interactions, history, and benthos of a region, enabling potential better management of fisheries populations.

Forty years ago, space and ocean exploration were both plunging into unknown realms at about the same pace. While we have made significant progress in space, our knowledge of earth's oceans has lagged. The Russians and Japanese have vehicles that provide them with access to deeper waters than we do. The Irish have mapped a larger portion of their EEZ than we have. America leads the world in Space Exploration and related technologies, and these ocean exploration programs are the first steps toward regaining our leadership in Ocean Exploration.

BUDGET DEVELOPMENT PROCESS

Question. How does NOAA develop its budget initiatives?

Answer. NOAA has engendered the Government Performance and Results Act goal of linking planning and budget. NOAA implements a planning and budget process that forms a framework by which policy, program, and budget decisions are made. NOAA's annual request is arrayed as an operations-based budget, with performance indicators directly tied to the proposed application of resources. NOAA's Strategic Plan describes the goals and objectives that have been established to fulfill

its visions. The strategy consists of seven interrelated goals that are grouped within the two missions of Environmental Assessment and Predication; and Environmental Stewardship. NOAA's budget initiatives are generated through the Strategic Team process by the seven teams; vetted through a series of reviews and meetings, with final decisions made by NOAA senior management.

Question. How much staff time is spent developing NOAA's budget request?

Answer. The budget development process is an agency-wide collaborative effort, and is difficult to track total staff hours spent on the development of the budget. The Office of Finance and Administration, and NOAA's five Line Offices' management and budget staffs, focus a significant part of their workforce on budget development. The NOAA Office of Budget, alone, dedicates approximately 37,440 staff hours a year to the formulation process. Almost without exception, every office and program within NOAA devotes some time to budget development, and the amount of time depends upon the size, complexity and sensitivity of their individual program or project. This includes staff at regional and field offices who provide valuable expertise about program implementation and budgetary needs. The formulation process begins in February and continues through June with the Department budget submission; followed by the September OMB submission; and the submission of the President's Budget the following fiscal year.

Question. In your view, is the time spent developing NOAA's budget request the best use of your staff's time?

Answer. Yes. NOAA is a diverse agency responsible for providing timely and precise weather and climate forecasts that protect lives and property, managing fisheries and building healthy coastlines, making our nation more competitive through safe navigation and examining changes in the ocean. NOAA's budget formulation warrants the energy and focus. Since budget management (formulation, presentation, and execution) is one of the primary management functions of any organization, and considering the size and complexity of the NOAA budget, it is indeed the best use of staff time.

Question. Do you intend to change this process in the future?

Answer. The NOAA Office of Finance and Administration, NOAA Office of Budget, in 2001 conducted an assessment of the budget formulation process. One aspect of the process that was problematic was the fact that the budget formulation process was divided between the Office of Budget and the Office of Policy and Strategic Planning. A large part of the budget development was conducted outside the financial management chain of command. This created unwanted complexity in the budget as well as difficulties in matching what was developed to the actual budget structure. The outcome was that the formulation process was obfuscated by the separation of budget formulation and performance planning into separate offices. At the request of the Acting Under Secretary, the Director of the Office of Budget implemented a change in fiscal year 2001 to address this challenge. The budget development process was consolidated under one office—the Office of Finance and Administration (which houses the NOAA Office of Budget). This consolidation more firmly links budget formulation and development of program performance creating a unified framework within which policy, program and budget decisions are made.

RESEARCH VESSEL ALLOCATION

Question. Why did you decide to consolidate the Days At Sea responsibility under the Office of Marine and Aviation Operations (OMAO)?

Answer. Consolidation of funds from the data acquisition line items to OMAO Marine Services will allow NOAA greater flexibility to meet high priority ship needs. Previously, the National Ocean Service, National Marine Fisheries Service, and Office of Oceanic and Atmospheric Research contained separate data acquisition line items that funded Line Office days-at-sea. With consolidation of NOAA's marine services, funding is now centrally located. An advantage of this consolidation is that it will allow NOAA increased integration of high priority programs of the agency as a whole, without being solely focused on Line Office missions. OMAO can ensure that the agency's vessel needs are best achieved with the funding provided for NOAA days-at-sea.

Question. Which programs that have ship times do not fall under OMAO?

Answer. The following are fiscal year 2002 ship days supporting NOAA programs which are not funded by the Marine Services account. The Office of Oceanic and Atmospheric Research, National Undersea Research Program (NURP) will use approximately 150 ship days of university and commercial charter ships to support underwater vehicle operations. The National Marine Fisheries Service will use approximately 2,265 ship days of university and commercial charter ships to provide fisheries stock assessment and habitat research data. Additional, yet to be deter-

mined ship support, will be required for NOAA's Ocean Exploration Program. National Ocean Service plans to contract for $20.5 million of charting survey data, most of which is collected from ships and small craft and will use approximately 50 days of university and commercial charter ships to collect data for the National Marine Sanctuary Program.

Question. Why is this the case?

Answer. The funds include items other than ship time, (e.g., scientist salaries and overtime, contract support), so the funds are requested under the programs to avoid multiple internal NOAA fund transfers. The Marine Services request includes funds for NOAA ships and over 900 ship days of charter time, but these funds for charter time are used only to procure ship time.

Question. Where does that ship time appear in NOAA's budget?

Answer. The funds for shiptime that do not fall under OMAO are included in the line items that fund the programs.

Question. How will this new allocation process change the individual Line Office allocations?

Answer. The new budget structure will not affect the NOAA ship allocation process nor will it affect the ship time allocated to NOAA line offices. The NOAA ship allocation council will continue to allocate ship time to the line offices independent of the budget structure.

Question. How will this process change the allocations of Days At Sea on NOAA-owned vessels versus NOAA-chartered vessels?

Answer. There will be no change in the process for allocating ships days on NOAA ships and chartered ships. The NOAA ship allocation council will continue to allocate marine services funds for charter and university ship time as well as NOAA ship time. The line offices will continue to use funds separate from the marine services account for some outsourced ship time and associated support items.

Question. How will you ensure that the critical science programs within NOAA still get their fair allocation of Days At Sea on their customary research vessels?

Answer. The restructuring of the data acquisition accounts to the marine services account will not impact the NOAA ship allocation process. NOAA's science programs will still be represented as before on the NOAA ship allocation council and will have the same opportunity as before to acquire their needed ship time.

Question. What proportion of the OMAO budget line will support the Sustainable Seas Expedition?

Answer. Approximately 1 percent of the Marine Services budget is planned in fiscal year 2002 for ship support of the Sustainable Seas Expedition.

Question. Who makes the final decision on the allocation of Days At Sea?

Answer. The NOAA allocation process is a collaborative process which involves a working group with representatives of all the NOAA ship users, and an allocation council, composed of the NOAA Line Office Assistant Administrators and chaired by the NOAA Deputy Under Secretary. In those rare instances where conflicts cannot be resolved by the working group or by the council, the Deputy Under Secretary makes the final NOAA decision.

Question. Can you provide me with the Days At Sea allocations for the last five years, including fiscal year 2001?

Answer. The NOAA Fleet and Outsourced days-at-sea for fiscal years 1997 through 2000 and the allocation plan for 2001 are shown below. The outsourced days include days funded through acquisition of data accounts and through other line office accounts, except for fiscal years 1997 and 1998. The files that included outsourced days funded through other line office accounts for 1997 and 1998 were temporarily misplaced. Also, the NOS outsourced days exclude the days for contracts for hydrographic data because the contracts are for square nautical miles of hydrography rather than days-at-sea.

Fiscal Year/Line Office	NOAA Fleet	Outsourced	Total
1997:			
NOS	835	.....	835
NMFS	1,709	96	1,805
OAR	447	221	668
Totals	2,991	317	3,308
1998:			
NOS	793	97	890

Fiscal Year/Line Office	NOAA Fleet	Outsourced	Total
NMFS	1,565	103	1,668
OAR	548	236	784
Totals	2,906	436	3,342
1999:			
NOS	735	220	955
NMFS	1,596	935	2,531
OAR	604	428	1,032
Totals	2,935	1,583	4,518
2000:			
NOS	782	305	1,087
NMFS	1,621	1,223	2,844
OAR	530	397	927
Totals	2,933	1,925	4,858
2001:			
NOS	833	396	1,229
NMFS	1,947	1,650	3,597
OAR	559	470	1,029
Totals	3,339	2,516	5,855

Question. Could you provide a plan for the fiscal year 2002 allocation?

Answer. The NOAA Fleet and outsourced allocation for fiscal year 2002 is shown below. The outsourced days include days funded through Marine Services and through line office accounts. The outsourced days shown for OAR exclude days to be outsourced for the Ocean Exploration Program because details are still in process. The NOS outsourced days-at-sea exclude $20.5 million in contracts for hydrographic data because the contracts are for square nautical miles of hydrography rather than days at sea.

Line Office	NOAA Fleet	Outsourced	Total
NOS	925	485	1,410
NMFS	1,985	2,265	4,250
OAR	460	670	1,130
Totals	3,370	3,420	6,790

NAUTICAL CHARTS

Question. I understand that the critical survey backlog encompasses less than 1.5 percent of the entire U.S. Exclusive Economic Zone (EEZ), and only 9 percent of the navigationally significant areas. If funded at the requested level, how long would it take to chart both the critical areas and the navigationally significant areas?

Answer. At fiscal year 2001 funding levels, it will take just under 20 years to eliminate the 43,000 square nautical mile critical survey backlog. Currently NOAA contracts out over $20 million in survey funds. The remaining navigationally significant areas (507,000 square nautical miles) would take 312 years to survey at current rates.

Responsible for over 3.4 million square nautical miles of the U.S. Exclusive Economic Zone (EEZ), NOAA has prioritized the EEZ to maximize the efficiency of resources available for hydrographic survey data. NOAA has identified approximately 550,000 square nautical miles as navigationally significant, which are further prioritized by threat of hazard to surface navigation. The critical survey backlog addresses the 43,000 square nautical miles, or approximately 1.3 percent of NOAA's charting responsibility, considered the most important to safe navigation. The highest priority are those critical waterways that have high commercial traffic volumes

(cargo, fishing vessels, cruise ships, ferries, etc.), extensive petroleum or hazardous material transport, compelling requests from users, and/or transiting vessels with low under-keel clearance over the seafloor. Over half of the critical backlog area exists in Alaskan waters. This hydrographic survey information supports the production of Electronic Navigational Charts, and other navigation products and services, and also benefits other users such as ports authorities and coastal zone managers.

Question. At this rate, how does NOAA intend to tackle the survey backlog?

Answer. As stated above, NOAA has made the 43,000 square nautical miles considered most critical to safe navigation its top survey priority. Between in-house capability and funds allocated to contract surveys, NOAA has reduced the survey backlog to about 32,500 square nautical miles through the end of fiscal year 2000. NOAA will continue its mix of methods, contracting, in-house surveying, and possible future leased vessels, in efforts to eliminate the survey backlog. Funds were appropriated in fiscal year 2001 and proposed in the fiscal year 2002 President's Request to bring the deactivated NOAA Survey Vessel FAIRWEATHER back online in fiscal year 2003. Reactivation of the FAIRWEATHER would contribute significantly to reducing the backlog in Alaskan waters.

Question. What will it take to collect hydrographic survey data and create electronic navigational charts (ENCs) to connect the navigationally significant waterways between the charted ports and harbors?

Answer. Some areas between the ports charted on ENCs are also considered part of the critical survey backlog, particularly along the East and Gulf Coasts. Other areas between ports are considered navigationally significant, but are not part of the critical backlog. Ideally, surveys of these waters would be acquired before building the ENCs, but resource limitations have required a survey prioritization schedule. It would take significant additional resources, including contracts, charters, and in-house capabilities, to survey these areas in a reasonable time frame. The cost would depend heavily upon the time table established to complete the effort.

NOAA supports a phased approach to building ENCs of U.S. waterways. With the proposed fiscal year 2002 funding increase, NOAA will build 65 new ENCs in 2002 to complete the suite of 200 ENCs that cover the Nation's 40 major ports and harbors. The ENCs will then be continually maintained with new data and updates as part of NOAA's nautical charting database. The prioritization of the top 40 major U.S. ports and harbors for commercial navigation was determined by analyzing data ranking U.S. ports by cargo tonnage and major ports of call visited by the cruise line industry.

NOAA's proposed next step would be to provide minimum contiguous ENC coverage for U.S. waters, in order to connect coastal waters between U.S. ports for safe navigation. A total of 660 ENCs would be required to achieve this goal. This next step is not included in the President's Request for fiscal year 2002. The estimate for full ENC coverage for U.S. waters, including specialized charts NOAA now produces in paper format, is 1,000 ENCs. NOAA would like to produce a seamless database of ENCs, which would significantly aid the U.S. Coast Guard and U.S. Navy, professional mariners, maritime pilots, commercial fishers, recreational boaters, and many other chart database users, such as coastal managers and emergency planners.

Question. Are there new technologies, such as ships or charting equipment, that could speed up the process?

Answer. Additional hydrographic survey vessel capacity would certainly speed up the process, whether NOAA platforms, funds for additional contracting, or leased vessels operating at NOAA's direction. Similarly, expansion of NOAA's Navigation Response Teams would increase the rate of production. These teams provide on-the-ground field verification and generate small-scale, fast-response hydrographic surveys and item investigations for major port and harbor ENCs. Currently, there are two such teams operating in the United States.

Installing the newest survey technology on all NOAA hydrographic survey ships and Navigation Response Team launches would also increase production capability and data accuracy and contribute to reducing the survey backlog. Multi-beam sonar systems collect a wide full-bottom swath or fanshaped coverage of the seafloor for highly accurate depths, and high-speed/high resolution side scan sonar, which searches and detects objects on the seafloor, is very useful for identifying wrecks and obstructions, particularly in the shallower waters of the East Coast. Installing multi-beam sonars on NOAA's other research vessels would serve dual purposes, e.g., collecting fisheries habitat data and hydrographic survey data at the same time, since many of the areas that are important to fisheries research are also navigationally significant areas.

Question. What areas do you intend to survey in fiscal year 2003?

Answer. In fiscal year 2003, NOAA plans to survey or contract for surveys in: the Mid-Atlantic Corridor (Delaware-New Jersey), Eastern Long Island Sound (New York-Connecticut); Southern Chesapeake Bay (Virginia-Maryland); Block Island Sound (Rhode Island-New York); the Gulf of Mexico shipping corridors; Sitka Sound and adjacent waterways (Alaska); SW Alaska Peninsula; Eastern Prince William Sound; SE Alaska and Chatham Strait; and the Bering Strait.

Question. Why did you decide to survey those areas first?

Answer. These areas are all part of the identified critical survey backlog, and NOAA has scheduled them based on survey priority, stakeholder need and requests for survey from various government agencies and commercial groups.

Question. What uncharted regions stand to be the most at risk from potential maritime disasters?

Answer. The uncharted regions most at risk for potential maritime disasters are Alaskan waters where glaciers are receding at a rapid pace. Cruise ships "pushing the envelope" for the view enter these uncharted waters. A number have run aground in recent years, each one a potential catastrophe.

Aside from Alaska, there are many other areas portrayed on nautical charts that have never been adequately surveyed. Nearly half of the depths on current charts were acquired before 1940 using less efficient, less accurate, and less complete leadline techniques. While charted, areas such as Houston/Galveston, Puget Sound and Prince William Sound, which see high commercial traffic, particularly in hazardous material cargo including oil and liquified natural gas, are also at tremendous risk for maritime disasters.

RESTORATION PROGRAMS

Question. NOAA spends a significant amount of resources on habitat restoration. Much of this work is outstanding and has led to the restoration of thousands of acres of habitat. However, it has come to my attention that the restoration programs are scattered throughout NOAA in at least six different offices. What NOAA offices are currently involved in some aspect of habitat restoration, and how much are they spending on restoration work?

Answer. NOAA is involved in the restoration of coastal habitats in a variety of ways and through a number of offices and programs. The diversity of programs reflects the wide variety of mandates under which NOAA operates and the complex series of issues captured under the umbrella term of "restoration." NOAA has successfully implemented mechanisms for cooperative management of restoration programs encouraging cooperation and efficient use of resources. Restoration activities of the three NOAA line offices (National Marine Fisheries Service (NMFS), National Ocean Service (NOS), and Office of Oceanic and Atmospheric Research (OAR) are described below.

National Marine Fisheries Service (NMFS)

The major restoration activities of the National Marine Fisheries Service include the programs of the NOAA Restoration Center and as well as activities by the *Exxon Valdez* Oil Spill Restoration Center, Pacific Salmon Recovery Fund, South Central Florida Restoration Initiative, and the NMFS Coral Reef Initiative.

Damage Assessment and Restoration Program (DARP)

The Damage Assessment and Restoration Program (DARP) is a cross-cutting program composed of the NOAA Restoration Center, the Damage Assessment Center (housed in the NOAA National Ocean Service) and the Natural Resources section of the NOAA Office of General Counsel. (The Damage Assessment Center is mentioned again below in the NOS section.) The program receives its mandate from statutory authorities including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Oil Pollution Act, the Clean Water Act, and the Marine Protection, Research, and Sanctuaries Act (MPRSA). These statutes authorize NOAA, through the DARP, to assess and claim damages for injuries to trust resources in marine and coastal settings resulting from discharges of oil or hazardous substances or other human-induced environmental disturbances.

Restoration Center

The NOAA Restoration Center uses recovered damages to restore, replace, or acquire the equivalent of injured resources and has initiated restoration efforts at over one hundred sites around the country with over $313 million to date. NMFS uses approximately $1.6 million of NOAA Restoration Center appropriated operational funds to support planning for and implementing restorations resulting from settlements with responsible parties.

The NOAA Restoration Center also engages in regional restoration programs, including the Coastal Wetlands Planning, Protection, and Restoration Act (also known as the Breaux Act) to develop and implement habitat projects to restore salt marshes in Louisiana lost to erosion, subsidence and hydrological alterations. Today, the NOAA Restoration Center is actively involved in implementing twenty-two large- and small-scale wetland restoration projects benefiting more than 80,000 acres with approximately $92 million in project funding. While most of these activities result from reimbursable Breaux Act funds made available through the Army Corps of Engineers, the NOAA Restoration Center annually uses between $50,000 and $100,000 of its operational funds to support the Breaux Act. In support of CWPPRA, the NMFS Galveston Laboratory invests a portion of its appropriated funds for scientific studies of the ecology, fishery productivity and restoration of Louisiana's coastal wetlands.

The NOAA Restoration Center also actively supports special area regional restoration activities throughout the country. Examples include the Bronx River, NY (funded in fiscal year 2001 with $8.5 million), and Pinellas County, FL (funded in fiscal year 2001 with $1.5 million). Another regional program is Kentucky PRIDE (Personal Responsibility In a Desirable Environment) which undertakes regional and local riparian habitat restoration to benefit significant aquatic resources. To date over $55 million in Federal grants have been awarded to address aquatic resources issues in the south eastern part of Kentucky.

The NOAA Restoration Center coordinates with the Damage Assessment Center and the Office of General Council to assist in the development of a proposed Regional Restoration Planning Program for Louisiana on a state-wide basis that addresses natural resource injuries caused by oil spills. The planning program is intended to increase efficiency and effectiveness in addressing restoration needs for small injury cases.

The NOAA Restoration Center is home to the Community-Based Restoration Program (CRP) which involves communities in the restoration of local marine and estuarine habitat. Partnerships with Federal agencies, states, local governments, non-governmental and non-profit organizations, businesses, industry and schools have helped over 170 local efforts restore coastal habitat. The NOAA Restoration Center and its partners provide funding and expertise to numerous coastal community projects that promote coastal stewardship and develop a conservation ethic. Through partnerships, the CRP has been able to leverage $4–$10 for every Federal appropriated dollar. These partnership are implemented at the national, regional and local levels. In the fiscal year 2000, a partnership with Restore America's Estuaries and the NOAA Restoration Center initiated the development of a National Coastal Restoration Strategy to further improve the effectiveness of this and other regional restoration programs. The CRP began with an investment of $250,000 in 1996, increased to $2 million in fiscal year 2000 and is being implemented with an appropriation of $8 million in fiscal year 2001.

Exxon Valdez Oil Spill Restoration Center

The NMFS *Exxon Valdez* Oil Spill Restoration Center, housed in the Alaska Fisheries Science Center assists the *Exxon Valdez* Oil Spill NRDA Trustee Council in implementing projects valued at over $700 million to restore significant coastal habitat damaged from the oil spill. The funds are principally targeted at land acquisition to preserve high priority coastal resources and the understanding the long-term natural resource injuries and the associated recovery processes.

Pacific Salmon Recovery Fund

NMFS staff from the Alaska, Northwest, and Southwest Regional Offices are assisting the States of Alaska, Washington, Oregon, and California and regional tribes in implementing restoration under the Pacific Coastal Salmon Recovery Fund (PCSRF). Congress appropriated $58 million in fiscal year 2000 to be used for salmon habitat restoration, salmon stock enhancement, salmon research, and implementing the Pacific Salmon Treaty Agreement and related agreements. The $58 million PCSRF appropriation was distributed as follows: $50 million to the states ($18 million for Washington, $14 million for Alaska, $9 million for Oregon, and $9 million for California), $6 million to Pacific coastal tribes, and $2 million for Columbia River tribes. Fiscal year 2001 funding in support of the PCSRF is $74 million.

South Central Florida Restoration Initiative

The NMFS Southeast Fisheries Science Center supports the $500 million South Central Florida Restoration Initiative (Everglades restoration). This Federal and State partnership is aimed at restoring significant national fish and wildlife resources and the Everglades ecosystem that supports them. NMFS support includes restoration methods research and monitoring ($401,000), technical program over-

sight ($450,000), and education/outreach of ecological restoration principles and practices ($130,000).

Support for Restoration: Funding, Technical Assistance, and Information

The NOAA Chesapeake Bay Office (NCBO) supports the Chesapeake Bay Program, a unique regional partnership aimed at restoring the Chesapeake Bay ecosystem. A major component of Bay restoration includes reestablishing once abundant oyster populations which have value as harvestable resources as well as habitat for living marine resources and water quality enhancement. Towards this end, the NCBO administers the Oyster Recovery Program, a cooperative effort with Bay waterman to replant over-fished beds and address critical issues related to successful oyster restoration, including the importance of oyster sanctuaries, benefits of protecting historically productive areas and the importance of reef design. The Oyster Recovery Program received $850,000 for fiscal year 2001.

The five NMFS Science Centers each conduct local programs of basic research on the structure and function of coastal ecosystems. This includes evaluating restoration techniques on such diverse habitats as salt marshes, seagrasses, coral reefs, and riverine systems important to salmon. In fiscal year 2001, NMFS will spend about $2–$3 million in restoration related research.

National Ocean Service (NOS)

Response and Restoration Programs

NOAA's Office of Response and Restoration (OR&R) protects and restores coastal ecosystems threatened or harmed by releases of oil and hazardous substances and other environmental disturbances, such as ship groundings. OR&R uses sound science and effective partnerships with other NOAA components, other government agencies, industries, and the public to accomplish its legislative mandates under CERCLA, the Oil Pollution Act (OPA), the Clean Water Act, and the National Marine Sanctuaries Act. OR&R houses the Damage Assessment Center (DAC), part of NOAA's Damage Assessment and Restoration Program (DARP) that is described in the NMFS portion of this answer. OR&R:

Responds to over 100 oil and hazardous materials spills and other incidents in the coastal and marine waters each year. OR&R uses the best available scientific information and technologies to improve response strategies at these incidents, setting the stage for effective and efficient habitat restoration.

—Restores coastal natural resources by improving recovery and expediting restoration at coastal waste sites (intervening successfully at more than 500 sites since 1984).

—Restores coastal natural resources directly by providing funding for restoration projects through settlements of liability under CERCLA and OPA (both as part of the Damage Assessment and Restoration Program and through comprehensive government settlements with EPA).

—Implements restoration, develops restoration plans, monitors projects to ensure success, and promotes regional restoration planning to maximize benefits of individual projects on a broader scale (for example, as a leader in funding and developing the first ever National Strategy for Coastal Habitat Restoration).

—Supports coastal managers to build state and local capabilities to protect and restore our coasts through technology transfer and training and by providing tools and information that can be directly applied to improve restoration planning and implementation.

[In millions of dollars]

OR&R Funding for Restoration:	
Base funding for fiscal year 2001 focused on restoration	7.0
Expected settlement funding for restoration in fiscal year 2001 [1]	48.5
CERCLA funding through EPA	2.45

[1] OR&R has collected and used $313 million in settlement funds to restore coastal habitat since its restoration programs were initiated.

The National Marine Sanctuary System

The National Marine Sanctuary System (NMSS) is involved in habitat restoration at many of its sites. The National Marine Sanctuaries Act allows the program to recover funds for restoration from those parties responsible for injury to sanctuary resources. In addition to restoration efforts funded by its base appropriation, NMSS uses damage assessment settlement funds from specific cases to support actual restoration project implementation.

NMSS Funding for Restoration:

Base funding for fiscal year 2001 focused on restoration	$300,000
Settlement funding for restoration in fiscal year 2001 [1]	350,000

[1] NMSS settlements vary by year, ranging from approximately $2 million in fiscal year 1999 to $350,000 in fiscal year 2001.

National Estuarine Research Reserve System

The National Estuarine Research Reserve System (NERRS) conducts a small amount of restoration work through the Reserve system and the Cooperative Institute for Coastal and Estuarine Environmental Technology (CICEET), an innovative partnership between the National Ocean Service and the University of New Hampshire. NERRS is also engaged in a number of activities related to restoration and is currently preparing a NERRS Restoration Science Strategy. CICEET currently has 12 active projects developing innovative restoration technologies and methods for estuarine and coastal ecosystems.

[In millions of dollars]

Base funding in fiscal year 2001 for CICEET restoration activities	2.3

Support for Restoration: Funding, Technical Assistance, and Information

The following NOS programs provide funding, technical support, data, and other resources that are critical to restoration nationwide:

—NOAA Coastal Services Center participates in coastal habitat restoration through the sponsorship of conferences, the development of tools, and the funding of restoration projects. CSC partners extensively with the private sector, academia, Federal agencies, and other NOAA offices. For example, CSC has partnered with the National Marine Fisheries Service's Southeast Fisheries Science Center to establish a joint collaborative effort at Lafayette, Louisiana, whose primary interest is coastal habitat restoration. The amount of funds expended each year is variable, but can approach $500,000 per year.

—The Office of Ocean and Coastal Resource Management (OCRM) administers the Coastal Zone Management Act (CZMA), a federal state partnership for managing the nation's coastal areas. Through the CZMA, OCRM provides funding and other support, some of which states devote to restoration activities. OCRM also administers two new programs: the Great Lakes Coastal Restoration Grants Program and the Coastal Impact Assistance Program. These are referenced below.

—The National Centers for Coastal Ocean Science conducts scientific research to support agency mandates that require habitat restoration. Approximate funding for NCCOS restoration activities in fiscal year 2001 is $3.45 million. Such research is directed at providing NOAA and state and local managers with new and advanced restoration protocols and tools, as well as monitoring and assessment techniques and strategies, and the development of success criteria for multi-year restoration activities.

—The National Geodetic Survey (NGS) plans and conducts highly accurate vertical control surveys, assisting partners such as the U.S. Army Corps of Engineers in conducting coastal habitat restoration. In south Florida, leveling surveys will be used throughout the Everglades Restoration Project as a baseline for determining local water flow patterns. The allocation for 2001 is $469,000.

—The Center for Oceanographic Products and Services provides the accurate water level information critical to successful restoration. COOPS generates tidal elevation data through its nation-wide network of tide gauges and, in many major port areas, Physical Oceanographic Real Time Systems (PORTS). COOPS is also collaborating with other NOS and NOAA programs, with state and local agencies, and with the private sector to develop new techniques for integrating tidal elevation information into local restoration projects.

Specific directed restoration grant programs

In fiscal year 2001, NOS also had a number of directed projects that provided funds to outside recipients for restoration activities. Most of these are short-term efforts and are not included in the fiscal year 2002 President's request. These include:

—*Great Lakes Coastal Restoration Grants Program (GLCRGP)*.—There is approximately $29.9 million under the GLCRGP available to states and coastal communities to support the legislative purpose of protecting and restoring Great Lakes coastal resources and water quality.

—*Brown Marsh Grant Program*.—$3 million grant to the Louisiana Department of Natural Resources for science studies and restoration and remediation efforts focused on the large marsh die back in the state.

—*New Hampshire Marsh Restoration*.—$1 million for several new and on-going salt marsh restoration projects.
—*River Restorations*.—$11.5 million grants for restoration projects along the DuPage River, Illinois, and the Detroit and Lower Rouge Rivers in Michigan. These projects will provide for study, characterization and restoration efforts along these three rivers.
—*National Fish and Wildlife Foundation Grants*.—Part of the $2 million provides resources for some small-scale restoration projects. (This is requested to continue at a level of $2 million in fiscal year 2002—$1 million each in NOS and NMFS.)
—Some small portion of the Coastal Impact Assistance Program (CIAP) may also be made available for restoration projects in the seven states that will receive these grants (Alaska, California, Texas, Louisiana, Alabama, Mississippi, and Florida).

Office of Oceanic and Atmospheric Research (OAR)

National Sea Grant College Program

In fiscal year 2001 to date, NOAA's Sea Grant College Program awarded $2.339 million of their funding (plus $1.5 million in matching funds from the grantees) for habitat related research. Of that amount, $2.2 million ($1.4 million matching) went to habitat structure and function; $139,000 ($115,000 matching) was awarded to habitat restoration research.

Question. How is NOAA coordinating these habitat restoration efforts to ensure the most efficient and effective use of its resources?

Answer. NOAA's offices and programs cooperate on restoration at a number of levels. The Damage Assessment and Restoration Program (DARP) is a cooperative program among the National Marine Fisheries Service's Office of Habitat Conservation, National Ocean Service's Office of Response and Restoration, and NOAA's General Counsel for Natural Resources to address the coastal impacts of oil and chemical spills and releases, as well as the physical damage resulting from events such as ship groundings. Through DARP, NOAA scientists, economists, and managers participate in the evaluation of damage to coastal resources, development of restoration plans, and implementation and monitoring of restoration projects.

To implement the Estuary Restoration Act, NOAA has established a "Secretariat," a cross-line office body that will assure that NOAA expertise, tools, and databases are efficiently and effectively applied to coastal restoration throughout the United States and the protectorates.

Coordination also occurs between offices in instances such as the restoration of damage to NOAA's protected resources. For example, scientists and managers from NOAA's Marine Sanctuary System and the DARP collaborate to design, implement, and monitor coastal habitat restoration projects within the sanctuaries. Informal coordination and cooperation is very common throughout the country, with staff from the line offices working together on all aspects of coastal habitat restoration. In order to capitalize on the extensive regional-level interaction, a NOAA-wide restoration workshop was held to discuss means of facilitating communication across the NOAA restoration community and to continue to improve the agency's ability to restore coastal habitats. An outgrowth of this workshop was the NOAA Restoration Network, which provides electronic communication for the diverse and widespread employees of NOAA and its partners to share information and assist one another in the more efficient completion of restoration activities.

Question. Does NOAA have a comprehensive habitat restoration plan?

Answer. NOAA funded the development of a National Strategy for Coastal Habitat Restoration through Restore Americas Estuaries (RAE), a consortium of all of the major non-governmental organizations involved in estuary restoration, in fiscal year 2000. RAE identified, evaluated, and synthesized existing restoration plans and programs to form the foundation of a national strategy for restoration. The strategy will identify a common set of restoration principals, goals, objectives, monitoring protocols and priority setting methods to increase effectiveness and efficiency of "on-the-ground" restoration activities. The strategy is intended to assist both NOAA and other Federal agencies in undertaking restoration activities.

Question. Would such a plan make better use of the integration between offices?

Answer. NOAA and RAE hope that the National Strategy for Coastal Habitat Restoration will provide a common a framework for the integration of restoration programs and activities at the national and regional levels, both within NOAA and outside of NOAA. NOAA believes that the strategy's development along with the improved communication and coordination through such mechanisms as the Restoration Network and the creation of the Secretariat under the Estuaries Restoration Act will provide a comprehensive approach to restoration planning, and implementa-

tion that should lead to improved use and integration of NOAA conducted restoration activities. It will also promote federal, state, local, and private cooperation and leverage these efforts to contribute to successful restoration based on needs and priorities established at the regional level.

Question. NOAA is asking for $2 million in fiscal year 2002 to implement the Estuary Restoration Act. What is NOAA's role in the Act and how will NOAA spend this funding?

Answer. The Estuary Act assigns specific responsibilities to NOAA, including:

—Developing monitoring protocols for restoration projects, including standards for data collection and frequency of monitoring efforts;

—Developing and maintaining a database of information on all projects carried out under the Act, including progress toward achieving the restoration goals;

—Compiling and making available relevant information on estuary restoration to assist in successful and efficient restoration efforts; and

—Enhancing monitoring and research capabilities through NERRS and CICEET to ensure the use of sound science and encourage innovative technologies.

The $2 million request will help fund these activities through existing programs.

In addition to the legislative mandates above, NOAA has been identified in the Estuary Restoration Act as a member of the Estuary Habitat Restoration Council. Council membership will include participating in the setting of goals for the program, evaluation of proposed projects, development of a national restoration strategy, and collaborating with non-Federal partners to implement projects.

NOAA's National Estuarine Research Reserve System (NERRS) and Cooperative Institute for Coastal and Estuarine Environmental Technology (CICEET) were specifically identified as participating in the development of innovative restoration technology.

FISHERIES VESSELS

Question. I am concerned that as NOAA's fisheries research vessels are pushed into proposed future budget requests that the cost per vessel will increase. As you know, the NOAA fleet is aging and many of the NOAA vessels must be replaced. Why wasn't the second fisheries vessel included in the budget request? Will you support its funding if we find resources for it? Can you assure me that next year we will see the third vessel in budget request?

Answer. Delaying funding for the second Fishery Research Vessel (FRV) to fiscal year 2003 delays the production schedule one year. The production design of the first FRV did not begin until last month, 6 months later than anticipated. This pushes back construction of the first vessel to fiscal year 2002. Designing and constructing the second FRV in fiscal year 2003 would allow the second vessel to benefit from some lessons learned in constructing the first one, but does not provide continuity for the workforce to transition from one hull to the next. Funding two ships in fiscal year 2003 or fiscal year 2004 saves approximately $1 million over consecutive year funding and might still allow for calibration with retiring ships, thus preserving the validity of decades of time series data.

The construction contract (signed this year) for the new Fisheries Research Vessel funded by the fiscal year 2000 and fiscal year 2001 budgets, includes options to build three additional vessels. The Department is committed to replacing the aging NMFS fleet to assure continuity of NOAA's mission.

QUESTIONS SUBMITTED BY SENATOR TED STEVENS

MARINE PROTECTED AREAS

Question. Will Executive Order 13158 regarding "marine protected areas" impact any rulemaking or other regulatory activity specifically authorized by Congress through the Magnuson-Stevens Act, the Marine Mammal Protection Act, and other laws? If so, please describe the process.

Answer. With the exception of Clean Water Act authorities of the Environmental Protection Agency (see below), Executive Order 13158 does not promulgate of new regulations, make existing MPAs more restrictive, or establish new MPAs. The Executive Order does not supplant existing statutory authorities or create new legal authority to regulate marine resources and activities conducted under this Order will be consistent with current law. It tasks NOAA with providing information and services on existing MPAs, and leaves all management and establishment of MPAs with the agencies who have existing authorities. Any actions by these authorities, including rulemaking or other regulatory activity, to modify existing MPAs or establish new MPAs are subject to all of the currently existing and applicable laws, regu-

lations, etc. This includes National Environmental Policy Act requirements for impact assessments, public notice and public review.

The following proposed regulation was published in the Federal Register by EPA in early fiscal year 2001 and is currently under review.

Section 4(f) of the Executive Order states "To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations."

AUTHORIZATIONS FOR MARINE ACTIVITIES

Question. Is it NOAA's position that existing laws regarding activities in the marine environment, including the Magnuson-Stevens Act, the Marine Mammal Protection Act, the Coastal Zone Management Act, and other laws, do not provide sufficient authority for NOAA to carry out its mission?

Answer. NOAA believes that the existing legal authorities mentioned, as well as the Endangered Species Act, National Marine Sanctuaries Act, and other laws, do indeed provide sufficient authority for NOAA to carry out its mission. However, the independent application of these authorities for the distinct purposes of each statute may still leave gaps in the conservation and management of marine resources, particularly from an ecosystem perspective. The MPA Executive Order promotes improved coordination among key Federal agencies involved in management of marine areas and provides for the development of better information and tools to enhance the benefits of existing authorities.

COST FOR EXECUTIVE ORDER 13158

Question. Please provide the Committee with a full accounting of all costs and expenses, including FTE's, that NOAA has incurred in its implementation of Executive Order 13158 to date, and the expected costs through the end of fiscal year 2001.

Answer. In fiscal year 2000, NOAA spent approximately $312,000 to support the tasks defined in the Marine Protected Areas (MPA) Executive Order. The equivalent of 2 FTEs were involved in this effort from June through September 2000. Estimated expenses for fiscal year 2001 are 2 FTEs and $490,000. These funds are planned for expenditure as follows:

1. *Inventory/Website/Library*.—$125,000 funds contracts with state organizations to assist in the collection of information about state protected areas.

2. *Outreach/Education/Federal Advisory Committee*.—$157,000 supports the first Advisory Committee meeting, provides for the preparation of educational and public information materials, sponsors two meetings with MPA stakeholders, and enables NOAA to conduct an MPA education workshop with Sea Grant, National Estuarine Research Reserve, National Marine Sanctuary, zoo, and aquarium staff.

3. *National Center and Institutes for Marine Protected Areas*.—$208,000 supports activities of the National Center and its Science and Training/Technical Assistance Institutes including conduct of MPA natural and social science strategy workshops and regional coordination workshops.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

HIGHLY MIGRATORY SPECIES

Questions. NOAA's fiscal year 2002 budget request includes a new program for the West Coast of the United States to research and manage highly migratory species. The budget request also includes funds for the Joint Institute of Marine and Atmospheric Research (JIMAR) to continue ongoing research and related management of highly migratory species in the Western, Central and South Pacific. While I recognize that there are some species of distinct importance to each region, given the nature of highly migratory species, there are also species which the two regions have in common. What is NOAA doing to ensure coordination between the West Coast and Pacific region programs and to avoid duplication of effort and jurisdictional conflicts?

Answer. The Pacific Highly Migratory Species initiative was developed to deal with management information needs arising from the purse seine fisheries operating under the existing Tuna Treaty, the developing Multi-lateral High Level Con-

ference on the Management of Highly Migratory Species in the Pacific Ocean (MHLC Treaty), as well as the Inter-American Tropical Tuna Commission (IATTC). A preliminary spending plan for the $1 million proposed in the President's fiscal year 2002 request is outlined below and focuses on the new scientific research and monitoring that will be undertaken. While the Southwest Fisheries Science Center's La Jolla Laboratory has responsibility for these purse seine fisheries and so would be the beneficiary of this proposed increase, the Center's Honolulu Laboratory would share significantly in other Presidential fiscal year 2002 requests, including the Expanded Stock Assessment Initiative and Sea Turtle Recovery Activities, as well as receiving directly funds for the Adventurous Refit and Honolulu Laboratory Renovation Planning.

Preliminary Spending Plan

Economic assessments of purse seine fisheries, including capacity issues—$0.150 million.

COMMERCE JURISDICTION OVER MARINE RESOURCES

Question. A debate continues on the issue of which Federal department has jurisdiction over marine resources between 3 to 200 miles. This issue was at the core of efforts during the previous Administration to establish an area of protection around the coral reefs in the Northwestern Hawaiian Islands. Initially, the Department of the Interior sought to extend its existing wildlife refuge out to 12 miles, or in the alternative to establish a national monument. During this debate, the Justice Department's Office of Legal Counsel issued a legal opinion which called into question the Department of the Interior's authority to exert jurisdiction beyond the 3 miles from shore.

The Department of the Interior continues to exert management authority over marine resources beyond 3 miles from shore. The most recent examples are the Fish and Wildlife Service's establishment of refuges at Kingman Reef and Palmyra Atoll which extend out to 12 miles from shore. What is the Department of Commerce doing to protect its management jurisdiction over marine resources within the 3 to 200 mile zone?

Answer. The NOAA Office of General Counsel has responded:

The Department of Commerce is the primary management authority for living marine resources, including fish and corals, in federal waters and the underlying seabed and subsoil, pursuant to its authorities under statutes including the Magnuson-Stevens Act, the National Marine Sanctuaries Act, the Marine Mammal Protection Act, and the Endangered Species Act.

DOC regards its authority and jurisdiction under these laws as unaffected by the wildlife refuges around Kingman Reef and Palmyra Atoll. The Western Pacific Fishery Management Council has established fishery management plans that include the territorial sea around Kingman Reef and Palmyra Atoll and the Department gives full effect to its regulations for these fishery management plans. The Department also continues fully to exert its management authority and jurisdiction around Kingman Reef and Palmyra Atoll under federal laws including the Endangered Species Act (for listed species under its jurisdiction such as sea turtles in the marine environment and whales), the Marine Mammal Protection Act, and the Lacey Act.

NORTHWESTERN HAWAIIAN ISLANDS SANCTUARY

Question. The reauthorization of the National Marine Sanctuaries program enacted last year authorized the Commerce Department to initiate a sanctuary designation process for the Northwestern Hawaiian Islands. This legislation also authorized the President to establish an interim coral reef reserve during the pendency of the sanctuary designation process. The clear intent of the Congress was that upon completion of the sanctuary designation process, the critical areas around the Northwestern Hawaiian Islands would be managed as a sanctuary. Despite Congress' clear intent, some officials at NOAA are taking the position that the sanctuary will overlay the reserve. Indeed, timelines prepared by NOAA officials for the implementation of the reserve and for the sanctuary show no target dates for the transition from a reserve to a sanctuary, implying that the reserve will continue indefinitely. What is NOAA's official position on this matter?

Answer. NOAA's official position is that a Sanctuary designation process for the Northwestern Hawaiian Islands is underway, and that when a Sanctuary is designated as a result of that process, it will replace the Reserve.

Question. If NOAA's position differs from the intent of Congress as outlined above, please specify the authority upon which NOAA justifies its departure from Congressional intent.

Answer. NOAA's position does not appear to differ from the intent of Congress as outlined above.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

BIOLOGICAL OPINION FOR COLUMBIA RIVER SALMON

Question. Thank you, Mr. Chairman. And thank you, Mr. Gudes, for your testimony. I would like to compliment you on many of the initiatives included in NOAA's budget request, such as your emphasis on infrastructure and ocean exploration. In many ways, this is a budget proposal I can support. I also appreciate your willingness to learn more about projects important to Washington state, such as the Northwest Straits Initiative. As I mentioned when Secretary Evans appeared before the Subcommittee, I strongly support your request to maintain funding for the Pacific Coastal Salmon Recovery account and the Pacific Salmon Treaty account. But there is a crucial cross-cutting issue that I must raise: How does the Administration propose to fund the Biological Opinion for Columbia River salmon? The Bi-Op is already being challenged by litigation. It is estimated that the Bi-Op will cost hundreds of millions of dollars to fully fund. I am also posing this question to other Federal agencies, such as the U.S. Fish and Wildlife Service, the Army Corps of Engineers and the Bureau of Reclamation. But NMFS must play a crucial role as well. How can we get a cross-cut budget from relevant Federal agencies detailing the funding necessary to implement the Biological Opinion?

Answer. NOAA and NMFS realize that this is a significant issue that is made more critical because of the current drought in the Northwest. While NOAA is not currently contemplating a supplemental budget request including funding for the Biological Opinion, we will continue to review this situation as part of the normal budget development process.

PERMIT BACKLOG PROBLEM

Question. On a related issue, I appreciate the progress made impartially lifting the hiring freeze. But I am concerned that NMFS still doesn't have enough staff in the Northwest Region to adequately address the permits backlog caused by ESA consultations. I frequently hear about this issue from constituents who are very frustrated with how long it takes for them to get permits. Unfortunately, the backlog undermines support for protecting endangered species and threatens the regional economy. How do you propose to address the permits backlog problem in this budget?

Answer. The NMFS Northwest Regional Office is proceeding to hire 4 additional staff to address the existing backlog in consultations in Puget Sound. Unfortunately, the Corps of Engineers is also facing a huge backlog on projects requiring Endangered Species Act consultations, and as the Corps addresses their backlog, the demands on NMFS consultations increase since many of the actions have been pending for months with the Corps. Also, our constituencies have encouraged us to devote additional resources to development of Recovery Plans through the Shared Strategy arena and to implement the 4d rules for municipalities—all of which will add to workload on staff and require prioritizing these needs with ESA Section 7 consultations with the Corps' backlog on private citizen permit action.

AGREEMENT BETWEEN NOAA AND PORT OF EVERETT

Question. The Northwest Fisheries Science Center has a research facility located on a former U.S. Air Force Tank Farm in Mukilteo, Washington, about 30 miles north of Seattle. NOAA is currently working with the Port of Everett to incorporate the research center into long-term plans for redevelopment. These plans include constructing a commuter rail station, upgrading ferry terminals, expanding a marina and building commercial space along 22 acres of waterfront property.

NOAA wants to own a portion of the land instead of leasing it from the Port of Everett. The Port will receive the land from the Air Force because of legislation I worked to pass last year. I am committed to facilitating an agreement amenable to all parties involved. Are you aware of this effort and does it have NOAA's support at the highest levels?

Answer. NOAA supports this effort and has been involved with the ownership discussions. Representatives from the NMFS Northwest Regional Office, the NOAA Facilities Office, the Port of Everett, Senator Murray's office and others met on May 4, 2001 to try to resolve ownership issues at the Mukilteo tank farm facility. It is our desire to own the site rather than lease it because of flexibility in making improvements, etc. The Port is amenable to NOAA owning the site. We believe this

could be accomplished through legislation or through an agreement between NOAA and the Port that would result in transfer of title to the site immediately upon the Port obtaining title. The two sides agreed to develop an option for accomplishing the transfer without legislation. Both agreed in principle that the site could revert to the Port if NOAA ever abandons it. NOAA plans to continue its operations at the site indefinitely. While no specific plans have been made for improving the site, we will continue to consider improvements within available resources. We will keep you informed of our progress.

INDUSTRY AND GOVERNMENT BUY-BACK PROGRAMS

Question. Last year the omnibus appropriations bill authorized $50 million for a North Pacific crab vessel and permit buy-back program. The West Coast Groundfish recovery plan developed by the Pacific Council also includes a buy-back program dependent upon $25 million from the Federal Government. Other sectors of the commercial fishing industry are also interested in buy-back programs. I realize budget are tight, but this is an issue I hear about frequently. I also support providing relief to sectors of the industry that are suffering from major downturns in the resource. What is your position on government and industry funded buy-back programs to address some of the fisheries crises currently facing us? And if you can't support buy-back programs because of the costs, how do you propose to help crab fishermen in the North Pacific and groundfish fishermen along the West Coast in the short term?

Answer. NOAA recognizes the need to reduce capacity in some fisheries and that buy-backs is a management tool to reduce capacity. The Magnuson-Stevens Act Section 312(b) includes provisions for industry funded buy-backs. We have begun the necessary regulatory actions to conduct the crab buyout, however, we do not have full funding for this program. The total estimated cost for the buyout is estimated at $100 million per legislation included in the fiscal year 2001 appropriation. However, NMFS has only received enough subsidy for a $50 million buyback loan. The additional $50 million needed for the buyout has not been appropriated, only authorized.

Likewise, the Pacific Fishery Management Council has determined that the West Coast groundfish fishery capacity needs to be reduced by at least 50 percent. The Fishermen's Marketing Association has been holding meetings along the coast to gage industry interest in a buyback program that would involve a combination of government and industry-funding. The plan includes the purchase of vessels, all federal groundfish permits, and all state permits (shrimp, crab, salmon, etc.) assigned to the vessel. The plan includes the purchase of state permits to address concerns about groundfish fishermen increasing their effort in other fisheries because of the buyback. The plan is based on a bidding system that ranks the bids according to the amount of total fishing revenue the vessel earned over the 1998–2000 period. The industry needs federal funds to help pay for the buyback and for establishing a buyback loan. The industry will repay the loan through landings fees. A total of $50 million ($25 million direct and $25 million loan) is needed to fund the buyback. Not only would groundfish fishermen be responsible for paying back the loan but shrimp, salmon, and crab fishermen would also be responsible as this plan would reduce capacity in these fisheries as well.

SMALL BUSINESS ADMINISTRATION

STATEMENT OF JOHN WHITMORE, ACTING ADMINISTRATOR

ACCOMPANIED BY GREG WALTERS, DEPUTY CHIEF FINANCIAL OFFICER

Senator HOLLINGS. We will now hear from Mr. John Whitmore, Acting Administrator of the Small Business Administration.

Very good, Mr. Whitmore. Your statement in its entirety will be included in the record, and you can summarize or deliver it as you wish.

Mr. WHITMORE. Thank you, Senator Hollings, Senator Inouye, for inviting me here today to testify.

I am pleased to present the Small Business Administration's budget request for fiscal year 2002. With me today is Greg Walters, the Deputy CFO at SBA.

The budget request of $539 million represents a renewed focus on SBA's core programs. It will provide credit, capital, and technical assistance to America's small businesses at a substantially reduced cost to the taxpayer. It includes $5 million for SBA's portion of the President's New Freedom Initiative to help small businesses comply with the Americans with Disabilities Act, and $5 million as part of the Paul G. Coverdell Drug-Free Workplace Program.

The budget also seeks to streamline the agency and eliminate duplicative programs.

The budget proposes funding the SBA technical assistance programs at last year's levels, with three exceptions. We are proposing to increase funding for the SCORE program by $250,000 up to a level of $4 million. SCORE is one of SBA's most cost-efficient programs and will soon implement an electronic delivery system to broaden its reach.

The Veterans' Business Development Program was not funded in 2001 but will receive $750,000 in 2002. The budget proposes a funding level of $88 million for the Small Business Development Center Program, $75.8 million coming from appropriations and $12 million in fees. Some SBDCs already impose a variation on the counseling fee by requiring new start-up businesses to take their training courses at a cost of $35 to $45 before receiving counseling. This is also in line with other SBA technical assistance programs such as the Women's Business Center program.

Charging a modest fee of under $11 an hour will maintain the current service levels while reducing the cost to the taxpayer.

The budget proposes funding the Government contracting assistance programs at the 2001 level, but does include $500,000 for a Women's Contract Initiative and a contract bundling study.

The budget fairly demands that those who benefit most from SBA programs share in its cost. In the exact language of the President's budget, "These programs will become self-financing by increasing fees. The budget acknowledges that some small businesses

may have trouble accessing private capital in the absence of a Government guarantee but does not require the Government to subsidize the cost of borrowing. The budget increases fees sufficiently to make these programs self-financing and would save $141 million." This will reduce the burden on appropriations, will allow for expanded program levels, and is fair to the taxpayer.

The budget also proposes increasing fees for the Small Business Loan Program and the Small Business Investment Company Program. In the Small Business Loan Program, the budget raises fees for small business loans above $150,000. There is no fee increase for loans made under $150,000 benchmark, and we will continue a rebate to the lender.

We hope this will encourage small loans to those who are in the start-up phase. This will also serve to provide capital to those most in need and will support a zero subsidy rate.

The new administrator faces many challenges once confirmed. Two principal, large-scale challenges include antiquated programs and delivery systems that are out of touch with today's dynamic small business environment and resource and personnel questions. SBA needs to transform itself into an entity that is governed by efficiency, flexibility, and the empowerment of small business through knowledge.

More specifically, within the SBA loan program, the number of loans has decreased by 21 percent between the period of 1995 and 2000, while the dollar volume has increased 26 percent. While the dollar volume has increased, the Small Business Loan Program suffers from lack of reach. Larger loans have gone to fewer companies. This is where the program faces its biggest challenge. Cultivating businesses in their initial stage of growth is crucial to advancing America's small business community. This is where SBA should focus its attention. This is true gap lending.

The fastest-growing groups in America's small business community are Hispanic and women-owned businesses. These groups, along with African Americans, Native Americans, and veterans, are also the most underrepresented in SBA's Small Business Loan Program. While the volume to Asian Americans went up significantly, loan volume to women, veterans, and other minorities has been flat or trending down.

Another major challenge facing us is the need to focus on the current organizational and functional structure of SBA. This challenge has been exacerbated in recent months by the hiring in the November-January time period without regard to the agency's top priorities—the small business investment company, loan monitoring, and lender oversight responsibilities.

I would also like to address the SBA Loan Monitoring Project which was authorized in December of 1997. I have concluded that the congressionally-mandated loan monitoring system has become commingled with an internally-sought Systems Modernization Initiative where cost and time lines for implementation have risen significantly. I have since directed that the program be refocused on activities for which Congress authorized and appropriated.

PREPARED STATEMENT

With this in mind, we have signed a contract with KPMG to provide us with expertise in assessing available options. Other efforts of the modernization effort will wait until the loan monitoring system is fully operational.

Thank you. I will be pleased to answer any questions.

[The statement follows:]

PREPARED STATEMENT OF JOHN WHITMORE

Mr. Chairman, Ranking Member Hollings, and members of the committee, thank you for inviting me here today. I am pleased to present the U.S. Small Business Administration's (SBA) budget request for fiscal year 2002. This request of $539 million signals a renewed focus on SBA's core programs and a commitment to do them well. It will provide record levels of credit, capital, procurement, and entrepreneurial development assistance to America's 25 million small businesses at one of the lowest costs to the taxpayers ever. This is a fiscally sound budget request that will provide more than $17.5 billion in loans and guarantees, and counseling and training assistance to over 1 million firms and entrepreneurs, to help them start, sustain and grow their businesses.

As I said, this budget request will allow us to focus on our core programs and delivering them to those who need them most. The proliferation of new programs at the SBA has come at a cost of diluted focus and lack of attention to our bread and butter programs. We are concerned with the recent performance of key programs, such as our 7(a) loan, 8(a) business development assistance, and HUBZone programs. We are concerned that neither our programs nor our delivery structure are ready to serve small business needs in 2002 and beyond. We will present the Administrator, upon his confirmation, with an array of decision options to address these and other concerns.

FINANCIAL ASSISTANCE PROGRAMS

President Bush's budget will provide SBA's Financial Assistance Programs with a record level of financial support to our nation's small businesses—$17.5 billion. SBA's 7(a) Loan Guaranty Program, SBA's primary loan program, will support $10.7 billion in lending while saving the taxpayers $114.5 million. The savings will be accomplished by increasing the tax-deductible fees to those who benefit from the larger loans in the 7(a) program and to those Small Business Investment Companies using participating securities. However, loans of $150,000 and less will have no change in their fees. In fiscal year 2000, of the 43,748 total number of 7(a) loans, approximately 60 percent were under $150,000. For specific groups of borrowers, loans under $150,000 made up: 69 percent of the 2,000 loans to African Americans, 58 percent of the 5,359 loans to Asians, 65 percent of the 3,221 loans to Hispanics, 81 percent of the 525 loans to Native Americans, 69 percent of the 4,809 loans to veterans, and 74 percent of the 9,206 loans to women.

From fiscal year 1995 through fiscal year 2000, the number of SBA 7(a) loans dropped from 55,591 to 43,748, while the dollar volume of loans increased from $8.26 billion to $10.5 billion. The number of loans to Asian-Americans went up dramatically, but for Native Americans, other minorities, women and veterans, loan numbers have remained level or gone down slightly—even though businesses owned by Hispanics and women were the fasting growing segments of the business community.

In an effort to encourage more of these smaller loans, the President's proposal makes no change in fees for loans under $150,000. The proposal aims to encourage the smaller loans that many banks are reluctant to make, which are the ones that help the neediest of small businesses.

Finally, eliminating the need for appropriations will ensure that the 7(a) Program will not run out of money if there is a significant increase in demand, an approach that has worked well for other SBA programs.

The 504 Certified Development Company Program provides financing for major fixed assets. The program will provide $3.75 billion in lending in fiscal year 2002, the same as fiscal year 2001, with a slight decrease in the fee paid by the users of the program. This program has not had a subsidy from taxpayers since fiscal year 1996. The 7(a) proposal is based on the 504 model.

Through the Microloan Direct Program, SBA provides small loans up to $35,000 to small businesses through a network of locally based not for profit intermediary

lenders. The fiscal year 2002 budget will provide $20 million for new loans to intermediary lenders. The average loan to microborrowers in this program is $10,500 and over the last five years the average number of microloans made each year has been around 1,500. Small businesses in economically distressed urban and rural areas have benefited from this program. The Microloan technical assistance aspect of the program will also receive $20 million in fiscal year 2002. These funds will be used to support technical assistance to microborrowers, increasing their chance of success and enhancing their ability to repay their loans. Training and other technical assistance will also be funded to help additional microbusinesses obtain financing from sources outside SBA.

The program level for the Small Business Investment Company (SBIC) Program, a venture capital investment program, will increase to $3.1 billion in fiscal year 2002, an increase of $600 million over fiscal year 2001. With a small increase in fees for participating securities, the SBIC Program, including the debentures program, will be fully self-supporting. I note that the National Association of Small Business Investment Companies accepts this approach because it allows for a larger program volume.

The Surety Bond Guarantee Program guarantees bid, performance, and payment bonds for small business contractors working on construction, service and supply contracts for public and private sector projects. The program will be level funded at $1.7 billion and does not require taxpayer funds.

COUNSELING AND TECHNICAL ASSISTANCE PROGRAMS

The budget provides $5 million as SBA's share of the President's New Freedom Initiatives. The funds will provide technical assistance to help small businesses comply with the Americans with Disabilities Act (ADA) and hire more people with disabilities. This funding will also help SBA increase awareness and promote use of the Disabled Access Credit, which provides a 50 percent tax credit on up to $5,000 of eligible expenses annually to help small businesses make their facilities ADA compliant.

The budget includes funding for the Paul D. Coverdell Drug-Free Workplace Program that awards grants to organizations helping small businesses establish drug-free workplace programs. This is part of the President's initiative to combat drug abuse. To date, SBA has not been able to meet the demand for assistance from intermediary partners. For example, in 1999 SBA received 160 grant applications from intermediaries, but issued only 16 grants. To help meet this need, the President's budget includes $5 million and proposes to spend $25 million over the next five years.

Business Information Centers (BICs) provide both counseling and information for start-up and early operating businesses. There are 70 locations nationwide in both distressed and non-distressed areas. The program will be level funded at $500,000.

One Stop Capital Shops (OSCSs) provide financial and business assistance to small businesses. Located in 22 socially and economically disadvantaged areas nationwide, OSCSs will be level funded at $3.1 million.

Small Business Development Centers (SBDCs) provide management and technical-assistance. This 21-year old program has slowly evolved as a counseling program for more mature businesses, not start-up businesses, although SBDCs do counsel some start-ups.

SBDCs will receive $76 million in fiscal year 2002, plus $12 million through the collection of nominal fees-for-counseling, as is currently done for training. After the initial first free hour, the estimated cost will be $10.75 per hour. The average use of counseling is 5.3 hours, which means clients will pay on average $46.23 for counseling. The fee proposal will allow the program to continue to grow while reducing the expense to the taxpayers. Currently the average SBDC counseling case costs Federal and state taxpayers approximately $700.

Charging fees is not precedent setting. SBDCs have always charged fees for training and other services, such as publications and conferences. Some SBDCs already impose a variation on a counseling fee by requiring new start up businesses to take their training course, at a cost of $35 to $45, before receiving any counseling. During 1998 (the latest year that figures are available), SBDCs generated over $7 million of program income over and above their Federal and matching funds.

Beneficiaries of most SBA programs pay fees, directly or indirectly, including fees for loan programs, investment capital, pre-qualification counseling. Even some of our small Women's Business Centers charge fees in excess of $50 per hour for counseling.

In fiscal year 2000, the SBDCs trained 326,000 clients and counseled 262,000 clients. From fiscal year 1995 to fiscal year 2001, SBDCs funding increased $14 mil-

lion while funding for SCORE only increased $500,000 and funding for 7(j), a technical assistance program for all low income areas as well as 8(a), was reduced by $4.5 million.

For the Service Corps of Retired Executives (SCORE), we are proposing to increase to $4 million the amount to help pay the expenses of the 11,400 SCORE volunteers. These volunteers counseled and trained over 377,000 clients in fiscal year 2000. SCORE is making more and more use of electronic means to be able to use its expert counselors anywhere in the country.

A recent Washington Post article recounted how SCORE counselors Gene Rosen and Herbert Robinson helped Sarah Hill start an antique business in Alexandria, Virginia by providing invaluable assistance on many aspects of their business, from negotiating the lease to pricing merchandise. The time and advice of these volunteers was free. The government paid 34 cents a mile for their expenses. Sarah is projecting annual sales of over $100,000 in each of the next several years.

The SBIR (Small Business Innovation Research) Program awards grants or contracts to small businesses for their innovative ideas to meet the specific research and R&D needs of the federal government. SBA's budget will provide $5 million in fiscal year 2002 to fund two programs to help small businesses compete for SBIR awards. The FAST (Federal and State Technology Partnership) will receive $3.5 million under this proposal. The SBIR Technical Assistance Outreach Program will receive $1.5 million.

A nationwide network of U.S. Export Assistance Centers (USEACs) combine in single locations the trade-promotion and export-finance assistance of the SBA with the programs of the Department of Commerce and the Export-Import Bank. USEACs will be level funded at $3.1 million.

The Veteran's Business Outreach Program will receive $750,000 in fiscal year 2002. The program ensures that small businesses owned and controlled by eligible veterans have access to entrepreneurial training, business development assistance, counseling and management assistance. The program was not funded in fiscal year 2001. The Veterans Business Development Corporation, which was funded at $4,000,000 in fiscal year 2001, will no longer be funded through SBA's budget, but will have its own separate appropriation.

Women's Business Centers (WBC) provide women entrepreneurs with business training and counseling, technical assistance, mentoring, and access to SBA's programs and services. The centers also have programs to assist economically and socially disadvantaged women, especially those on welfare. Each center tailors its services to the needs of the local community. SBA awarded 15 new grants, funded 62 centers with regular grants, and provided sustainability grants to seven centers with its fiscal year 2001 appropriation of $12 million. In fiscal year 2002, the budget request is for $12 million.

The Women's Council supports programs and research on behalf of women's business enterprise. In the President's Budget, the Council will receive $750,000 in fiscal year 2002.

In fiscal year 2000, women business owners received only 2.8 percent of Federal procurement dollars. The Office of Federal Contract Assistance for Women Business Owners (CAWBO) was established within SBA's Office of Government Contracting to increase the number and size of federal contracts to women business owners. Additionally, the Office of Government Contracting is charged with providing studies on how contract bundling affects all small businesses. We request $500,000 to implement a recently-enacted procurement initiative, including conducting a legislatively mandated study on women's procurement, creating a contract bundling database, and conducting analysis of procurement trends and practices.

The 8(a) Business Development (BD) Program assists the development of small companies owned and operated by socially and economically disadvantaged individuals. Eligible companies may be awarded set-aside federal contracts and other business development assistance. The number of contracts in this program has gone down. The new Administration is looking at ways to more efficiently and effectively run this program. In the interim, funding for fiscal year 2002 is requested at the same level as fiscal year 2001.

The HUBZone (Historically Underutilized Business Zone) Program encourages economic development in distressed areas through the establishment of Federal contract award preferences for qualified small businesses located in such areas. This program has gotten off to a very slow start. Under the President's budget, the program will receive $2 million in fiscal year 2002, the same as fiscal year 2001 again with an emphasis by the new Administration on more efficient and effective ways to fulfill the intent of the program.

PRO-Net (Procurement Marketing & Access Network) is a government-wide online database used as a link to procurement opportunities and as a marketing tool for small companies. We request level funding at $500,000.

The 7(j) Technical Assistance Program provides management and technical assistance to small and emerging businesses owned and controlled by socially and economically disadvantaged individuals and also individuals in areas of low income and high unemployment. Under the President's budget, the program will receive $3.6 million in fiscal year 2002.

DISASTER ASSISTANCE LOAN PROGRAM

The Bush Administration is fully committed to meeting the needs of disaster victims and has proposed a base loan volume of $300 million for SBA's Disaster Assistance Loan Program. Additional needs for the Disaster Program will be funded through the proposed National Emergency Reserve.

However, there will be no interest rate change for disaster home loans. Under the President's proposal, businesses without access to credit elsewhere will receive disaster assistance loans at the U.S. Treasury Rate, with a ceiling of 8 percent. Based on current rates, the business loan interest rate would be increased from the current 4 percent ceiling to 5.4 percent. On an average loan of $56,300 over 15 years, the monthly payments would rise from $429 to $473. Over the life of the loan, the business would incur an additional cost of $7,344. Also, SBA will have the flexibility of keeping the payment at $429 by extending the maturity of the loan.

SBA OPERATING COSTS

Although the budget request proposes a small increase in SBA's operating costs, we are looking at streamlining SBA's operations and doing away with redundant programs. SBA will contract out, as appropriate and consistent with the Federal Activities Inventory Reform (FAIR) Act, and will continue its asset sales program.

A major challenge facing SBA is improving its level of customer service to meet the growing and changing needs of small business. Over the last 10 years, SBA has dramatically changed the way it delivers services to small business, using private-sector partners to make and service its loans and to provide training and counseling. Yet the structure has not changed. For example, by taking advantage of electronic commerce, the oversight function carried out today by SBA's Procurement Center Representatives could be streamlined and centralized.

SBA has been downsized over the last eight years, but its structure has not. SBA still needs to reduce its staff while maintaining critical positions.

SBA met with GAO on April 27, 2001 to discuss the findings in its study of SBA's structure. We will take an aggressive look at additional privatization and streamline what we do to reduce duplication and increase efficiencies. We will develop succession plans and reprioritize the use of resources. We will be preparing options for the confirmed Administrator to ensure that both SBA's programs and structure can serve America's small businesses efficiently and effectively.

LOAN MONITORING SYSTEM

SBA's loan monitoring system (LMS), a four-year project authorized in December of 1997 with $8 million appropriated each year since fiscal year 1998, is undergoing a substantitive review. In early February 2001, after I became Acting Administrator, I began looking into the status of the project. I have reported my findings to both your Committee and the Appropriators. In brief, I have concluded that the LMS had become commingled with an internally-sought Systems Modernization Initiative (SMI).

I have since ordered that the program be refocused on the activities for which the Congress authorized and appropriated the funds—an information technology-based system for risk management, lender oversight, and loan monitoring. SBA intends to contract on a pilot basis with several established financial institutions that already have operational risk management/loan monitoring systems. Rather than develop a proprietary system—with all its attendant costs and risks—we intend to determine if such a system already exists.

To this end, we have put Janet Tasker in charge of overseeing all of our lender and portfolio oversight. She is a Certified Public Accountant (CPA) and served as the Director of the Office of Government Sponsored Enterprises Oversight, responsible for providing oversight to FANNIE MAE and FREDDIE MAC. She is taking the lead for the LMS project and has developed the requirements for our LMS system. These concepts have been presented to your staff and the GAO. We are in negotiations with highly experienced project management organizations to provide us with the expertise to manage and assess the various options that are available, and

to assist us in presenting those options to our new Administrator upon confirmation. In fiscal year 2002, we have requested an appropriation of $8 million to bring the original program's scope to completion.

At this point, I emphasize that the agency must have a new financial system in place by the end of this fiscal year—September 30, 2001—when the current Federal Financial System run by Treasury is scheduled to be phased out. SBA is proceeding with an Oracle-based integrated standard general ledger that will integrate program and accounting data, resulting in more timely and accurate financial reports and program analysis. This is one of the elements of SMI I felt we must pursue. Other elements will wait for decisions by the Administrator after his confirmation.

PROGRAMS THAT WILL NOT BE FUNDED IN FISCAL YEAR 2002

The Administration supports the objectives of the New Markets Venture Capital (NMVC) Program but believes those objectives can be achieved more efficiently and at a lower cost through other existing means. Several vehicles and incentives to direct investment into economically distressed communities already exist. Communities targeted by NMVC have access to a wide range of private for-profit and economic development programs, including the federally supported community development financial institutions administered through the Department of Treasury. In addition, SBA's SBIC program, which has 412 licensed venture capital companies with total capital resources amounting to $17.7 billion, is implementing incentives to encourage investment in economically distressed areas.

The NMVC Program is also expensive relative to the impact it is expected to have. The total cost of the program in fiscal year 2001 is $52 million, not including the administrative cost of running the program. Since the program is expected to generate $150 to $200 million of investment activity, it will yield only $3 to $4 of investment for every taxpayer dollar spent. In comparison, under the Small Business Investment Company (SBIC) Program, there is no cost associated with the debenture portion of the program. The participating securities portion of the SBIC program required a $26.2 million credit subsidy in fiscal year 2001. Since this subsidy generates $3 billion of investment activity, each taxpayer dollar spent provides $114 of investment activity in the participating securities program.

The NMVC legislation also included a $15 billion tax credit for new investment in the same communities targeted by the NMVC Program. The Administration believes that targeted tax policy and other private sector incentives are the right formula to spur economic development with less emphasis on government outlays. The NMVC Program has been funded in fiscal year 2001. However, until the program can show some results in the way of established return on equity, any additional funding would be premature.

The Program for Investment in Microentrepreneurs (PRIME) Program, like the NMVC Program, is duplicative of existing SBA programs and other programs within the Federal government and the private sector, i.e., community development organizations and local financial institutions (see attached chart). SBA has a wide array of funded grant programs that provide technical assistance to small businesses. SBA's Microloan Program, for example, provides grants enabling intermediaries to provide marketing, management, and technical assistance to individual microborrowers. Additionally, the Microloan Program provides funding to non-lending technical assistance providers to help low-income individuals start or improve their own business. Microloan intermediaries and non-lending technical assistance providers are the same groups targeted by PRIME grants. There are also other private-sector entities, such as trade organizations, whose members are engaged in the microenterprise industry and provide similar services. Other SBA programs available for these customers include SCORE, SBDCs, OSCS and WBCs.

The Business Learning, Innovation, Networking and Collaboration (BusinessLINC) program was designed to create and foster mentor-protógé relationships that would promote the growth of small businesses by matching them with larger concerns. The program is similar to other SBA technical assistance programs already in place. One of SBA's most successful technical assistance programs, SCORE, manages a nationwide network of 11,400 volunteers who provide free expert advice based on their many years of experience on virtually every aspect of business. SCORE's free counseling service provides a mentor framework to assist small businesses similar to that envisioned for BusinessLINC. The SBDC consulting service is another means of providing technical assistance and services to more mature companies seeking to expand their relationships or customer base to include larger concerns. SBA also provides the 8(a) mentoring program and a women's mentoring program. Other agencies such as the Department of Defense and NASA support mentor-protégé programs.

BusinessLINC is duplicative of SBA's 7(j) management and technical assistance program, which authorizes contract grants and cooperative agreements to organizations that provide direct assistance to small and emerging businesses owned by socially and economically disadvantaged individuals. SBA is authorized to target 7(j) services to businesses and individuals located in areas of high unemployment and low income. Many of these providers were successful in fostering business-to-business relationships between larger and smaller firms. Service providers report direct assistance to nearly 3,000 eligible businesses. Many BusinessLINC activities can be accomplished using the existing 7(j) authorization.

BusinessLINC was designed to provide small businesses with an online information source and database of companies interested in mentor-protégé programs. These goals may be achieved through existing BICs, WBCs, TBICs, OSCSs and PRO-Net. Private sector alternatives that would provide incentives for larger businesses to enter into mentoring programs should also be examined.

As I mentioned at the beginning of my testimony, SBA's fiscal year 2002 request is a good budget for small businesses. Thank you for the opportunity to appear here today. I will be happy to answer your questions.

Senator HOLLINGS. Thank you, Mr. Whitmore.

Senator Inouye.

Senator INOUYE. Mr. Chairman, I just wanted to come by to thank SBA for all the help they have provided. One of the lesser-known facts about Hawaii is that 98 percent of our businesses are small businesses. In fact, on a per capita basis, if it were not for SBA, we would still be in a slump.

It is no secret that about 7 or 8 years ago, there was a major downturn in the economy in Asia, and as a result, it affected tourism in Hawaii. But with your help, we put new businesses into operation, and we are back in business. Our unemployment rate, incidentally, is less than the national rate thanks to these people here.

So I have no questions. I just want to thank you.

Senator HOLLINGS. Very good.

Mr. Whitmore, the SBA has been doing an excellent job. We depend on it substantially in the State of South Carolina.

You mentioned the 1997 Act, and in that 1997 Act, we prohibited the Small Business Development Centers from charging fees. In your testimony, you talk about empowering small business, but then you burden them by charging them fees, otherwise in violation of the 1997 statute. Where do you get the authority to impose a fee?

Mr. WHITMORE. We are proposing a new legislative proposal to accompany the budget that would allow the charging of fees. Currently, the SBDCs do charge training fees, and they also charge some processing fees in the beginning. Our other technical assistance programs, like the Women's Business Centers, also charge fees. With the new Administration, we looked at all of our programs to find a way of controlling the rising cost of delivering technical services.

We are proposing charging a fee of $10.75 an hour. We know that the average counseling hours in a given year for a small business is approximately 5 hours, Senator. We propose no fee charge for the first hour, so it would be about $44 over the course of the year. We think that that is a rather modest fee to pay for the advice given by the SBDCs, and it helps share the burden of the cost with those who benefit from the service.

Senator HOLLINGS. SBA, of course, is a Government program for small businesses that do not have the wherewithal. They cannot hire counsel, lawyers, consultants, computer experts and otherwise.

That is why the Federal Government furnishes this service and assistance to small business—and it works. I am beginning to be of the Bush school—give a tax cut wherever we can, particularly for small business. Do not start taxing them—you call it a "fee" but all of a sudden, they are going to pay a tax. Let us go right to the 7(a) program, not just the $12 million that you have got to make up for SBDC's, but under 7(a), you have got to make up $114.5 million in fees annually in the 7(a) guaranteed loan program. Is that right?

Mr. WHITMORE. Yes, sir. In the 7(a) loan program, we do not intend to charge fees where the loans are most needed, and that is loans under $150,000. We think that that is the area where small businesses really struggle to obtain loans.

On loans of $1 million, the cost to the business would be about $42 a month more. We think that borrowing at that level, they should be able to pay some of that cost.

Under $150,000, we have no proposal to increase fees to small business. Sixty percent of our loans are less than $150,000, so the fees would only be on approximately 40 percent of the loan program.

ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Well, we will have to see if the committee wants to go along with that justification.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

7(A) PROGRAM

Question. I am concerned that SBA's budget request would drive both small business borrowers and lenders from the 7(a) program. I do not believe that it is the intent of the Administration to deny needed business loans to small business borrowers at the same time the economy is slowing and credit underwriting standards have tightened significantly. Has the SBA analyzed the effect of the 7(a) proposal on borrowers and lenders? Approximately how many entities would no longer take advantage of the program?

Answer. The Administration believes that the 7(a) program plays a valuable role in strengthening the nation's economy by making credit available to small businesses that would be unable to access loans in the commercial marketplace.

SBA agrees with the Administration in that it is unfair for taxpayers to subsidize the government costs for such loans. With this in mind, the Administration's budget provides for modest fee increases only on loans over $150,000. In effect, those who benefit most from the program should share in the cost.

Last year, more than 60 percent of the loans that SBA guaranteed were at or below $150,000. Since we are proposing no change in the fees paid on those size loans, none of the borrowers with smaller credit needs would be impacted by the proposed fee changes. This allows for those businesses who are in the most crucial stage of business development to secure valuable funding.

While it is difficult to quantify how many borrowers or lenders might not take advantage of the 7(a) program because of the fee changes, SBA thinks that both parties will adjust to the changes. SBA cannot guarantee a loan if the credit is otherwise available. Thus, most of the borrowers that require SBA's support of their loans would continue to make appropriate use of the 7(a) program.

Question. This Committee believes that the 7(a) program is already operating at or near a zero subsidy rate. How were the subsidy cost of the 7(a) program estimated? Please provide in writing a list of experts from within SBA, the OMB, the GAO, and outside of the government groups who could be charged with compiling an accurate accounting of the subsidy rate.

Answer. SBA's 7(a) subsidy rate model has been refined over a number of years. Principal model inputs include actual loan performance over an approximate 15-year period, and technical assumptions on the structure/operation of the program. These assumptions produce a series of estimated cash flows over the life of the loans for a given year. These cash flows are then discounted using the Treasury discount rate provided by OMB to generate an estimated subsidy cost of the program.

The principal assumptions used by the model, and added by SBA each year, are the distribution of the dollar value of loans to be made by size, the fee structure, the Treasury discount rate (provided by OMB), and the level of prepayments (provided by Bloomberg). The remaining significant modeling factors are derived from the loan portfolio's actual performance over the approximate 15-year period, including defaults, recoveries, expenses, and fee income.

SBA's Office of Financial Analysis calculates these subsidy rates and is staffed with finance, economic, and modeling experts to provide the appropriate level of skills and knowledge to this complex process. We supplemented this expertise with private-sector experts from PriceWaterhouseCoopers (PwC), Ernst & Young (E&Y), and use a private firm (Bradson Corp.) to independently validate our annual results. Additionally, GAO has worked closely with us over the last several years to extensively review these models. In their 1997 report, they cited SBA as one of only two agencies in government able to do reasonable cost estimates of its programs.

The models are also annually audited by our Inspector General and its private-sector auditor, Cotton & Co. Finally, experts in Federal Credit Reform at the Office of Management and Budget (OMB) thoroughly review and approve the SBA models and results, and provide final decision authority over methodologies and results. As part of the annual budget process, the Congressional Budget Office (CBO) also reviews these models.

As indicated above, SBA's subsidy rate modeling process undergoes an extensive and comprehensive review. While there are certainly different modeling methods that could be used that would produce different results, the current process is sound and attested by a large number of experts in Federal Credit Reform and financial/econometric modeling.

DISASTER LOAN PROGRAM

Question. Your budget provides for a $300 million disaster loan program. In fiscal year 2001, Congress provided for a $900 million loan level. My understanding is that your budget request proposes to cover the cost of loan guarantees above the $300 million level through a $5.6 billion government-wide emergency reserve. Have you made plans to cover the cost of disaster loans without the use of this reserve? If so, please provide them in writing. Assuming an emergency reserve were available, what is the mechanism that would trigger loan authority as needed? Assuming that the SBA would be in competition with other agencies, how would SBA be guaranteed to qualify for use of this reserve?

Answer. In the President's budget request, enough funds were included in a National Emergency Reserve to cover a five year average for programs that make up a large part of the Federal Government's response to man-made and natural disasters. However, in the Budget Resolution that Congress passed, a National Emergency Reserve was not included nor was the $5.6 billion to cover the five year average. Therefore, in fiscal year 2002, additional funding may be needed in one form or another.

SMALL BUSINESS DEVELOPMENT CENTERS

Question. In 1997, in response to an SBA request for fiscal year 1998 which directed that the SBDCs begin charging fees, the Congress passed the Small Business Reauthorization Act of 1997. The Act prohibits the SBDCs from imposing or collecting fees in connection with small business counseling services provided by the program. What circumstances have changed whereby, in your opinion, the Congress and the small business community would support repealing this provision?

Answer. The SBA is aware of the current legal prohibition against charging fees in the Small Business Development Center program. Since 1997, when the prohibition was enacted, the Federal share of the SBDC program has gone from $73,500,000 to $84,281,000. The number of clients counseled and trained in those years is shown below:

Year	Counseled	Trained
1997	245,766	377,651
1998	237,655	309,382

Year	Counseled	Trained
1999	263,927	331,464
2000	258,306	324,292

In each year, SBDCs trained many more clients than they counseled and, in most cases, charged fees for that training.

Total income for the SBDC program in the preceding three years is shown below:

Year	*Program Income*
1998	$7,000,388
1999	7,884,864
2000 estimate	8,300,000

Training events generated the majority of this income. Many of the fees for a single training event are equal to the potential total cost for the average counseling client. Therefore SBA's fiscal year 2002 proposal simply builds upon the SBDCs' success in already generating program income through training.

PROGRAM FOR INVESTMENT IN MICROENTERPRISES (PRIME)

Question. When will applicants be able to submit proposals for the first round of PRIME grants? When will the PRIME grants be awarded?

Answer. The final regulations were published in the May 29, 2001 Federal Register, along with a "Notice of Funds Available" inviting eligible entities to submit funding proposals to the Agency. The PRIME regulations will become final on June 28, 2001 which is also the closing date for acceptance of the funding proposals.

PRIME grant awards will be made late in the forth quarter of fiscal year 2001.

SYSTEMS MODERNIZATION INITIATIVE

Question. Please provide a report in writing on exactly how funds for the Systems Modernization Initiative have been spent. In this report, please include any funds that were appropriated for the Systems Modernization Initiative that were spent for other activities. It is my understanding that SBA will review its plans for the Systems Modernization Initiative and report a revised schedule to the Congress. When will this report become available? Who will write this report? Have you considered contracting with an outside expert to head this project?

Answer. As stated in the oral and written testimony, the creation of a Loan Monitoring System (LMS) expanded to include an internally sought modernization initiative. John Whitmore, Acting Administrator, asked both this subcommittee as well as the House not to act on the $8 million spending plan for fiscal year 2001 submitted by the previous Administration until he had time to determine where we were and where we should be going. We have retained KPMG to assist in assessing available options. The following is an accounting of the $23,934 (includes rescission) 4 million, appropriated in fiscal year 1998–2000:

LMS:	
Planning	$2,941,000
Systems Acquisition	1,371,000
Infrastructure	175,000
Other costs (travel, etc)	508,000
Personnel	2,849,000
Subtotal	7,844,000
Financial Accounting and Management System:	
Project Planning	717,000
Training	48,000
Systems Acquisition	1,579,000
Systems Integration	3,673,000
Other Costs (travel, etc)	39,000
Personnel	1,187,000
Subtotal	7,243,000
Other:	
Project Planning	238,000
Subsidy Rate Analysis	678,000
SBLC Reviews	740,000

Infrastructure	421,000
Personnel	19,000
Disaster project planning	150,000
Other SBA programs: Project planning	100,000
Subtotal	2,464,000
FEDSIM (includes $2,300,000 transferred from operating funds in fiscal year 2000)	8,683,000

SBA is presently taking steps to determine the exact cost of implementing an effective and reliable loan monitoring system. With the information to date, the Agency believes the total of implementation of both the LMS and Financial Accounting and Management system will be $40 million or less.

The Acting Administrator plans to send a spending letter once precise cost estimates are determined, which we hope will happen within the next month.

SUBCOMMITTEE RECESS

Senator HOLLINGS. I have momentarily a requirement to be on the floor, so let me say that the record will remain open subject to the direction of our distinguished chairman, and unless you have anything further, we will stand in recess subject to the call of the chairman.

Thank you very much, both of you.

[Whereupon, at 11:13 a.m., Tuesday, May 15, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

THURSDAY, MAY 17, 2001

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

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Domenici, Hollings, and Murray.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF LOUIS J. FREEH, DIRECTOR

OPENING REMARKS OF SENATOR GREGG

Senator GREGG. We will begin the hearing.

I understand Senator Hollings is in another hearing and will be joining us, as will a number of members of the Subcommittee on Commerce, Justice, State of the Appropriations Committee.

Let me briefly say a couple of things, because this will be the last hearing that we have the Director with us, as he is moving on.

I want to congratulate him for being an extraordinary leader of the FBI. This committee has had an intimate and intricate relationship with the FBI. We have had some disagreements, but we have had many more agreements.

During the period of the Director's service, the FBI has expanded its role and resources dramatically. It has had to take on all sorts of new issues involving the question of protecting America and Americans, especially the issue of counterterrorism; the issue of cybercrime; the issue of crimes against our children, especially over the Internet; the issue of a nation which is more complex every day, and bigger, and the crime issues associated with that.

We have dramatically expanded the number of agents, dramatically expanded the resources, and under your leadership, significantly improved innumerable functions within the FBI. When issues have arisen, of which there have been a few, such as the labs, they have been addressed aggressively, in my opinion, and effectively.

And as a result, I think your tenure at the FBI will be marked down as one of the finer periods of leadership of that agency. And I certainly admire your leadership.

That is not to say that we do not have issues, and we obviously have issues pending that are fairly significant, very significant, especially relating to the document-handling activities in the *McVeigh* case and the potential that that might reflect for systematic problems within the agency.

And I know that the Bureau, under your leadership, is setting up processes for addressing those. This committee may take a look at additional ways to address that. I know we are going to—I personally, want to take a look at—I know you are going to have the Inspector General looking at the issue, I know you are personally looking at the issue, and I know you have brought in a specialist to look at the issue.

But we may want to take a look at setting up an independent group to come in, such as Arthur D. Little or some management team, because, after 10 years and a dramatic amount of money and personnel expansion, it might be appropriate to get an evaluation by an independent group.

But that is not to be looked on, from my point, as a negative, rather as simply a reasonable management decision that should be considered.

The Bureau is our premier effort in this country to protect our citizens and to make sure that people who commit crimes which affect our citizenry are brought to justice. And you do an exceptional job. Mistakes happen, some of them are terrible.

And certainly, in the McVeigh situation, this is a man who under no circumstances should escape the justice of our system, and who committed a crime so heinous that it is hardly even believable.

And the people that he harmed continue to be harmed by it. And we want to make sure that no activities occur which will negatively impact his conviction and would in any way relieve him of the responsibility of the crime he committed.

But I think I understand, and I think most of us understand, that this was not an international oversight. It was an oversight of error and management that has to be looked at and which is being looked at and will be corrected.

And, obviously, there are other areas in which you are proceeding, dealing with agents who have not acted appropriately.

So I just wanted to make the point that, having worked with you for these last 7 years it has been a pleasure. I admire what you have done. I think you have taken a very strong agency and made it a lot stronger.

And it needs, obviously, to address some very significant issues. But on balance, America is lucky to have the FBI. And I feel fortunate to have worked with you over the years, Mr. Director.

And so, with that, I give you the floor.

DIRECTOR FREEH'S OPENING STATEMENT

Mr. FREEH. Thank you, Mr. Chairman. Good morning, and thank you for your very kind words.

And let me reiterate my great honor and great pleasure in this period of my government service, the last 8 years, in working with

the Senate, of course, but particularly the committees with which we have had such daily and intensive interaction, and particularly this committee.

I would like to thank you for your leadership in broad areas of responsibility that have been strengthened with the support, as well as the interest, and the hearings and the examination and the questioning, tough questioning, as appropriate to our mission, how it has been shaped by changes in the global world and the technology. And I think that we are better for that.

COUNTERTERRORISM, TECHNOLOGY, AND CRIMES AGAINST CHILDREN

I am particularly proud of your leadership in the counterterrorism area, the technology area, and the crimes against children area. And I just wanted to mention those very, very briefly.

The Innocent Images Project, which was initiated by interest in this committee several years ago, has now developed into a full-blown operation that saves children's lives and protects people in a very extraordinary way. We have now over 1,000 convictions in the Innocent Images operations, which, as you know, are in 22 offices and occupy dozens of our FBI special agents and personnel.

These are crimes and threats which were not addressed heretofore by any Federal agency. And there was certainly no focused and directed resources and attention placed on these types of crimes until this committee and, quite frankly, your leadership, took charge of that.

The problem is really not solved, as we know; 2,000 children are reported missing every day in the United States, not all because of criminal conduct, but many because of that. The Innocent Images initiative, which now has grown into a Crimes Against Children Program where we have at each of our offices two agents who are the coordinators of that program, interfacing directly, not just on Innocent Images modality, but all the other aspects of that program, is something that did not exist a long time ago.

As the Director, and certainly as a father, I want to thank you for your support for that particular program of which I am very, very proud.

In the counterterrorism area, I visited Kenya and Tanzania about 3 weeks ago. The purpose of my visit was to return to those countries before the end of the prosecution in New York so I could thank the police officers and the leadership of those two governments for the assistance that they provided—remarkable assistance—in the embassy bombings case, which is now before a jury deliberating in New York City.

The ability to investigate that case, from the initial deployment of resources to the expenditure of personnel and other materials to develop the investigation, obtain the evidence, bring it back to the United States as well as all of the preparation that had to be done, could not have been done in my view, 5, 6, 7 years ago. The FBI was not equipped either organizationally or, maybe more importantly, on a funded level to do that type of a case as successfully, as it was done almost on the other side of the world.

THREEFOLD INCREASE IN COUNTERTERRORISM

Your support of the rapid deployment teams, all of the laboratory enhancements, and the ability to give us a threefold increase in the counterterrorism program, is what enabled FBI agents to go to East Africa and, in conjunction with their colleagues in those countries, make a case which I often say the FBI was not entitled to make, because it was far outside our jurisdiction and authority. But you gave us the infrastructure and the support to do that.

I am very thankful for that, and I think the FBI and the American people are grateful for the ability that we have in the counterterrorism area.

It goes well beyond that, though, in your support for the overseas operations of the FBI. Also, I would like to note in my final appearance before the committee—Senator Hollings, good morning.

Senator HOLLINGS. Good morning.

Mr. FREEH. When I arrived in Nairobi to, as I said, thank the two principal leaders of the country and the police for their assistance, they gave me a newspaper as I landed.

I will just pass it up to the committee with your permission.

And the headline reads, this was the day I arrived in Nairobi, "Three Americans Rescued in Kidnap Ordeal." It was not timed for my arrival, but what it exemplified is the gratitude I just expressed for the support of our overseas FBI programs.

What happened in this case is that two American businessmen from California thought they found on the Internet a supporter for a financial enterprise that they wanted to engage in, and they traveled to Nairobi.

But instead of meeting their business partners, the two Americans were kidnapped. Using e-mail, very sophisticated e-mail, as well as cellular phones, the kidnappers communicated with the families of the two Americans to extort them for a sizable sum of money under threat of death.

The FBI agents who were in Nairobi, and were there because of the committee's support and were not there a couple of years ago, actually worked on this kidnapping with the Kenyan police on the ground. They mounted the operation that led to the direct rescue of these two Americans.

In fact, the FBI agent was on the phone negotiating with the hostage takers and was the individual directly responsible for their release.

When the two Americans were released, they mentioned that a third American was being held. There was a third kidnap victim who had been held for 4 months by the same group, but his disappearance had not been reported. Nobody knew that he was being held. The agents were told after they secured his release that he thinks other people, Americans, may have been held during that period and perhaps even killed.

The ability to work a kidnapping case in Nairobi and the necessity to exploit and intercept e-mail communications and deploy people back and forth, again, is something that was not present in the FBI a short time ago, but is there now because of the commitment that has been made, not just to the counterterrorism program, but to our ability to operate overseas.

NATIONAL INFRASTRUCTURE PROTECTION CENTER

Finally, in the technical area, whether it is the National Infrastructure Protection Center, which supports Innocent Images, or the funding that this committee has provided does not make us the perfect model for information technology. We know that is not the case and we have a lot to build in that area.

But we have been furnished with the raw materials, with what the leadership in this committee has provided. The mission, and now I believe the expertise on board at the FBI is enough to not just make the Trilogy project a successful IT model, but to help us through the difficulties that the information age necessarily portends for an agency that is involved in collecting information every day.

So in those three areas—and I could highlight others—I want to particularly thank you, Mr. Chairman, Senator Hollings, and the other members of this committee.

You have had hearings well beyond the normal scope of the appropriations process into the counterterrorism area. You organized a very extraordinary hearing last week by several Senate committees, who, as I understood it, have never gotten together before on the central issue of counterterrorism. And for that, I want to compliment you and tell you how grateful we are.

MC VEIGH MATTER AND RECORDS MANAGEMENT

With respect to the McVeigh matter, I have a statement, which the committee has received and which I read yesterday at my hearing. I do not want to repeat it again; I am certainly pleased to answer any questions that you or the members have.

I will highlight, however, that we note in that statement that we are taking some particular steps which we believe are necessary, but also will be instrumental in dealing with a fundamental problem, which is not a technology problem. We believe it is just a management and execution problem.

And even given the very extraordinary scope of this case, in terms of the numbers of materials involved, millions and millions, we did a less than good job with respect to the accumulation and the discovery of documents called for in an unprecedented type of discovery agreement, but nevertheless called for and not produced as they should have been by the FBI. And I take responsibility for that.

I am also taking some steps to try to address it. As I mentioned yesterday, we asked for the recruitment of a records management expert, who would be a senior official concerned only with this particular problem, the problem of records management. We have over 6 billion paper records, as well as many electronic records, and we are going to look at it as a separate and critically important structure to improve on its own.

We are also going to take some steps to increase the training of all of our personnel with respect to the management of records. We are going to propose a modification of the Trilogy project, which will give us, we believe, the ability to account and order documents in an electronic format, which we have not done. We are going to have a stand-down in the FBI, as I mentioned yesterday, so we can

take full measure of both the importance and the necessity of correcting this problem.

The creation, filing, and dissemination of our own investigative records is as important to ensuring the rights of those that we protect, as well as those who we investigate, and that is as important as every other constitutional requirement that we have.

So I will endeavor to not only get that initiative going, but to make sure that it is followed through. And you have our commitment for that.

2002 BUDGET REQUEST

With respect to the 2002 budget, I just wanted to briefly comment on the matters, which are well-known to the committee and the staff. The budget calls for four new initiatives with respect to increased program support. The categories are counterintelligence, counterterrorism, cybercrime, and infrastructure. There are a number of subissues with respect to those main categories.

The budget will take us where we need to be on the information technology front. Also, the budget will give us the additional enhancements in the counterintelligence and counterterrorism programs that are required to meet some of the new challenges. And with respect to cybercrime, which is really the cross-cutting technology affecting all of our programs, some of the requests for enhancement will give us the ability to manage not only the programs that we currently employ, but also give us network data interception abilities. It will go a long way to at least beginning to deal with the encryption issue.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT (CALEA)

One of the pieces of unfinished business which I regret to leave is the encryption issue. We have not made much progress over the course of 8 years in addressing that central problem. The CALEA statute and the $500 million in support of that program have been very successful with respect to solving the access issue. However, remaining behind is the plain text issue of the materials that will now be accessed by the CALEA funding and the common carriers' cooperation as set forth in the statute.

My prediction as I leave is probably equal to what it was several years ago, and that is, if we do not solve the encryption problem very decisively, in a very short period of time, many of the avenues of investigative opportunities will become either difficult or closed to us.

The speed with which the digital systems are being employed and telecommunications are migrating from the old analogue environment to the digital environment will preclude law enforcement officers with court orders in hand from understanding, if not accessing, materials, evidence, and information which they will receive in due course.

Unless we can address that problem, the main complicated areas of our programs, particularly in counterterrorism, complex international crime, but also everything else, will suffer as a result.

We take a couple of small steps in the 2002 request to lay the foundation for the counterencryption strategy. What is going to be needed in the years to come, is a lot more measures: the technical

support center, the integration of our efforts with our State and local counterparts in this particular area.

The voluntary approach I think has worked with the industry, but the industry is looking for statutory support for those voluntary efforts of assistance to the FBI and to the government.

The Cyberspace Electronic Surveillance Act statute, which came up to the Congress last year, would give the industry some measure of protection in the areas where we will be asking them for their assistance.

These are the kinds of measures that I think are going to need to be addressed. And I am very thankful, Mr. Chairman, for your leadership on this issue.

This has been a very difficult issue. It is where law enforcement and privacy intersect. There are very good arguments and very persuasive arguments on both sides, but I think a balance has to be struck between those equities.

I do not think law enforcement should have a free rein here, but I also do not think that valid privacy interests should preclude the effectiveness of a Federal court order that allows and authorizes an agent of the United States to intercept information and evidence. If they cannot understand the evidence that is being intercepted, the order almost becomes a nullity in itself.

So one of my continuing recommendations will be to keep the interest and the movement in this particular area, which, is very cumbersome. It is easy to get distracted, and it is easy to get frustrated, either on the privacy side or on the law enforcement side, which is why I think a voluntary approach really needs to be struck. I believe this voluntary approach can be struck. And that would be my hope in the years to come.

PREPARED STATEMENT

I will certainly be pleased to answer any of your questions at this point.

[The statement follows:]

PREPARED STATEMENT OF LOUIS J. FREEH

Good morning, Chairman Gregg, Senator Hollings and other members of the Subcommittee. Once again, I am pleased to discuss the fiscal year 2002 budget request for the Federal Bureau of Investigation (FBI).

The work of the FBI, whether it is catching criminals, drug traffickers, terrorists, and spies; providing training, investigative assistance, and forensic and identification services to our law enforcement partners; or developing new crime-fighting technologies and techniques, is made possible by the strong support of this Subcommittee. On behalf of the employees of the FBI, I thank you.

CHALLENGES FACING THE FBI

Before discussing our fiscal year 2002 budget request, I would like to highlight for the Subcommittee several of the challenges facing the FBI, and update you on the implementation of the FBI Strategic Plan that we adopted in 1998 to prepare the FBI for the 21st Century. This plan and its vision of the FBI is especially important given the challenges and changes facing the FBI.

Increasingly, the crime problems and national security threats facing the FBI are transcending the traditional investigative programs under which the FBI operates. For example, the Southwest Border and East Caribbean crime strategies are based upon a coordinated attack against drug trafficking (organized crime/drugs program), violent crimes and gangs (violent crimes program), and public corruption (white-collar crime program). Emerging criminal enterprises from Eastern Europe and Eurasia tend to be involved not only in "traditional" organized crime activities, such as

extortion, loan sharking, and street crime, but also complex money laundering, tax evasion schemes, medical fraud, and other "white-collar" offenses and international trafficking in prostitution.

We are also facing a growing internationalization of crime. Increasingly, cases being worked by FBI Agents on the streets of America are developing leads that take us to foreign lands for resolution. Recent events, such as the abductions and brutal murders of Americans in Uganda and Colombia, required the FBI to exercise its statutory extraterritorial jurisdiction and deploy investigative teams overseas. Organized criminal enterprises are often involved in related illegal activities on several continents. Communications networks and the Internet allow criminals in foreign countries to commit theft and fraud or to distribute child pornography in the United States without leaving their homelands.

To respond to these types of emerging crime problems and national security issues more quickly, the FBI must focus its efforts and resources along broader investigative strategies.

Another challenge facing the FBI is the changing demographics of our workforce. Since assuming the position of Director in September 1993, the FBI has hired and trained approximately 4,800 new Special Agents. Agents hired since September 1993 represent about 41 percent of the agents on board today. While I am immensely proud of our agent workforce, I am also aware that it is a young workforce in terms of experience. Similarly, we have hired nearly 7,800 new support employees since September 1993; nearly 36 percent of our current support employees entered on duty since September 1993.

Keeping current with the fast pace of technology and more complex crime problems and issues requires a more technically trained and competent workforce. This applies not only in terms of our investigators, but also with respect to the scientists, engineers, analysts, and other support staff who help our agents do their jobs. We are also recognizing that technically trained specialists are becoming an increasingly important part of our investigative teams.

Emerging technologies present both a challenge and an opportunity for the FBI to develop new methods and capabilities for preventing and investigating crime and protecting the national security. Criminals, terrorists, and foreign intelligence agents, mirroring legitimate businesses and society in general, have embraced information technology and recognize the potential of new efficiencies and capabilities in developing and maintaining criminal enterprises and other illegal activities. Traditional crimes, especially financial and commercial crimes, are now being committed in a digital world. Paper trails are now electronic trails. Records which were once written and stored in a safe are now written to electronic media and encrypted. At the same time, the same efficiencies and capabilities being exploited by criminals and others to commit crimes can also be used to improve the effectiveness of the FBI and law enforcement in fighting those very same illegal activities. We must be able to upgrade existing investigative techniques and technologies and to take advantage of emerging technologies to develop new capabilities to keep abreast of changing criminal problems and national security issues.

Ensuring an infrastructure to support the operational, information technology, administrative, safety, and security requirements of the FBI also presents challenges. The FBI employs over 27,000 employees, located in 56 major field offices, approximately 400 smaller resident agencies, four information technology centers, a fingerprint identification and criminal justice information complex, a training academy, an engineering research facility, and FBI Headquarters. We also operate Legal Attaché Offices in 44 foreign countries on the continents of Africa, Asia, Europe, North and South America, and Australia. Tying these offices together are large, complex radio communications and telecommunications networks. In addition, we also operate and maintain a nationwide criminal justice, forensic, and investigative information systems and services, such as the Integrated Automated Fingerprint Identification System, the National Crime Information Center, the National Instant Criminal Background Check System (NICS), Law Enforcement On-line, the Violent Criminal Apprehension Program, and the Combined DNA Identification System, that are relied upon by federal, state and local law enforcement and criminal justice agencies.

FBI STRATEGIC PLAN UPDATE

Three years ago, I issued the FBI Strategic Plan, 1998–2003. This plan represented the culmination of work performed over a year's time by a strategic planning task force. This group conducted strategy sessions with every FBI investigative program, both criminal and national security, and met with FBI Special Agents in Charge and other field office representatives. In doing so, the task force not only

identified the strategic direction and national priorities for the FBI, but it also performed a self-assessment of the FBI's capacity to achieve these goals. This self-assessment identified deficiencies and performance gaps that must be improved or completely eliminated if we are to be successful in dealing with emerging crime problems and more challenging threats and issues related to protecting the national security. Some of these deficiencies and performance gaps are being corrected by reengineering processes and implementing policy decisions, while others may require funding and resources to mitigate.

Guiding the implementation of our national priorities is a statement of core values for performing the mission of the FBI, which I personally wrote. Briefly, the core values that I have established for FBI employees can be summarized as follows: rigorous obedience to the Constitution; respect for the dignity of all those we protect; compassion; fairness; and uncompromising personal and institutional integrity.

To accomplish the mission of the FBI, we must follow these core values. The public expects the FBI to do its utmost to protect people and their rights. As I have told FBI employees, observance of these core values is our guarantee of excellence and propriety in meeting the Bureau's national security and criminal investigative responsibilities.

The FBI Strategic Plan, 1998–2003 identified three major functional areas that define the FBI's strategic priorities. These three national priorities are: national and economic security; criminal enterprises and public integrity; and individuals and property. Within these three functional areas the FBI identified nine strategic goals emphasizing the FBI's need to position itself to prevent crimes and counterintelligence activities, rather than just reacting to such acts after they occur, as follows:

National and Economic Security.—Our highest national priority is the investigation of foreign intelligence, terrorist, and criminal activities that directly threaten the national or economic security of the United States. We have established four strategic goals for this area:

—Identify, prevent, and defeat intelligence operations conducted by any foreign power within the United States, or against certain U.S. interests abroad, that constitute a threat to U.S. national security;
—Prevent, disrupt, and defeat terrorist operations before they occur;
—Create an effective and ongoing deterrent to prevent criminal conspiracies from defrauding major U.S. industries and the U.S. Government; and
—Deter the unlawful exploitation of emerging technologies by foreign powers, terrorists, and criminal elements.

KEY TIER 1 PERFORMANCE INDICATORS, 1999–2000

	1999	2000
Foreign Intelligence Surveillance Act Applications Processed	531	562
Counterespionage (CE) Arrests and Locates	16	11
CE Information and Indictments	18	9
CE Convictions and Pre-trial Diversions	17	6
Joint Terrorism Task Forces	23	29
Counterterrorism (CT)-related Arrests and Locates	305	596
CT-related Information and Indictments	139	223
CT-related Convictions and Pre-trial Diversions	186	241
FBI Field Computer Intrusion (CI) Squads/Teams	10	16
National Infrastructure Protection Center (NIPC) Crisis Action Teams Activated	6	3
NIPC Threat and Warning Notices Issued	33	36
Key Assets Identified	2,745	5,384
Infragard chapters	8	31
Infragard participants	18	392
CI-related Arrests and Locates	40	62
CI-related Information and Indictments	49	66
CI-related Convictions and Pre-trial Diversions	54	62
Health Care Fraud (HCF) Arrests and Locates	376	362
HCF Information and Indictments	696	825
HCF Convictions and Pre-trial Diversions	607	653
HCF Recoveries and Restitutions ($000)	312,861	581,517
HCF Fines ($000)	51,724	137,456

Criminal Enterprises and Public Integrity.—Our second national priority is crimes that affect the public safety or which undermine the integrity of American society. These investigations are often targeted at criminal organizations, such as the La Cosa Nostra, cartels and drug trafficking organizations, Asian criminal enterprises, and Russian organized crime groups that exploit social, economic, or political circumstances. Another focus within this area is public corruption and civil rights. For this area, we have established four strategic objectives:

—Identify, disrupt, and dismantle existing and emerging organized criminal enterprises whose activities affect the United States;
—Identify, disrupt, and dismantle targeted international and national drug-trafficking organizations;
—Reduce public corruption at all levels of government with special emphasis on law enforcement operations; and
—Deter civil rights violations through aggressive investigative and proactive measures.

KEY TIER 2 PERFORMANCE INDICATORS, 1999–2000

	1999	2000
U.S. based drug organizations affiliated with 13 national priority targets that were:		
Identified	64	201
Dismantled	8	16
Percent of La Cosa Nostra members incarcerated	18	22
Eurasian Criminal Enterprises dismantled	3	6
Asian Criminal Enterprises dismantled	4	15
Safe Streets Task Forces (SSTFs)	165	175
SSTF Arrests and Locates	17,473	16,147
SSTF Information and Indictments	2,049	1,989
SSTF Convictions and Pre-trial Diversions	2,576	2,300
Violent Gang Task Forces	45	49
Violent Gang Arrests and Locates	N/A	5,987
Violent Gang Information and Indictments	N/A	2,549
Violent Gang Convictions and Pre-trial Diversions	N/A	2,315
Violent Gangs affiliated with 7 national target groups that were dismantled	31	37
Public Corruption (PC) Arrests and Locates	355	422
PC Information and Indictments	597	606
PC Convictions and Pre-trial Diversions	552	551
Civil Rights (CR) Arrests and Locates	240	145
CR Information and Indictments	204	149
CR Convictions and Pre-trial Diversions	257	195

Individuals and Property.—Our third national priority is crimes that affect individuals and property. Within this area, we will develop investigative strategies that reflect the public's expectation that the FBI will respond to and investigate serious criminal acts that affect the community and bring those responsible to justice. Our strategic goal for this area is:

—Reduce the impact of the most significant crimes that affect individuals and property.

KEY TIER 3 PERFORMANCE MEASURES, 1999–2000

	1999	2000
Crimes Against Children (CAC) Resource Teams	35	35
CAC Arrests, Locates, Summons	872	1,004
CAC Information and Indictments	621	731
CAC Convictions and Pre-trial Diversions	591	802
Number of Missing Children Located	90	92
''Innocent Images'' National Initiative (IINI) Undercover Operations	10	14
IINI Arrests, Locates, Summons	337	482
IINI Information and Indictments	307	421
IINI Convictions and Pre-trial Diversions	315	476

KEY TIER 3 PERFORMANCE MEASURES, 1999–2000—Continued

	1999	2000
Safe Trails Task Forces (STTFs)	6	6
Indian Country (IC) Arrests and Locates	668	733
IC Information and Indictments	819	755
IC Convictions and Pre-trial Diversions	726	735

[Note: In some instances, data shown reflects updated information from that presented in the Department of Justice Fiscal Year 2000 Performance Report and Fiscal Year 2000 Performance Plan issued in April 2001.]

Overall, during fiscal year 2000, FBI investigations led or contributed to the indictment of 19,134 individuals, the conviction of 21,420 individuals, and the arrest of 36,387 persons on federal, state, local, or international charges. Additionally, FBI investigative efforts led or contributed to $946,811,505 in fines being levied, $1,012,851,257 in recoveries of stolen property, and $3,259,384,477 in court-ordered restitutions.

To achieve the strategic objectives that we have identified, the FBI has developed five operational support strategies that are designed to build enhanced investigative capabilities and effectiveness. These operational support categories are: intelligence, information technology, applied science and engineering, management, and assistance to State, local, and international law enforcement partners.

KEY SUPPORT PERFORMANCE INDICATORS, 1999 AND 2000

	1999	2000
Students trained, FBI Academy:		
New FBI Special Agents	718	312
FBI employees (in-service, advanced)	11,250	11,767
Other federal, state, local, and international	4,881	5,796
Other students trained (regional, local):		
State, local	117,599	120,233
International	7,105	7,709
Countries represented	121	161
Forensic examinations performed:		
Federal agencies	727,354	651,751
Non-federal agencies	139,354	120,101
Fingerprint identification services:		
Criminal cards processed	5,926,920	8,577,911
Civil card processed	6,496,415	6,743,428
Civil submissions with criminal records	565,929	701,164
Civil submissions using false identity	66,213	82,036
National Crime Information Center (NCIC) transactions	764,189,606	850,351,631
National Instant Check System:		
Checks performed by States	3,480,832	4,511,866
Checks performed by FBI	3,346,743	4,489,113
Persons with criminal records prevented from purchasing firearms (FBI checks)	62,189	71,890

For the fiscal year 2002 budget, FBI program managers continued to use the FBI Strategic Plan, 1998–2003, and the five operational support strategies as guides for developing their resource requirements. Through an integrated strategic planning and budget framework, the FBI has significantly sharpened its focus for allocating resources based upon national priorities and strategic objectives that concentrate on the most significant crime problems and threats to the Nation.

OVERVIEW OF FISCAL YEAR 2002 BUDGET REQUEST

For fiscal year 2002, the FBI is requesting a total of $3,507,109,000 and 24,938 permanent positions (10,420 agents) and 24,490 workyears for its Salaries and Expenses ($3,505,859,000) and Construction ($1,250,000) appropriations. For FBI Salaries and Expenses, this amount represents a net increase of $277,377,000 from the current year and consists of $106,569,000 for adjustments to base and $170,808,000

for program increases. The adjustments to base include such items as the proposed 3.6 percent pay raise for fiscal year 2002, higher federal employee health insurance costs, additional General Services Administration (GSA) rent costs, and annualization of prior year increases and pay raises provided by Congress. Program increases proposed for fiscal year 2002 would provide 279 new positions, including 76 new agents, and $170,808,000 for four budget initiatives: Counter-intelligence; Counterterrorism; Cybercrime; and Infrastructure.

In addition to direct funded resources, the fiscal year 2002 budget request assumes a total of 2,826 reimbursable workyears, including 1,041 agents. Under the auspices of the Interagency Crime and Drug Enforcement (ICDE) program, the FBI would be reimbursed for a total of 912 workyears, including 547 agents, and $115,436,000 for FBI drug and gang-related task force investigations and operations. Pursuant to the Health Insurance Portability and Accountability Act of 1996, the FBI will receive $101,000,000 in fiscal year 2002 to fund 793 workyears, including 465 agents, for health care fraud enforcement. For user fee programs of the Criminal Justice Services program, a total of 692 workyears are planned, based on estimated fees. The remaining reimbursable workyears are used to facilitate a variety of other activities, including victim/witness assistance, name checks for other federal agencies, facility and maintenance support to other agencies sharing FBI facilities, pre-employment background investigations, and detail assignment to other agencies.

At this point, I would like to describe in more detail the four budget initiatives proposed for fiscal year 2002.

COUNTERINTELLIGENCE

Despite the fall of the Iron Curtain and the emergence of democracy in many of the countries formerly under the rule of communism, the threat posed to U.S. national, military, and economic security from foreign countries remains significant. Investigations in this area have become more complex as foreign intelligence services have expanded their focus from traditional military-related targets to new areas, including technology, intellectual property, economic espionage, and proliferation. The FBI continues to work closely with the intelligence community to identify and reduce the presence of hostile intelligence services in the United States.

To keep pace with the changing counterintelligence threat to the United States, the FBI is proposing a counterintelligence initiative that would provide an additional $31,277,000 and 182 positions (62 agents) in four areas of this mission-critical responsibility:

—enhancing field investigative activities focused on identifying, preventing, and defeating intelligence operations conducted by any foreign power within the United States or against U.S. interests abroad that pose a threat to U.S. national security;
—improving national-level program management and coordination of field investigative activities;
—developing and acquiring technology to support FBI counterintelligence activities; and
—improving security countermeasures to ensure the reliability of FBI personnel and contractors and security of information and facilities.

COUNTERTERRORISM

The United States continues to face a serious, credible threat from terrorists both abroad and at home. The number of groups and individuals capable of carrying out a terrorist act has increased over the past several years. Of continuing concern to the FBI are groups and individuals for which political or religious beliefs constitute sufficient motivation for carrying out a devastating terrorist act.

To deal effectively with domestic and international terrorism, the FBI must concentrate on both prevention and response. The FBI's counterterrorism strategy is focused upon five inter-related elements to build and maintain an operational capacity for identifying, preventing, deterring, and investigating terrorist activities. First, the FBI must have the capacity to respond to acts of terrorism committed in the United States and abroad when those acts are directed against the U.S. government or its interests. Second, the FBI must have the capacity to receive, react to, and disseminate counterterrorism information. Third, the FBI must develop its internal capacities to support proactive counterterrorism programs and initiatives. Fourth, the FBI must have the capacity to establish and maintain sound and productive relationships with other domestic and foreign law enforcement and intelligence counterparts. Fifth, the FBI must have the capacity to use all of the necessary assets and capabilities of the FBI and other U.S. government agencies to support and initiate

complex investigations and operations against domestic and international terrorists and terrorist organizations. For fiscal year 2002, the FBI is requesting increases totaling $32,059,000 and 42 positions (8 agents) to improve and enhance existing counterterrorism capabilities and operations.

2002 Winter Olympics Preparation.—The 2002 Winter Olympic Games have been designated a National Special Security Event. Consistent with FBI lead-agency responsibilities for intelligence collection and crisis management as contained in PDD–39 and PDD–62, the FBI is working closely with the United States Secret Service and other federal, State, and local law enforcement and consequence management agencies to plan for security and public safety issues for the 2002 Winter Olympic Games that will be hosted by Salt Lake City, Utah.

For fiscal year 2002, the FBI requests increases totaling $12,302,000 for 2002 Winter Olympic Games deployment. The funding requested will cover travel, per diem, vehicle lease, utilities, telecommunications, and FBI overtime costs for the planned deployment of over 800 FBI personnel for the event period. The Salt Lake City games will be conducted at 20 official Olympic venues spread over a 6,000 square mile area. Olympic competition will take place simultaneously at 10 venues in 3 major cities and 6 remote mountain resort areas.

Recurring Security Services.—The FBI is committed to implementing the security standards contained in the June 1995 Department of Justice report entitled, "Vulnerability Assessment of Federal Facilities." FBI facilities are often the target of potential terrorist threats. Safeguarding agency employees and physical security must be a priority. For fiscal year 2002, the FBI requests an increase of $2,020,000 to acquire contract guard services for 6 stand-alone field office facilities where GSA does not provide such service ($1,600,000), replace an outdated closed-circuit television (CCTV) security system at FBI Headquarters ($320,000), and replace three guard booths at FBI Headquarters to facilitate new visitor identification procedures ($100,000).

Incident Response Readiness.—Consistent with the provisions of PDD–62, the FBI initiated a long-term program in fiscal year 2000 to develop law enforcement capabilities for the technical resolution of a weapons of mass destruction incident involving chemical, biological, or radiological threats or devices. Initial funding for this effort was provided through an interagency agreement with the Department of Defense. For fiscal year 2002, the FBI requests 42 positions (8 agents) and $17,737,000 to support ongoing efforts in the areas of threat assessment, diagnostics, and advanced render safe equipment.

CYBERCRIME

In recent years, technological advances have fundamentally changed the way of life in this country. Computers and networks allow millions of individuals to access, on a daily basis, a broad range of information services, databases, commerce, and communications capabilities that were previously unavailable. A combination of reduced cost for computer technology and increased storage capacity allows the accumulation, storage, and management of large amounts of information by individuals on personal computers and peripheral devices. Many FBI investigations, especially those involving organized crime, drug trafficking, crimes against children, white-collar crime, counterintelligence, and counterterrorism, are encountering the use of computer technology to facilitate illegal activities. As a result, the FBI must develop the investigative and forensic capacities and capabilities to deal with the use of computer technology by criminals and others to commit crimes or undermine national security. For fiscal year 2002, the FBI is requesting an increase of 33 positions (6 agents) and $28,144,000 for providing specialized technical assistance to field investigators and for developing investigative tools for law enforcement to counter the use of digital technology by criminals, terrorists, and others.

Technical Support to Field Offices.—Criminals and other subjects of FBI investigations are employing advanced, complex physical and electronic security technology to protect their operations from competing criminal groups and to thwart law enforcement from executing lawful searches of premises and conducting court-approved interceptions of communications. The ability of the FBI to overcome such defensive measures is often critical to the success of high profile investigations and operations and the collection of evidence. The FBI's Laboratory Division provides technical support to FBI field offices, as well as the Drug Enforcement Administration, United States Customs Service, and other federal, state, and local law enforcement encountering such problems. To be able to continue providing this assistance, the FBI is requesting an increase of 10 positions (4 agents) and $1,358,000.

Network Data Interception.—In the Omnibus Safe Streets Act of 1968, as amended, Congress provided the FBI with the basic legal authority to conduct the inter-

ception of oral, wire, or electronic communications in criminal investigations. The statutory authority to intercept communications in national security cases was provided by Congress in the Foreign Intelligence Surveillance Act. The use of court-authorized intercepts is the investigative tool of last resort, and allowed only after all other logical investigative avenues are exhausted. Often, the evidence collected through the use of court-authorized intercepts of communications is critical to the prosecution of criminal enterprise leadership who are otherwise able to insulate themselves through the use of intermediaries from direct ties to criminal acts and illegal activities. The increasing use of the Internet and world-wide web by criminals, terrorists, and intelligence agents to commit illegal acts and carry out conspiracies against U.S. national security has presented the FBI and law enforcement with new challenges in conducting court-approved interceptions of communications and obtaining evidence and intelligence.

Increasingly, affidavits for the interception of communications are including e-mails, file transfers, and Internet Relay Chat messages, within the scope of court orders. Emerging new digital technologies, such as Internet telephony, digital subscription lines, cable Internet, wireless Internet, and satellite communications, are likely to be exploited by criminals and others in their continuing efforts to thwart law enforcement detection. Law enforcement requires the development of capabilities and techniques for conducting court-approved interceptions of communications in existing and emerging digital environments.

For fiscal year 2002, the FBI requests an increase of 7 positions (2 agents) and $7,664,000 to develop and procure network digital interception technologies; to provide on-site assistance to field offices, pursuant to court-approved orders; and to provide training to FBI technically trained agents.

Counterencryption.—The widespread use of digitally-based technologies and the expansion of computer networks incorporating privacy features and capabilities through the use of cryptography presents a significant challenge to the continued ability of law enforcement to use existing electronic surveillance authorities. The FBI is already encountering strong encryption in criminal and national security investigations. In 1999, 53 new investigations encountered encryption. The need for a law enforcement cryptanalytic capability is well documented in several studies, including the National Research Council's 1996 report entitled, "Cryptography's Role in Securing the Information Society." The report recommends high priority be given to the development of technical capabilities, such as signal analysis and decryption, to assist law enforcement in coping with technological challenges.

The Administration supports the enhancement of a centralized law enforcement capability within the FBI for engineering, processing, and decrypting lawfully intercepted digital communications and electronically stored information. For fiscal year 2002, the FBI requests an increase of $7,000,000 to further develop an initial operating capability that will allow law enforcement to obtain plain text and meet the public safety challenges posed by the criminal use of encryption. With this funding, the FBI intends to work with existing national laboratories and other government agencies to ensure all existing resources are used in executing processing functions. This approach will prevent duplication of effort. Additionally, the FBI plans to acquire necessary computer hardware, software tools, technical expertise, and services to develop capacities in four counterencryption program areas: (1) analytical engineering; (2) signal analysis research; (3) counterencryption deployment; and (4) industry-assisted technology transfer. The FBI also requests an increase of 13 positions and $1,202,000 for the collection and examination of evidence (devices and communications) which include encrypted materials and other electronic analysis forensic and technical examinations.

Electronic Surveillance Data Management System.—With funding appropriated by Congress in fiscal year 2001, the FBI is acquiring and installing new digital collection systems to update existing analog equipment currently being used in FBI field offices. For fiscal year 2002, the FBI requests an increase of 3 positions and $10,920,000 for the Casa de Web project which would serve as a distributed database that provides agents and analysts with access to minimized (not unprocessed) recordings of audio, data, and reports generated by digital collection systems. The Casa de Web system will consist of two separate databases, one for criminal law enforcement data and one for foreign counterintelligence data. This separation ensures compliance with Executive Order 12333 that prohibits the commingling of such materials. Firewalls and security protocols will prevent data from being accessed by unauthorized users and prevent external access of the system. The Casa de Web project is being coordinated with Trilogy, the FBI's information technology upgrade program.

Casa de Web will allow authorized agents, analysts, and translators to share and analyze minimized data on an inter and intra office basis. Analytical tools planned

for Casa de Web, such as key word speaker identification, and speech recognition, will improve information and intelligence sharing capabilities and permit FBI Agents and analysts to view, listen, and act on collected minimized electronic surveillance information on a more timely basis.

INFRASTRUCTURE

To be successful, the FBI must have the capacity for collecting, storing, managing, analyzing, and disseminating case and intelligence information on a timely basis to its own investigative personnel, as well as other federal, State, and local law enforcement and the intelligence community. Existing systems and capacities must be upgraded to meet increased investigative demands. New technologies also present opportunities for making for effective and timely use of case information and intelligence currently being collected. On a daily basis, the FBI depends on its core infrastructure to ensure its agents and support staff can perform their jobs. A strong, solid infrastructure is necessary for providing everyday tools and services, such as replacement and safe automobiles for responding to and conducting investigations and equipment and supplies for conducting forensic examinations of evidence.

Trilogy.—Trilogy is the FBI's three-year information technology infrastructure upgrade initiative. Trilogy consists of three key components: User Applications, a collection of user-specific software applications and tools to enhance the ability of agents and support employees to organize, access, and analyze information; Information Presentation, replacement computer hardware and office automation software within each office to link employees at their desks with counterparts throughout the FBI; and Network, upgrades to acquire high-speed local and wide area networks and telecommunication circuits to deliver information between users and locations securely and quickly.

Congress provided the approval to proceed with the first year of the Trilogy implementation plan in fiscal year 2001 and authorized the expenditure of $100,700,000 in appropriated and unobligated prior year funds. Since receiving approval to proceed with this project, the FBI acquired the services of Mitretek Systems to provide management and technical assistance to the FBI Trilogy Program Office and the services of GSA's Federal Systems Integration and Management Center (FEDSIM) to act as the acquisition agent for the project. The FBI also selected the GSA Millenia contract as the acquisition vehicle for the project. In January 2001, the FBI, through FEDSIM, issued two task order requests (TORs) to the Millenia contractors. One TOR addresses the User Applications component of Trilogy, while the second TOR addresses the Information Presentation and Network components. In April 2001, after separately reviewing vendor proposals for both TORs, the FBI selected vendors. Contractor work is expected to commence by June 2001.

Second year implementation costs of the Trilogy project are estimated at $142,390,000. To help meet this requirement, the FBI plans to allocate $38,230,000 of existing base funding and apply $36,500,000 of unobligated prior year funds toward Trilogy in fiscal year 2002. To complete second year funding requirements, an enhancement of $67,660,000 is required. Second year activities of the Trilogy project will focus on implementing multi-case analytical tools, intranet upgrades, and multimedia electronic case files; continuing office automation upgrades in field offices; and continuing upgrades to local and wide-area networks and telecommunications circuits. The third year of implementation will complete the office automation upgrades in field offices and at Headquarters, provide for additional wide-area network circuits, and permit additional improvements to FBI case databases.

Telecommunications Services.—An enhancement of $6,500,000 is requested to begin the replacement and upgrade of telecommunications equipment used to provide connectivity between FBI legal attaché offices and the Department of State's (DOS) worldwide network and to provide telecommunications support for FBI participation in High Intensity Drug Trafficking Area (HIDTA) multi-agency investigations and meet special case needs. The DOS Diplomatic Telecommunications Service (DTS) is upgrading its telecommunications network over the next five years. This upgrade will require the FBI to replace its legacy equipment with new equipment compatible with the DTS network.

Motor Vehicle Program.—An increase of $4,007,000 is requested for the FBI motor vehicle program, including $2,557,000 to replace an additional 110 vehicles with mileage exceeding 80,000 miles, $450,000 for automotive diagnostic tools, and $1,000,000 to upgrade the Vehicle Management System to enhance fleet management and maintenance.

FBI Laboratory Activation.—Occupancy of the new FBI Laboratory facility at Quantico, Virginia, is scheduled to begin in Summer 2002. Activation of the facility

will require an increase of 22 buildings and facilities management employees and $1,161,000 to properly operate and maintain the new building.

Additionally, the fiscal year 2002 budget proposes that $40,000,000 from the Department of Justice Working Capital Fund be used to meet costs associated with the activation of the new facility. These costs include the following:

—$3,868,750 for the transfer of 125 Laboratory Division employees;
—$15,000,000 for general and specialized equipment;
—$4,695,812 for office furniture and shelving;
—$600,000 for information technology equipment, such as network routers, hubs, and multiple access units;
—$908,438 for moving services;
—$792,000 for part-year fiscal year 2002 operations and maintenance costs, such as utilities; maintenance supplies; environmental testing, trash removal, and other miscellaneous services; and housekeeping, landscaping, and other building maintenance; and
—$14,135,000 for decommissioning and renovation/alteration of existing Laboratory Division space in the J. Edgar Hoover Building being vacated. This amount includes $3,000,000 for abatement and clean-up activities and disposal of hazardous materials/waste and $11,135,000 for renovations and alterations of approximately 131,000 square feet of space.

RELATED DEPARTMENTAL FUNDING REQUESTS

Mr. Chairman, I would like to highlight several requests for funding included within other Department of Justice programs that are considered important to FBI initiatives and programs.

State and Local Bomb Technician Equipment.—Within the funding proposed for the Office of Justice Programs (OJP), $10,000,000 is included to continue an FBI Laboratory-managed program of training and equipping approximately 386 accredited State and local bomb squads located in communities throughout the United States.

Continuation of funding for this program will ensure State and local bomb squads are properly trained and equipped to deal traditional improvised and explosive devices, as well as the initial response to devices that may be used by terrorists or others to release chemical or biological agents. Through this program, the FBI has provided State and local bomb squads with weapons of mass destruction (WMD) protective search suits, real-time x-ray devices, multi-gas monitoring systems, portable radiation detectors, and computers to access the Chemical and Biological Organisms—Law Enforcement database. This initiative compliments the State and local bomb technician training and accreditation program that the FBI Laboratory provides at the Hazardous Devices School, Redstone Arsenal, Alabama.

Grants for DNA Convicted Offender and Crime Scene Backlog Reduction.—Also, requested under Community Oriented Policing Services (COPS) program is $35,000,000 for grants to reduce the backlog of DNA profiles for entry into the FBI's national Combined DNA Information System (CODIS) database ($15,000,000), and to reduce the backlog of crime scene evidence awaiting DNA testing ($20,000,000). These proposals are related to several on-going FBI Laboratory initiatives for improving State and local crime-fighting and forensic capabilities.

White-Collar Crime.—The OJP, Justice Assistance appropriation proposes $9,230,000 for the operations of the National White-Collar Crime Center (NW3C). The FBI has entered into a partnership with the NW3C to staff the Internet Fraud Complaint Center (IFCC), which opened in May 2000. The IFCC serves as a focal point for receiving and analyzing complaints from citizens and private industry victimized by Internet fraud and as a resource to federal, State, and local law enforcement and regulatory agencies.

LEGISLATIVE PROPOSALS

Mr. Chairman, the fiscal year 2002 budget request includes several general provisions proposed by the FBI, including: danger pay, foreign cooperative agreements, railroad police training, and warranty reimbursement authorities. I encourage the Subcommittee to include these general provisions as part of the fiscal year 2002 Justice Appropriations Act.

Danger Pay.—Section 108 would extend to the FBI the same authority that the Drug Enforcement Administration (DEA) currently enjoys for authorizing danger pay for personnel assigned to high risk overseas locations. For the FBI, this is both a pay equity issue for FBI Agents assigned to DEA Country Offices and a recognition of the increased threat facing FBI personnel performing extraterritorial investigations in foreign locations due to our counterterrorism responsibilities. At times,

FBI personnel are deployed to overseas locations where, due to the nature of our work, they face a threat or hostile environment that does not always extend to all members of the United States diplomatic team in a particular country. This authority would allow me to address those situations. This authority has been requested by the Administration in each of the past three budgets.

Foreign Cooperative Agreements.—Section 109 would allow the FBI to credit to its appropriation funding that is received from friendly foreign governments for that country's share of joint, cooperative projects with the FBI. This authority would facilitate projects with friendly foreign governments, especially in support of our national security mission. The authority was first proposed by the Administration last year, was adopted by the House, but did not make its way into the final Conference bill.

Railroad Police Training.—Section 110 would allow the FBI to establish and collect a fee to pay for the costs of railroad police officers participating in FBI law enforcement training programs authorized by Public Law 106–110, and to credit those fees to its Salaries and Expenses appropriation to cover the costs of providing such training. Public Law 106–110 authorized railroad police officers to attend FBI training programs, but directed that no federal funds be used to provide such training. Railroad police officers are willing to pay for such training; however, the law does not provide an authority for the FBI to collect and retain the fees to pay for the training. This provision provides the requisite authority.

Reimbursement for In-house Warranty Work.—Section 111 would allow the Attorney General to seek and retain reimbursement from vendors for warranty repairs and maintenance performed in-house by Department of Justice employees when it is not possible for the vendor to perform such services. For example, FBI motor vehicles are equipped with radios that use government encryption devices. As a result, these vehicles cannot be left unattended at vendor repair facilities for servicing. FBI mechanics currently perform warranty work that normally would be provided at no cost by the vendor. Many vendors are willing to reimburse or credit the FBI for the cost of the warranty work provided in-house. This provision would provide the authority needed to enter into such agreements when there is a law enforcement, security, or mission-related reason that precludes vendor servicing and permits the crediting of payments received to the appropriate appropriation.

SUMMARY

Mr. Chairman, I am especially proud of the work being performed everyday by the employees of the FBI. Their ability to do that work—the work asked of us by the Congress through the laws it passes, by the President through executive orders, and by our federal, state, local, and international law enforcement partners—is a reflection of the strong fiscal support given to the FBI by this Subcommittee.

The budget proposed for the FBI for fiscal year 2002 addresses critical resource needs identified through our Strategic Planning process. These important investments will allow the FBI to meet the investigative and technological challenges we face as the FBI enters the 21st Century. These investments will also enable us to develop the core competencies that will allow us to be successful in investigating crimes, protecting national security, developing and sharing technical and forensic expertise, and working better with our federal, state, local, and international partners. I believe that the national priorities and objectives we have put forth reflect the expectations for the FBI that are held by the American people, as well as the Congress.

Congress, and this Subcommittee in particular, has been extremely generous in its financial support of the FBI over the past several years. Our successes in the field, whether they be preventing pedophiles from luring children over the Internet, to bringing terrorists from foreign lands back to the United States to stand trial for their actions, to protecting our Nation's critical infrastructure from cyber attacks, to fostering greater cooperation with foreign law enforcement through our Legal Attaché Offices, were made possible because of your support for the FBI. As we look forward to fiscal year 2002, I am hopeful that we can continue to depend upon your support.

Again, I thank you for this opportunity to appear before the Subcommittee.

ENCRYPTION ISSUE

Senator GREGG. It would be helpful on the encryption issue if you could send us, before you depart, a memo listing where you think Congress could take action to be constructive in this area. You

have noted a couple places, but this is such a big issue and such a difficult issue, if you could give us your parting thoughts on——

Mr. FREEH. Yes, sir.

Senator GREGG [continuing]. Where you think agreements can be reached, either legislatively or through some sort of compact of understanding between law enforcement and the people who produce the products that encrypt these different communication devices.

Mr. FREEH. Pleased to do that.

Senator GREGG. Senator Hollings, you were not here. I made a brief opening statement reflecting——

Senator HOLLINGS. You go ahead with your questions, because I have questions here.

Senator GREGG. Well, go ahead.

MC VEIGH MATTER ERROR

Senator HOLLINGS. All right.

Mr. Director, let the record show that I have had a long affiliation with the Federal Bureau of Investigation. Back in 1954, I served on the Hoover Commission, the task force investigating the intelligence activities.

I came to the old Senate office building, which is now known as the Russell Building. And the Director, Mr. Hoover, turned over a cardboard box full of all the McCarthy charges to General Clark and myself, and I sat down at the GAO building and went over all of those with the Director.

Since that time, I have been over 30 years here at the appropriation subcommittee level of the Federal Bureau of Investigation, I am an honorary FBI agent. So I speak with affection and admiration for the department.

But let me ask you, I keep reading here in the last few days about this error. Is that your position that this was just an error, something that just slipped through the cracks?

Mr. FREEH. Yes, sir, it is. It was a grievous error and one that should not have occurred, given the number of requests that were made. The only context in which to place it is the context of volume, in terms of the millions and millions of records that were part of the discovery agreement and the several hundred that were not.

But my information at this point is that this was an error. This was an oversight. The Inspector General of the Department of Justice is conducting a thorough investigation.

But I have no reason at this point to think that it was anything but an error. This error was brought to the attention of the court and the defendant by the FBI, by FBI analysts who were archiving all of the records of the case.

Now, the archiving statute requires that this be done in 25 years. They decided to do it in year three. Instead of just putting the documents in boxes and filing them away, which is all they were legally required to do, they started to check all of these documents against the database. When they discovered that some of them were not in this database, they reported this.

So I do believe it was an error, a terrible error, and one that I think we can take steps to correct. I also think it will not affect justice in this case.

Senator HOLLINGS. Specifically, so everyone will understand, the record ought to show that the Office of the Inspector General has an exceptional assignment with the Federal Bureau, in that they are not regularly, as the OIG would do in any other governmental department, looking and reviewing for fear that they would mess up a case or whatever it is. Usually these things are handled by the Office of Professional Management or whatever it is in the Department.

But in addition to the claims of an error, there has been inference too that we may have had improper or antiquated computerization. Is that the case?

Mr. FREEH. I do not believe that was the case here, Senator. And again, I have looked at this as carefully as I can look at it without conducting a separate investigation. But I do not think this was a computer failure here.

All of the materials that got to Oklahoma City were uploaded into their database, and those are reliably there. This is what was not either given to Oklahoma City or had not found its way into the database.

So it is really not a computer failure. It is a human failure, and one which goes to the basics: keeping records and making them available when requested.

CONGRESSIONAL AUTOMATION FUNDING AND FBI CULTURE

Senator HOLLINGS. Well, overall, let the record show that in the last 10 years, this subcommittee of the Congress has appropriated $1.81 billion for that automation communications computerization. So we never have been conservative or puny or denied the FBI request, because we know, at the subcommittee level, from experience that if you go down on the floor and the FBI has not been provided for, an FBI add-on amendment would easily pass. No one wants to vote against the FBI.

The record should show that over the 10 years we have appropriated—you have requested $29.3 billion, and we have appropriated $28.714 billion. So we have given you 99 percent of your requests.

I wanted to make sure of that, because I have seen some coverage of this, and it is my considered opinion from experience that this is not just an error. On the contrary, Mr. Director, this is the culture in the bureau.

FBI DISCOVERY PROCESS ERRORS

And the reason for that is, I know of other similar cases. I don't want to use the committee's time in getting to all of the cases, but let me refer to the *Lost Trust* case that we had down in the State of South Carolina that the judge asked the Department of Justice to look in.

The OIG, Office of Inspector General, went to work and made its report through the Office of Professional Management. And thereafter, the Office of Inspector General wasn't satisfied. They continued the investigation over the last 10 years. And they filed in February this year this voluminous report.

And what happened was, they had been defending these misdoers in the legislature in the State of South Carolina, they had

been defending two former U.S. attorneys, so they knew the ropes. They knew the game.

And they knew, for example, about these 302s. When an FBI agent interviews a witness, they make notes, and that is called a 302 memo. And they knew different 302 memos were made about payoffs and everything of that kind.

And let me quote something, so you will understand why I even ask the questions, and the record ought to reflect it. And I quote, "As set out in this report, we are critical of the government's management in its discovery obligations." This was way in the mid-1990s.

"An embarrassing amount of arguably disclosable material was not found, considered or produced during discovery. We are critical of the FBI's failure to attend to this responsibility, to provide effective assistance or supervision to new, overworked special agents, to seek guidance from the U.S. Attorneys Office, or to apply resources necessary to support the investigation and trial."

Later on, with respect to agent Michael Clemens on his several FBI 302s, his memos, quote, "The controversy arose in part because the FBI 302s were not produced in discovery and in part because the substance of the reports led to allegations that their nonproduction was based upon the government's intention to allow Cobb to testify inconsistently or perjuriously at trial."

Cobb was a special undercover agent that they had. I read further.

The OIG report notes, quote, "FBI 302s covered by standard discovery requirements were not produced. Indeed, some were not even located and considered for possible production during the first wave of prosecutions in 1990."

Then, "During the second wave," that same quote, "During the second wave of prosecutions back in 1991, defense counsel called FBI Special Agent Clemens to testify, and Clemens was asked, 'Did you do a 302 or anything concerning that debriefing of Mr. Cobb?' Clemens denied preparing an FBI 302. Assistant U.S. Attorney Barton argued to the court, 'Defense counsel is looking for the secret 302 of Ron Cobb, where the payment to Lindsay is discussed. It does not exist.'"

That response was false.

I am quoting further, "The most remarkable fact concerning pretrial preparation for further trial, namely the Derrick trial, is that the FBI 302s that had not been provided in discovery in the *Taylor*, *Blanding* or *Gordon* cases were to a large extent given to Derrick, specifically the FBI 302 about payments to Senator Lindsay and Clemens that testified did not exist in February 1991 was produced in March 1991 to Derrick and his counsel."

I am still quoting, this is from the Office of Inspector General, "Other FBI 302s that the district court would later conclude had been withheld purposefully from previous defendants also were produced during the discovery in the Derrick trial."

And finally, Mr. Director, "We believe the FBI"—this is from the Office of Inspector General—"We believe the FBI supervisors had sufficient information to alert them to the fact that the discovery process was fraught with difficulties. We concluded that the deficiencies in the FBI's early pretrial preparation had an adverse im-

pact on the subsequent trials and should have been dealt with more effectively and sooner. While the immediate fault for this discovery failure was Clemen's disorganization, his superiors contributed to this shortcoming by failing to guarantee adequate support," end quote.

ERRORS IN MC VEIGH MATTER

You can see that is why I asked the question, because the OIG says they are not really getting support or direction or discipline, if you might say, from the Director and from the main office. Because you have in here, between August of 1995 and November of 1996, this is your statement, sir: Eleven separate communications were sent to the field offices requesting that all evidence be sent to the OKBOMB command post.

And nothing happened. It did not come in. And as recently as last week, you were still giving more directions. You finally made the local people sign off under oath that they had sent everything in, and then some Baltimore information came.

So what we really have is a culture at the bureau that agents don't have to worry about even the top standing directors and everything else. We send what we can get our hands on. Some casually, perhaps; some intentionally, perhaps.

But this thing should not be looked upon as an error. It should be looked upon as a culture and absolutely cleaned up.

And there is no expert necessary. I know your abilities. You have outstanding abilities. And with this knowledge, I wish you were going to stay here because we could clean this thing up.

Any comment?

Mr. FREEH. Your insight and your comments are very much on the mark and very fair. Let me just say two things.

I have no information and no evidence and no basis to believe at this point that there was anything done here purposefully. I think you could probably distinguish the situation we have here, which is an egregious one, and the one reflected in the report, which does find purposeful withholding and also finds that the substance in those 302s could have adversely affected the trial.

I do not believe either of those circumstances are true here. But I do not know, and I could be mistaken. The Inspector General is going to do as thorough a job as they have done in other reviews, whether it is the laboratory or the *Lost Trust* case that you mentioned.

There was an enormous amount of discovery here, and there was an extraordinary agreement. The agreement was any interview anywhere would be turned over. That is never called for under the Federal rules of criminal procedure or even discovery orders that many judges enter beyond the Rule 16 requirements. This was an extraordinary agreement to give them every single interview.

In the course of that, they received thousands and thousands and thousands of interviews and had access to millions and millions of records.

The questions now is twofold.

One, whether there was a purposeful withholding. I agree with you, that it is a critical question that has to be answered. I see no evidence of that at this point.

The other question is whether any of that information would go to the guilt or innocence of the defendant. My very strong belief at this point, as well as the prosecutors who have looked at it, is that this is not the case. A judge is going to decide that, and perhaps, may come out differently. But I do not see either a purposeful withholding here or materials that go to the guilt or innocence of someone.

That is not to diminish the seriousness and the egregiousness of this matter, which I have accepted as such and will take some sincere efforts to change.

FBI CULTURE PROBLEM

Senator GREGG. Could you address Senator Hollings' point, though, on culture?

Senator HOLLINGS. In addressing that, if you do not mind—excuse me, Mr. Chairman—you and I are both lawyers. The law presumes a purposeful nature of the natural consequences of your act.

I was looking at this case of the young lad convicted down there in Florida. He claims that the trigger went off. If I fire a pistol down Constitution Avenue and six blocks down somebody gets hit, drops dead, I cannot throw up my hands, "Oh, I did not even know him. I did not have any intent of killing that fellow." That is nonsense.

And the same with the fellow who aims a gun at someone right between the eyes and claims that the trigger went off accidently. "I did not think it would go off."

Similarly here on the purposeful nature, when you come in and you, as the Director—boy, this would really tee me off if I was the director—send 11 separate communications—these are your words—to the field offices requesting all evidence to be sent in. That is back in 1996. And here you are 5 years later, 2001, still sending up directives and still getting information from Baltimore.

So don't say it was not purposeful. It is the culture. Excuse me. And answer the chairman's question about culture.

Senator GREGG. Actually, it was your question. I just——

Senator HOLLINGS. Yes, sir.

You are right.

Senator GREGG. I thought it was a good point and wanted to just hear——

Mr. FREEH. It is a good point. I think there is a cultural problem here by not taking seriously the very clear and explicit commands that were given in a very important case.

But in any case, if a field office is required and asked specifically and unquestionably to send in all materials relating to a case, the culture ought to take that with the seriousness that would result in a complete, timely disclosure and dissemination, which was not the case here.

That is a cultural defect, which I will attempt to address by the stand-down that we are going to do, by all the different training protocols and efforts and interests that I can bring to bear on this problem.

Senator HOLLINGS. Yes. Don't hire anybody. Fire some people. Make them accountable. They will know. They will understand. Until you do that, they will play the game.

When they ignore 11 separate communications from the Director back in 1996 and you are still having to say, "The only way I can catch you is to make you under oath sign a statement that you have sent the information in," that is pretty poor administration.

Some heads ought to roll where they didn't respond to these communications appropriately.

And incidentally, as lawyers, we are not to determine at the FBI level whether it is material to the case or not. It is the defense counsel's decision. You have to give it all to them in discovery, and let him decide.

Mr. FREEH. Yes. You are absolutely right.

Senator GREGG. Thank you.

Senator HOLLINGS. Thank you, Mr. Chairman.

TRAINING AND EXPERIENCE

Senator GREGG. On the budget—this is a part of our hearing process—but obviously this issue goes to a very significant question which has to be resolved and which we intend to work with you on to try to make sure that it does not happen again.

In fact, following up on that, we have had the lab issue, and we have had the rogue agent issue, and now we have the documents issue.

Do you see another area where we may have such a system failure? I am sure if you do, you have already addressed it, but where should we take extra caution—that the Bureau might be overwhelmed and we could have a system failure?

Mr. FREEH. I think it is in the training and experience level, and this is a demographic problem. We have the majority of our employees—the overwhelming majority of our employees with very small years of experience. I think 41 percent of our current FBI special agents have less than 6 years' experience, which means in major divisions the youngest agents, in some cases, are getting the most complex cases, the most difficult cases.

On the support side, the technical side, we have also hired thousands of new employees over the last couple of years, not enhancements as much as replacements.

So one of our intense internal concerns is the experience level, the training level. And there is much that can be learned on the job, but then there is a lot of things, which cannot be learned on the job; they have to be pre-trained and pre-ordered and pre-configured.

So I think we are going to have in the next couple of years this shaking out period in terms of getting the training, particularly the academic type of training and the practical operations type of training. And we are taking some measures to do that, particularly in the computer area, but also in the basic areas, in white collar crime investigations, and in counterintelligence investigations.

We do not have an FBI anymore where only a small percentage of new agents are running major cases. Now we have most of the major cases being run by relatively inexperienced agents.

I think, in the long term, it is very good for the country, because I think if our attrition rate stays as it has stayed—very, very low—in another 4 or 5 years, we will probably be more competent in these areas than ever before in our history.

In the meantime, the experience level, the training level, and the margin for error, is going to be at risk unless we can take active training measures and institutional measures to address that.

And we are taking those problems, but that is a major concern.

ANALYSES OF TRAINING AND AUTOMATION NEEDS

Senator GREGG. Well, if you see that coming, maybe you could give us an assessment of it, of how you are trying to manage that issue. A little more complete analysis of it, and how you are trying to manage it, so that we could see if there is something there that we can be of assistance on.

As a tangential point, one of our concerns on this committee—I know, Senator Hollings' concern and my concern—has been the tooling up of the lab and the tooling up of the technology capability of the computers, not only on the hardware side but on the people side. In particular, getting the good people and keeping them in a competitive marketplace, maybe a little less competitive than a year ago, but still a competitive marketplace.

So could you give us an analysis of where you are and what you need in both of those areas?

Mr. FREEH. Yes. With respect to the computer training, we have, as you mentioned, a challenge here that is going to go beyond the basic computing challenge into the practical application of what all of these investigators are going to be expected to do in the information age.

We have a "train the trainer" program, which we are actively perpetuating and particularly now directed at our card examiners. We have, as you know, a limited number of card examiners. You have given us the wherewithal to increase that support, and make some conversions to full-time examiners. But the training of the trainers in that area is going to be a major focus.

The second level will be the evidence response technicians, who are not only required to work crime scenes and exploit physical evidence, but also hard-drive and computer evidence, which is almost as routine as everything else. The technicians in all of these different areas, particularly card related, is going to be a major challenge for us.

Dr. Kerr, who you know, the Director of our laboratory, is working with the Training Division to develop this tiered approach: train the trainers; get to the technicians in the field; and make sure that the equipment, which is coming on-line, particularly new laboratory equipment, is going to be exploitable and usable, whether we are working a crime scene in the United States or someplace else.

STATE FORENSIC COMPUTER TECHNOLOGY CENTERS

Senator GREGG. Can I break in there?

We are getting a fair amount of pressure in this committee to create forensic computer technology centers at the State level. A lot of States are now asking us to try to get some Federal funds to do that.

Is it a good idea for there to be State forensic computer capability or should it be regional?

Mr. FREEH. I think you are going to need to do both, Mr. Chairman, in the years to come, because the number of examinations is exploding.

We had 3,400 computer forensic searches, examinations in fiscal year 2000 and estimated 5,494 for fiscal year 2001. We expect about 9,000 or more in fiscal year 2002.

I think you are going to need an enhanced regional ability, but I think it is also going to devolve down to the State level. So just like they now manage fingerprint evidence in many local laboratories, the computer evidence is going to become as routine.

The San Diego lab, the regional computer forensic lab, which was funded here, has been a remarkable success as a regional operation. There is one in Texas, which we are also participating in.

I think this is a good format for certainly coordinating State and Federal resources and responses in that area. But I think the States on their own are going to need this capacity.

What I would recommend is that if we build this bridge from two sides, which is maybe the best way to build a bridge, we should coordinate what we are doing. It would be a very good investment to ensure that the Federal efforts, particularly the ones coming out of the FBI, and its regional forensic labs, are coordinated and that they are interfacing with large investments into State or local capability. What you want is a national law enforcement computing ability in this particular area. And, we should interface like national labs interface on their technology issues. I think that is the way to build the bridge.

LAB AND EQUIPMENT SITUATION

Senator GREGG. I broke into your statement. Were you going to tell us about the lab situation and equipment there?

Mr. FREEH. With respect to the laboratory, the activation and the operation is, as you know, scheduled for the summer of 2002. And that is moving along on time and under budget.

The laboratory will provide world-class forensic services, not just for the FBI but for State and local partners, much like our criminal justice information systems in West Virginia provide on the informational side.

The laboratory will also have a very significant research and development component, which our laboratory now has in the Engineering Research Facility (ERF) at Quantico, as well as the forensic laboratory capability of Quantico.

But this will give us, right alongside the workbench, Research and Development (R&D) capability where we can hopefully attract and get scientists from other law enforcement departments and from universities.

We have now several scientists working with our laboratory from local universities. We want to integrate this R&D with not just national laboratories but also the private sector.

The other aspect of it is we are designing this facility to be a teaching laboratory. In addition to providing forensic services, we can also bring in State and local scientists. We can have faculty that are experts themselves in teaching. We can also use technology for long-distance learning, as well as information technologies to help compare and work on actual cases.

This laboratory will give us a strength in the forensic area that we have not had. We have mostly been a reactive laboratory over the years. And what happens is the number of requests build up and every year there is more and more of a backlog. This will not simply address the backlog, but it will give the State and local laboratories enhanced abilities where they will be able to do a lot of this technology and examinations by themselves.

We want to have the laboratory doing what they did in the mitochondrial DNA area. That was a FBI-developed forensic tool of immense investigative value. We can make a case out of a genetic sample, which could not be made in any other way but for the mitochondrial technique developed in our laboratory.

There are probably all kinds of things that can be done in that regard. There are laboratories around the world that do things that we do not. This will be, on the R&D side and the teaching side, hopefully, a center of expertise that we have not had in the past.

ROLE OF DR. KERR IN LAB IMPROVEMENT

Senator GREGG. Senator Domenici?

Senator DOMENICI. Mr. Chairman, I have no questions.

I am assuming this is the last appearance of the Director before this subcommittee, and I just want to personally and on behalf of my constituents thank you for the job you have done and wish you the very best.

I am hopeful that your laboratory will improve, and I wholeheartedly support the ideas you have just described.

Mr. FREEH. Thank you.

Senator DOMENICI. I gather that Dr. Kerr is still there with you.

Mr. FREEH. Yes, sir, he is.

Senator DOMENICI. And you are finding him to be quite a scientist in helping you build this laboratory? Or how would you assess it?

Mr. FREEH. We could not build it without him. And I think the vision that he has for its future is one that we had to import. We did not have it in the FBI.

We had, as you know, for many years, assistant directors who were sometimes scientists, mostly not, running the laboratory. They did a fairly respectable job.

But in terms of research, teaching, peer review, and state-of-the-art capabilities, we needed to bring in somebody of his caliber. So that was one of the good decisions I made.

Senator DOMENICI. I might just say that the doctor that I referred to at one point in his life was the director of the National Laboratory at Los Alamos, and was out looking for work, doing something else, and he was recruited.

And I gather that from the day he came on, there has been just tremendous changes in what we are going to be doing in that laboratory and how we do it.

Mr. FREEH. Yes, sir.

Senator DOMENICI. Thank you very much.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator.

POLYGRAPHS AND NATIONAL SECURITY

Senator HOLLINGS. Mr. Director, I know polygraphs are not conclusive, but they are good indicators. What is the policy at the bureau for its agents?

Mr. FREEH. We polygraph all new employees who come into the FBI. We have done that since 1994. We have regularly polygraphed people who work in our most sensitive counterintelligence programs.

Prior to the recent espionage case, for instance, 73 percent of the agents in the National Security Division were polygraphed because of the sensitive matters on which they were working.

We have not had a random polygraph policy. We have not had a policy that went beyond the national security context that I just described.

We are waiting now for Judge Webster's specific recommendations on this area. With his permission and consent, in the interim, we have taken some steps to broaden the pool of individuals who should be polygraphed. We have also taken some steps in the information assurance area by protecting the computerized information systems that we have from people going into them who should not go into them.

We are also taking some steps on the whole security program, making significant changes in both the structure and leadership of that program and the resources needed to support it.

Senator HOLLINGS. It is interesting you note that it started in 1994. I know, serving on the Intelligence Committee here in the Senate back in the 1980s, you could not get a job on the Capitol police force unless you were polygraphed.

When last was Hanssen polygraphed?

Mr. FREEH. He was not polygraphed.

Senator HOLLINGS. I see.

And the Hoover Commission recommended 45 years ago that all agents be polygraphed every 5 years, and those in counterintelligence, every 3 years. And they have followed that at the Central Intelligence Agency. But they have not followed it at the FBI, and only commenced it, according to your answer, in 1994. Is that right?

Mr. FREEH. In 1994, we started to polygraph all new employees. Yes, sir.

LAW ENFORCEMENT SCHOOL IN MEXICO

Senator HOLLINGS. Then let me jump to the Mexico question, because I have been trying my best to get any kind of facet of a Marshall Plan started there.

And you and I discussed at a previous hearing the idea of an FBI school down below the border. Have you made any progress on that?

Mr. FREEH. We have made some progress. I have met personally with the foreign minister, Mr. Castaneda, Mr. Aguilar, the National Security Adviser, the new Attorney General of Mexico, as well as the head of the Federal Judicial Police. We are in discussions in conjunction with the State Department about exactly that establishment.

They have made a request; the new government should be commended for making the request that we become directly and overtly involved in the training of the Federal Judicial Police, which the new government wants to model as a National Bureau of Criminal Investigations.

We are very excited about this opportunity. I have discussed it with Secretary Powell, and it is something that I am sure is going to come before the committee at some point for a request for assistance.

CONCLUSION

Senator HOLLINGS. Well, I thank you, and I thank you for your service, Judge. Good luck to you.

Mr. FREEH. Thank you, Mr. Hollings.

Senator GREGG. Let me join Senator Hollings in those comments.

We appreciate your service. The country has been well-served. And you are generous to have given this large chunk of your life to our nation, and we thank you for doing that.

We look forward to continuing to work with you and wish you Godspeed as you move forward.

Mr. FREEH. Thank you, Mr. Chairman, very much. I appreciate it.

Senator GREGG. Thank you, Mr. Director.

IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF KEVIN D. ROONEY, ACTING COMMISSIONER

OPENING REMARKS OF CHAIRMAN GREGG

Senator GREGG. We will now hear from the acting Commissioner and Administrator of DEA and INS, Mr. Marshall and Mr. Rooney.

Well, we thank you, gentlemen, for waiting and being so patient. I recognize you have a busy day and appreciate you participating.

We will open the hearing up to your statements, if you wish to make any.

So we can start with you, Mr. Commissioner, and then we will go to the Administrator.

OPENING STATEMENT OF ACTING COMMISSIONER ROONEY

Mr. ROONEY. Well, thank you, Mr. Chairman. I appreciate the opportunity to appear here today to discuss the President's fiscal year 2002 budget request for the Immigration and Naturalization Service.

In recent years, this subcommittee's strong support has allowed INS to make significant improvements in how we carry out our dual enforcement and service responsibilities.

Our fiscal year 2002 budget request at $5.5 billion is 10 percent higher than our current funding level and will enable the agency to build on a solid foundation and further strengthen the nation's immigration system.

INS's aim has been to build a seamless web of enforcement, extending from our borders to the Nation's interior. The proposed budget continues support for the comprehensive strategies that we have been implementing in pursuit of this goal. The focus is on border control, which is the anchor for our entire enforcement web.

BORDER CONTROL STRATEGY

Our border control strategy is designed to create and maintain borders that both facilitate the legal flow of people and products into our Nation, while preventing illegal immigration and the smuggling of drugs and other contraband.

To move closer to our goal in fiscal year 2002, we are seeking 570 Border Patrol agents. These new agents, plus an additional 570 that the Administration has proposed for next year—fiscal year 2003—will complete the 5,000 agent increase authorized by Congress in 1996. We are also asking for $20 million for intrusion detection technology, which has a force-multiplying effect on the border.

We plan to deploy the bulk of these resources along the Southwest border, particularly in Arizona and eastern California, where

we want to replicate the recent success we have had in San Diego and elsewhere.

Enhanced enforcement between our ports-of-entry is not enough, however. INS must also continue to strengthen activities occurring in the ports, at the border, and in the Nation's interior.

And this budget request will allow us to do that by providing $50 million for 417 new immigration inspectors. It also earmarks $26 million for improving various automated information systems, including the database that the inspectors use to prevent criminals, suspected terrorists, and other inadmissible individuals from entering the country.

Border Patrol agents and immigration inspectors will be further aided by proposed improvements to INS's intelligence program. We have asked for 78 positions and $7 million to expand the intelligence program on our borders, where intelligence plays a critical role in preventing the entry of undocumented aliens, drug traffickers, and terrorists, as well as in detecting and dismantling smuggling rings.

EFFECTIVE DETENTION AND REMOVAL PROGRAM

Without an effective detention and removal program, however, detecting and apprehending deportable aliens becomes little more than a training exercise, lacking in credibility and producing few results. And that is why we are asking for an additional 158 positions and $82 million in fiscal year 2002 for detention and removal.

With these new resources, we will be able to use 1,600 more beds in State and local detention facilities, which are crucial for accommodating a daily average population now of more than 19,000 detainees, which is triple the 1995 number.

IMMIGRATION BENEFITS

As INS continues to strengthen enforcement in response to the unprecedented pressure that illegal immigration has created at our borders and in the Nation's interior, we must also handle the skyrocketing demand for immigration benefits.

Based on receipts to date, we project that by the end of this fiscal year, we will receive some 9.5 million applications and petitions for benefits. That is 50 percent more than we received last year and 80 percent more than the year before that.

The demand for services is being fueled by both changes in immigration law and record-level legal immigration. Preliminary figures indicate that we welcomed more newcomers in the last 10 years than in any decade in U.S. history.

INS is currently implementing the Legal Immigration Family Equity Act, the LIFE Act, which was signed into law in December. We estimate that the agency will receive nearly 4.5 million LIFE Act related applications by the end of fiscal year 2003.

In fact, we are already feeling the impact of the law. It is the chief reason why we received more non-naturalization applications in March than in any other month in more than a decade.

In recent years, INS has worked diligently to rebuild a service structure that was weak and woefully inadequate to handle the agency's workload. Reconstruction is far from complete, but I can assure you that considerable progress has been made.

Last year, for example, we completed 24 percent more benefit applications than we did in 1999. As a more meaningful measure for those applicants who had languished in line, we completed last year 430,000 more applications than we received.

The Administration has proposed establishing a universal 62-month standard for processing all benefit applications and petitions within the next 5 years. To meet this goal, the Administration has pledged to support a $500 million initiative to fund new personnel and enhance technology and to make customer satisfaction a first priority. Our fiscal year 2002 budget request includes the first $100 million installment of this 52-year plan.

Mr. Chairman, from what little of the budget request that I have just highlighted, you can see that in both enforcement and in services INS faces enormous challenges in this fiscal year and fiscal year 2002.

However, as I have seen since taking over as Acting Commissioner 7 weeks ago, I believe there are clear indications that the agency is moving in the right direction to start to meet those challenges, and I look forward to working with you to maintain this momentum.

Thank you, Mr. Chairman. I look forward to any questions that you may have.

Senator GREGG. Thank you, Commissioner.

[The statement follows:]

PREPARED STATEMENT OF KEVIN D. ROONEY

INTRODUCTION

Thank you Mr. Chairman, Senator Hollings, and Members of the Subcommittee for the opportunity to appear before you today to discuss the President's fiscal year 2002 budget request for the Immigration and Naturalization Service (INS). This INS budget request builds upon the accomplishments that have been achieved with your strong support. The resources Congress has provided have enabled INS to meet new challenges and strengthen the Nation's immigration system. They have resulted in improvements in how we enforce immigration laws and how we deliver services to our customers.

The President's fiscal year 2002 budget request for the Immigration and Naturalization Service totals $5.5 billion, a 10 percent increase over the fiscal year 2001 funding level. This budget includes $380 million in enhancements to go with a base funding level of $5.1 billion. The budget will add a total of 1,364 new staff positions, which will allow INS to grow to over 36,200 workyears by the end of fiscal year 2002.

The INS budget for fiscal year 2002 continues to support the immigration goals and strategies that the agency has pursued over the past several years. The thrust of INS' fiscal year 2002 budget is to extend the ongoing initiatives aimed at controlling the Nation's borders and maintaining the physical integrity of those borders. INS intends to build on its successful multi-year strategy to: effectively regulate the border; deter and dismantle smuggling or trafficking of aliens and narcotics in the interior of the United States, as well as other immigration-related crime; identify and remove suspected terrorists; identify and remove incarcerated criminal aliens from the United States, and minimize recidivism; enhance services and reduce processing backlogs; and reduce immigration benefit fraud and other document abuse.

Border Management

The fiscal year 2002 budget includes an additional 570 Border Patrol Agents and $75 million to support the border control strategy. We would propose that these resources will be primarily directed to the Southwest border so as to increase the emphasis provided to the eastern California, Arizona and Texas borders. These new agents, plus 570 in fiscal year 2003, will complete the 5,000-agent increase authorized by the Congress.

The fiscal year 2002 budget also requests $20 million so that deployment of intrusion detection technology, including high-resolution color and infrared cameras and

state-of-the-art command centers, will continue. This technology acts as a "force multiplier" to supplement the new agents and provide continuous monitoring of the border from remote sites. This combination of intrusion detection technology and the increased number of Border Patrol Agents will permit INS to enforce the rule of law and enhance border management over larger portions of the U.S. border. This technology assists agents in determining the source of the "hit," including the number of intruders, and if they are armed, thereby increasing agent safety. The Integrated Surveillance Intelligence System (ISIS) enhancement is an important part of the overall strategy for strengthening control of the border against illegal entry. ISIS will improve remote detection and tracking capabilities, resulting in increased deterrence of illegal border crossing and increased officer safety. Ultimately, it will provide the INS, in particular, the Border Patrol, with the capability to effectively monitor the integrity of the United States/Mexico and United States/Canada national boundaries for purposes of border management.

The INS Intelligence program provides strategic and tactical intelligence support to INS offices enforcing the provisions of the Immigration and Nationality Act, and assists other federal agencies in addressing national security issues. Intelligence program activities contribute support to: preventing the entry of illegal aliens, terrorists and narcotics traffickers; identifying and dismantling alien smuggling operations; detecting fraudulent documents and false claims to U.S. citizenship; and detecting other individuals or organizations involved in the manufacture and sale of counterfeit documents, in application and benefit fraud schemes, and other related criminal activity. The fiscal year 2002 budget includes 78 positions and $7 million to expand the intelligence program on the northern and southern borders of the United States.

Air and Sea Ports-of-Entry

INS must balance its limited resources between its goals of detecting those who should not be allowed to enter the United States and managing legal travel across the border. The fiscal year 2002 budget request includes $50 million for 417 new Immigration Inspectors to staff newly activated air and sea port terminals, high-growth understaffed gateway ports, and joint INS/U.S. Customs passenger analysis units. The request also includes 122 inspection assistants and clerks, along with detention and removals resources to support the significant increases in workloads at high-growth air and sea ports-of-entry. The budget provides for an expansion of the Carrier Consultant Program to enhance airline carrier training and for the increased workload attributable to the 2002 Winter Olympics.

With these resources, the Service will strive to process 77 percent of all commercial flights within 30 minutes and make strides in streamlining and automating manual processes, improving data integrity, and supporting enforcement requirements. To finance these initiatives, the fiscal year 2002 budget includes language that will increase the current airport inspections fee by $1 from $6 to $7 for arriving international air passengers. It would also lift the cruise ship fee exemption, instituting a $3 fee for those passengers currently exempt. The increase is to provide resources to cover more of the true costs of operating the program.

In addition, the fiscal year 2002 budget contains $26 million to expand significant resources for information technology initiatives. Resources are provided to update the National Automated Inspections Lookout System (NAILS) a centralized lookout database which is a compilation of information supplied by automated systems within INS and other federal and local law enforcement agencies. It is a critical system that contains data on individuals who are inadmissible, including criminals and suspected terrorists. The request includes resources to study technology for automated airport inspection alternatives. This budget will provide resources to purchase Live Scan Devices that will send electronic fingerprint submissions to the FBI, develop the Vessel Inspection Processing System (VIPS), and purchase portable workstations to access NAILS at the seaports. The fiscal year 2002 budget will also provide the initial investments necessary to develop an automated entry/exit system as required in the INS Data Management Improvement Act of 2000.

Detention and Removal

In addition to the expansion of INS' more visible enforcement functions, additional funding will strengthen the detention and removal process. It is critical that INS continue to have resources to efficiently house and repatriate illegal aliens encountered both at the border and through enforcement of immigration laws beyond the immediate border area. To that end, 173 positions and $89 million are requested in fiscal year 2002 for detention and removal initiatives in the areas of expanded national transportation, improved health services for detained aliens, increased detention bed space, and improved coordination with U.S. Attorneys. Included in the

$89 million is a projected $40 million in Breached Bond/Detention Fund revenue which is anticipated as a result of the reauthorization of adjustment of status provisions of section 245(i) of the Immigration and Nationality Act (INA), and $7 million for detention beds to support increases in workloads at high-growth air and sea ports of entry.

Consolidated Detention Bed Space

To continue to meet the mandatory detention requirements of the Illegal Immigration and Immigrant Responsibility Act of 1996, the budget request includes $69 million for 131 positions (68 Detention Enforcement Officers, 33 Deportation Officers, and 30 support positions) and an additional 1,607 average daily state and local detention bed spaces. This initiative includes resources to detain, transport and remove aliens.

National Transportation System

The INS uses the Justice Prisoner and Alien Transportation System (JPATS), created in 1995 by INS and the U.S. Marshals Service, to transport large numbers of detained aliens each year, transferring them to detention facilities or repatriating them. The budget includes an increase of $9 million to fund the costs associated with the INS' share of JPATS. This increase, when combined with current funding, will fund additional air movements to transfer or repatriate detainees.

Public Health

The budget includes funding of $9 million to support the increased cost of providing health care for detainees. The INS is committed to ensuring that its facilities are safe and humane, and that adequate medical care is provided to aliens in its custody.

Coordination with U.S. Attorneys

The budget includes 42 positions (28 attorneys and 14 support personnel) to enable the INS to better fulfill its role of providing agency counsel support to the U.S. Attorneys Offices and the Office of Immigration Litigation in immigration-related matters arising in the Federal courts. This critical role involves such efforts as preparing litigation reports when lawsuits arise, and coordinating agency witnesses and evidence. These litigation efforts will facilitate the removal of detained aliens, a substantial number of whom are convicted felons. It will also ensure that aliens not eligible for immigration benefits are appropriately identified and denied any benefit.

Immigration Services

The INS is proud of its accomplishment of processing over one million naturalization applications during fiscal year 2000, and plans to continue the quality and timely processing of applications. The President's fiscal year 2002 budget includes $100 million to implement the first installment of the President's five-year, $500 million initiative to process all applications within six months and provide quality service to all legal immigrants, citizens, businesses and other INS customers. These resources will be used for increased personnel, enhanced information technology and other resources to make customer satisfaction a priority.

Infrastructure Improvements

The INS continues to face a number of challenges in maintaining its infrastructure during a period of rapid growth. New and expanded facilities are required to support a work force of over 32,000. The Border Patrol's infrastructure needs are most serious and have been and continue to be given priority attention. Since the authorization of the INS Construction Account in fiscal year 1995, the Congress has provided much-needed resources to allow INS to replace, expand and renovate facilities and to enhance border infrastructure. The INS budget request for fiscal year 2002 continues support for critical infrastructure requirements. It includes $75 million for construction projects. This total includes $69 million for Border Patrol and detention construction projects, and $6 million for additional work on the San Diego Border Barrier System and for the enhancement of border infrastructure through the critical direct support of Joint Task Force Six (JTF–6) for projects such as fences, roads, and border barriers.

Significant Accomplishments

There are several areas of INS operations that should be highlighted due to the accomplishments that have been achieved.

Border Patrol Recruiting and Hiring

The President's blueprint states his intention to fund the INS to hire the remaining 1,140 Border Patrol agents needed to complete hiring of the 5,000 agents authorized by the Congress in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. His plan is that the INS will be funded to hire 570 agents in each of fiscal year 2002 and fiscal year 2003 to achieve the hiring goal. With these 1,140 additional agents, the total increase of 5,000 Border Patrol Agents will be achieved, and the authorized strength of the Border Patrol will be about 11,000.

In fiscal year 2000, INS experienced record increases in the number of Border Patrol applicants and hires as a result of: (a) a more focused, local recruitment process, (b) the training of 300 Border Patrol Agents as recruiters, (c) intensified advertising, and (d) offering a $2,000 recruitment signing bonus. The enhanced recruitment program was supported in part by $1.5 million included in the fiscal year 2000 appropriation for these efforts. The Border Patrol has been able to attract sufficient numbers of applicants to meet hiring goals through fiscal year 2001. The INS is currently recruiting to ensure maintenance of a qualified pool of applicants for fiscal year 2002 and is no longer experiencing Border Patrol hiring problems and is confident that hiring commitments will be met in fiscal year 2002 and fiscal year 2003.

In fiscal year 2000, the INS implemented "compressed testing" at 10 Sectors. This allowed applicants to take the written test and receive results immediately upon completion of the exam. If the applicant passed the written exam, he/she could schedule the oral board examination in 2 weeks. This process is 5 or more weeks shorter than the traditional testing process and resulted in a 44 percent increase in applicants actually showing up to take the test.

In fiscal year 2000, the Border Patrol trained 300 agent recruiters who participated in over 1,400 recruiting events ranging from campus and military job fairs, to open houses, to booths at local malls. Border Patrol recruiters were encouraged to establish personal contact and feedback with all interested applicants with positive results. We significantly increased advertising and recruitment incentives.

As a result, in fiscal year 2000, the INS achieved a record number of applicants (an 80 percent increase over fiscal year 1999) due to aggressive recruitment and hiring initiatives to address Border Patrol Agent hiring shortfalls. The increase in recruitment provided the applicant pool with sufficient candidates for an associated increase in hiring. In fiscal year 2000, the INS hired 52 percent more agents than in fiscal year 1999.

During this fiscal year, INS has hired 900 new Border Patrol agents and will hire another 700 by the end of the year. Our training classes are already full through July.

Anti-Smuggling and Anti-Fraud Activities

The INS has a number of significant accomplishments to report in anti-smuggling and anti-fraud operations. During fiscal year 2000, INS disrupted alien smuggling organizations at source countries, the borders and the interior of the United States. The agency used traditional and non-traditional investigative techniques, cooperation and coordination with the FBI, and broadened use of statutory authorities. The INS presented 7 major cases and 2,520 smuggling principals for prosecution. For example, the "Operation Knight Riders" investigation involved a large-scale alien smuggling organization that specialized in moving large numbers of undocumented aliens from Central and South America and the Middle East into the United States. The successful completion of this case resulted in 9 criminal arrests and the closure of a major smuggling pipeline. In "Operation Telecom" INS investigated and shut down a sophisticated alien smuggling organization that engaged in recruiting and arranging for the smuggling of Chinese nationals from the People's Republic of China. This investigation also involved a law firm that assisted the smugglers by arranging bonds so aliens could be released and returned to the smugglers. The firm also filed fraudulent political asylum claims on behalf of the aliens to ensure that they would remain in the United States.

Border Management and Control

The INS' border management and control efforts have been producing significant impacts on the border. In fiscal year 2000, INS carried out immigration inspections for nearly 438 million travelers at the land borders and nearly 92 million travelers at airports and seaports. In fiscal year 2001, these inspections are projected to reach 450 million at the land border and 98 million at airports and seaports, with continued growth in fiscal year 2002. The INS has set fiscal year 2001 performance targets of 80 percent of land border inspections in 20 minutes or less, and 72 percent of air flights cleared within 30 minutes. The INS will also continue the use of auto-

mated systems such as dedicated commuter lanes to facilitate the flow of inspection traffic.

During fiscal year 2001, INS is continuing to implement the Border Patrol's National Strategic Plan, a systematic four-phase approach to strengthen control of the border with a national focus of "prevention through deterrence." It is a means to restrict illegal traffic and encourage legal entry. The plan has been implemented in San Diego, El Paso, Brownsville and Nogales and it is getting results. For example, in San Diego apprehensions are at a 25-year low. Apprehensions at other points on the border have also declined. With the deployment of additional personnel and equipment this year, we expect this trend to continue. Changes in apprehension trends will be monitored carefully.

Interior Enforcement/Quick Response Teams

Considerable progress has been made in establishing and staffing the Quick Response Teams (QRTs). In the fiscal year 1999 INS appropriation, Congress provided for the creation of QRTs and directed INS to establish 45 teams with 200 positions. These teams work directly with State and local law enforcement officers to take into custody and remove illegal aliens. Of the 200 QRT officers that have been selected, 193 have entered on duty at their assigned locations. The remaining officers are expected to enter on duty before the end of fiscal year 2001.

Based upon costs incurred during deployment of QRTs to date, INS estimates that it costs approximately $1.2 million to make each additional QRT site fully operational. Operating costs primarily include an average of estimated personnel-related costs for the combination of INS special agents, detention officers, and deportation officers, any projected acquisition and build-out costs of any new offices, standard alterations (as required) to existing facilities, and funding to purchase and retrofit the additional vehicles needed. Hence, the funding provided in the fiscal year 1999 appropriations was not fully sufficient to deploy the 45 QRTs, and base funds had to be identified to fund the shortfall. The proposed use of the QRT funds provided in fiscal year 2001 is under development.

Much has been accomplished with the QRTs. During the first quarter in fiscal year 2001, the teams received 2,532 requests for assistance from State and local law enforcement agencies. This figure reflects the largest number of requests received by the QRTs in any given quarter to date. Of the 2,532 requests, QRTs were able to respond to 92 percent (2,317). The response time for 98 percent of all requests was less than three hours. In addition, QRT officers made 2,246 administrative arrests. Of these arrests, 1,214 were voluntarily returned to their respective countries of citizenship. Special Agents deployed at QRT sites presented 171 individuals for criminal prosecution related to alien smuggling, document fraud, and illegal entry.

Detention and Removal

Since the early 1990's, the average daily population of INS detainees has grown from less than 6,000 to over 19,000. This rate of growth was the result of INS' expanded enforcement capability and changes in detention requirements contained in the IIRIRA of 1996. That law requires the agency to detain without bond virtually any alien subject to removal on the basis of a criminal conviction. The INS is also required to detain aliens who have been ordered removed from the United States for up to 90 days or until they are removed, regardless of the basis for the order and the prospects that their home countries will accept their return. As a result, annual removals in fiscal year 2000 were over 180,000. Over 64,000 of these were criminal alien removals. In fiscal year 2001, we project that 67,000 criminal aliens will be removed from the country.

In dealing with the growth in the detention population, INS has issued detailed standards aimed at ensuring consistent treatment and care for all detainees. The standards apply to INS' 9 Service Processing Centers as well as contract facilities and state and local facilities under intergovernmental service agreements. In addition to standards for safe, secure and humane confinement, they provide for consistent and expanded access to legal representation, telephones and family visits.

Immigration Services

Due to an intense, two-year Naturalization Backlog Reduction Initiative, the INS has made tremendous progress in increasing its immigration services' productivity and customer service. In fiscal year 1999, the INS met its first stage goal of completing 1.2 million naturalization applications. In fiscal year 2000, INS again met its naturalization goal by completing approximately 1.3 million applications while achieving a processing time goal of six to nine months nationwide. In fiscal year 2000, INS also completed 564,000 adjustment of status applications, more than in any other year in the INS' history, and outperformed its national processing time goal. The Service also streamlined the "Green Card" renewal process, decreasing the

processing time significantly from between 12 and 24 months to 90 days. In fiscal year 2000, the INS also reduced the processing time for employment petitions from 18 months to 90 days. By transmitting fingerprints electronically to the FBI, the INS decreased the average processing time for background investigation checks from 21 days to one day. The INS enhanced its customer service quality and accessibility by expanding the National Customer Service Center's live, toll-free (1–800 telephone) assistance area across the U.S. mainland, Puerto Rico, the U.S. Virgin Islands, and Guam. In fiscal year 2001, the INS continues working diligently to meet its goal of completing 800,000 naturalization and 800,000 adjustment of status applications.

The INS faces significant challenges in delivering immigration services in the years ahead: (1) eliminating backlogs in all immigration benefit applications; (2) managing and responding to new and changing workload; (3) ensuring process integrity; and (4) positioning itself for the future, including making needed investments in information technology. Over the last several years, the INS has seen a dramatic rise in the number of applications and petitions received. The LIFE Act amendments alone will add an additional caseload of 2.3 million applications and petitions in fiscal year 2001 and 1.2 million applications and petitions in fiscal year 2002 to the current 6.9 million applications received annually, a 26 percent increase over a two-year period. Because this additional workload will strain the existing infrastructure, the INS is exploring new ways of doing business to manage the new workload effectively while continuing to tackle the backlogged caseload aggressively. Premium Processing Service and electronic filing are examples of these new ways of doing business. Besides increased productivity, the INS continues working towards achieving process integrity through its anti-fraud and quality control efforts. Most importantly, the INS strives for excellence in customer service through process reengineering, effective and new use of technology, and greater accessibility to information and services.

CONCLUSION

The fiscal year 2002 request will provide INS with resources needed to carry out an effective immigration strategy. As you know, this Administration is committed to restructuring and splitting the INS into two agencies with separate chains of command that report to one policy official within the Department of Justice. I look forward to working with the Subcommittee. With your continued support, we can add to the improvements that have already been made and address problem areas and ensure the agency's integrity.

This concludes my formal statement on the fiscal year 2002 budget request for INS. I would be happy to answer any questions which you, Mr. Chairman, and Members of the Subcommittee may have.

BIOGRAPHICAL SKETCH OF KEVIN D. ROONEY

Kevin D. Rooney was appointed Acting Commissioner of the Immigration and Naturalization Service, effective March 26, 2001. Prior to assuming this position, he served as Director of the Executive Office for Immigration Review (EOIR) since 1999. EOIR oversees the immigration court system, including the Board of Immigration Appeals and 52 immigration courts nationwide. Mr. Rooney previously served as Deputy Director of EOIR from 1995 to 1997.

As the Assistant Attorney General for Administration from 1977 to 1984, Mr. Rooney served as the Department of Justice's senior career official and chief management and financial officer under three Attorney's General during the Carter and Reagan Administrations. He was Assistant Director of the Bureau of Prisons from 1997 to 1999, and practiced law in Washington, D.C. from 1984 to 1995.

Mr. Rooney is a native of Palmer, Massachusetts and a graduate of St. Mary's Seminary and University and George Washington University School of Law.

STATEMENT OF DONNIE R. MARSHALL, ADMINISTRATOR

Senator GREGG. Mr. Marshall.

Mr. MARSHALL. Mr. Chairman, good morning, and thank you. I appreciate the opportunity to be here this morning, and I want to first take this opportunity to express my gratitude to this subcommittee and the entire committee for your ongoing support of the 9,000 very dedicated and courageous and talented men and women of DEA.

As the world's premier drug law enforcement agency, DEA's mission, quite simply, is to identify and dismantle the world's most sophisticated drug trafficking organizations.

Throughout the United States and, in fact, the world, DEA is at the cutting edge of drug law enforcement. We continuously adapt our methods to the quickly changing dynamics of the criminal enterprises and the drug trade.

DEA's efforts, Mr. Chairman, have had a major impact on global drug trafficking. The demise of the Medellin and Cali cartels in Colombia are due, in large part, to DEA's aggressive investigations and our long-standing domestic and international cooperative efforts.

Our successes against Southeast Asia drug trafficking organizations have really all but eliminated Southeast Asia heroin from the United States market.

And we have had an impact on Mexico-based methamphetamine organizations, which has resulted in a marked decrease in the purity of methamphetamine coming out of laboratories operated by those criminal groups.

But despite that good news, we have many challenges ahead. We see in the United States now that Colombian-based traffickers dominate the heroin market. We see that the Mexican organizations have really evolved into what I think is the most significant challenge that faces law enforcement in the United States today and, perhaps, in our history.

Along with the traditional drugs of cocaine, heroin, methamphetamine, marijuana, we see new drugs coming on the market, and they continue to emerge. Two of the most recent examples of those are the popular club drug, so-called Ecstasy, and the very newest threat of OxyContin.

Now, if we are to successfully address each of these new challenges, we have to rely on the resourcefulness, dedication, and integrity of our agents, our cooperation with other law enforcement agencies, and the consistent support that we have received from this committee.

Now, in that context of, I hope, continued success and continued addressing of these new and emerging threats, let me briefly summarize our budget request that is before you today.

DEA BUDGET REQUEST

In our salaries and expenses appropriation, we are requesting a total of $1.5 billion and a little over 7,600 positions. That represents an increase of about $120 million over the 2001 enacted levels.

Our request contains $62.5 million needed to maintain current levels of operations and $58.2 million and 134 positions for three basic program initiatives, and I will very briefly outline those three initiatives.

SPECIAL OPERATIONS DIVISION BUDGET REQUEST

First, we are seeking $15.1 million and 62 positions for the Special Operations Division and Communications Intercept Initiative. The Special Operations Division, as you may know, is designed to coordinate multiagency, multijurisdictional, even multinational investigations, which we aim at the command and control structures of the criminal drug organizations operating both domestically and abroad.

Senator, the Special Operations Division has really, over the last several years, become our very most effective tool against the command and control structure of those major drug trafficking organizations.

Now, the resources we are asking for will be used to enhance staffing levels at our Special Operations Division investigative units that focus on the Southwest border, Latin America, the Caribbean, Europe, and Asia. And it also augments our funding base for contract linguists, communications intercept equipment, and technical support personnel.

FIREBIRD BUDGET REQUEST

The second initiative is an enhancement of $30 million and three positions for our FIREBIRD network. The FIREBIRD network is the primary office automation infrastructure that serves, as the communications backbone for DEA, for our intelligence network, and for many other mission-critical databases and operational systems.

We are requesting funding to complete the deployment of the FIREBIRD system, to provide network security, and support technology renewal so that the system can be updated and so that we can replace outdated equipment and software on a regular schedule.

LABORATORY OPERATIONS INITIATIVE BUDGET REQUEST

The third and final initiative is for $13.1 million and 69 positions for our Laboratory Operations Initiative, which will help us meet mission-critical requirements within that laboratory services program.

DEA's forensic chemists provide a variety of essential services, including drug and evidence analysis, on-site assistance for clandestine laboratory seizures and crime scene investigations, and vital courtroom testimony to support prosecution efforts, which is the ultimate goal and product of all the work that we do.

Now, these resources, I think, will enable DEA to more effectively meet our mission requirements of both our special agent workforce and to better support the prosecution of drug offenders through timely analysis of evidence.

PREPARED STATEMENT

Mr. Chairman, that concludes my summary. I do have a written statement that I would like to enter for the record, and I will be happy to answer any questions that you may have.

[The statement follows:]

PREPARED STATEMENT OF DONNIE R. MARSHALL

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the fiscal year 2002 budget request of the Drug Enforcement Administration (DEA).

Before I begin my testimony today, I would like to take this opportunity to express my sincere gratitude for the subcommittee's ongoing support. Without your support, DEA could not continue to safely and effectively meet the growing challenges posed by increasingly sophisticated and dangerous international drug trafficking organizations operating throughout the global community. The subcommittee's support has helped us to send a message to these traffickers that their assault on the citizens of this nation will not be taken lightly, and that we will continue to fight to ensure that our streets remain safe for generations to come.

The mission of the DEA is to enforce the Controlled Substances laws and regulations of the United States and to bring to the criminal and civil justice system of the United States, or any other competent jurisdiction, those organizations involved in the growing, manufacturing and/or distribution of controlled substances destined for illicit traffic in the United States. The DEA also recommends and supports nonenforcement programs aimed at reducing the availability of illicit controlled substances on both domestic and international markets. To accomplish this mission, DEA works with international, federal, and state and local law enforcement partners to target and immobilize the organizations of major drug traffickers operating at all levels of the drug trade.

I have long said this fight cannot be won through law enforcement alone. There must be a "holistic" approach to a global problem. DEA has in place a five-year strategic plan, which addresses the problems posed by illicit drug availability and abuse and provides for a comprehensive balanced approach. There is no doubt that interdiction and enforcement, coupled with education, prevention and treatment, are the essential elements for reducing the supply and demand of illicit drugs in this country.

DEA, in its capacity as the world's leading drug enforcement agency and the only single-mission federal agency dedicated to drug law enforcement, has developed the unique ability to direct resources and manpower to identify, target, investigate and dismantle drug organizations headquartered overseas and within the United States. DEA's strategy to successfully accomplish these goals is straightforward, requiring that the agency's resources and manpower be focused on all three levels of the drug trade: the international, national/regional, and local levels. Each of these categories represents a critical aspect of the drug continuum, which affects communities across the nation.

The 9,000 dedicated men and women of the DEA are committed to improving the quality of life of the citizens of the United States. The agency directs and supports investigations against the highest levels of the international drug trade, their surrogates operating within the United States and those traffickers whose violence and criminal activities threaten towns and cities across the country. These investigations are intelligence-driven and frequently involve the cooperative efforts of numerous other law enforcement organizations.

DEA's strategy to reduce drug trafficking at all levels of operation is flexible and reflects the constantly changing nature of the drug trade. In concert with the Department of Justice, our sister law enforcement agencies, and the Office of National Drug Control Policy (ONDCP), DEA has crafted an innovative and effective program to keep pace with developments and shifts in the drug trafficking spectrum and bring both national and international drug traffickers to justice.

FISCAL YEAR 2002 BUDGET REQUEST

Consistent with this strategy, DEA is requesting additional resources to implement these plans. For fiscal year 2002, DEA is requesting a total of $1.6 billion, 8,314 positions, and 8,171 FTE, of which $1.5 billion, 7,654 positions and 7,515 FTE are funded by our Salaries and Expenses (S&E) Appropriation, and the remainder is funded by the Diversion Control Fee Account. For the S&E Appropriation, this represents an increase of $120.6 million and 134 positions over the fiscal year 2001 enacted levels. The increase consists of $62.5 million needed to maintain our current level of operations and $58.2 million and 134 positions (including 13 Special Agents) for three program initiatives: a Special Operations Division (SOD) and Communications Intercept Initiative, a FIREBIRD Initiative, and a Laboratory Operations Initiative. I will briefly discuss each in turn.

First, DEA is seeking $15.1 million and 62 positions (including 13 Special Agents) under the Special Operations Division and Communications Intercept Initiative to provide critical enhancements to its SOD and Investigative Technology programs. SOD is a comprehensive enforcement operation designed specifically to coordinate multi-agency, multi-jurisdictional and multi-national Title III investigations against the command and control elements of major drug trafficking organizations operating domestically and abroad. These resources will be used to enhance staffing levels in key investigative units within the SOD, to include support for drug enforcement investigations associated with the Southwest Border, Latin America, the Caribbean, Europe, and Asia. This request also augments DEA's funding base for contract linguists, and enhances DEA's investigative technology programs through new resources for equipment, technical support personnel, and training.

Second, under our FIREBIRD Initiative, DEA requests an enhancement of $30 million and 3 positions for the global FIREBIRD network. FIREBIRD is DEA's primary office automation infrastructure. It provides essential computer tools for agents and support staff, including E-mail, uniform word processing, and many other forms of office automation software. FIREBIRD also serves as the communications "backbone" for DEA's MERLIN intelligence network, and serves as the platform for numerous other mission critical databases and operational systems. DEA is requesting funding to complete deployment of the system, provide vital network security, and support technology renewal of the system. The technology renewal resources will allow DEA to replace outdated technology and adopt a reasonable replacement cycle for FIREBIRD equipment.

Third and finally, DEA requests $13.1 million and 69 positions (including 46 chemists) for our Laboratory Operations Initiative to meet mission-critical requirements within our laboratory services program. DEA's forensic chemists provide a variety of essential services, including drug and evidence analysis, on-site assistance for clandestine laboratory seizures and crime scene investigations, and vital courtroom testimony to support prosecution efforts. Likewise, the recent success of DEA's Operation Breakthrough program in providing the U.S. Government with new scientific data on coca cultivation and cocaine production in Colombia has demonstrated the crucial role played by DEA forensic chemists and intelligence analysts in supporting the critical intelligence needs of senior U.S. policy makers and the counterdrug intelligence community. We must be able to enhance our capability to carry out this type of strategic analysis and reporting. The requested funds and staffing are needed to address a growing backlog of exhibits and establish a laboratory equipment base that will better support program operations. Collectively, these resources will enable DEA to more effectively meet the mission requirements of its Special Agent workforce and better support the prosecution of drug offenders through timely analysis of evidence.

THE CHALLENGE: INTERNATIONAL DRUG TRAFFICKING ORGANIZATIONS

DEA targets, investigates, and dismantles the most powerful drug syndicates operating around the world which are responsible for supplying drugs to American communities. The most significant drug syndicates operating today are far more powerful and violent than any of the other organized criminal groups that we have experienced in the history of American law enforcement. Unlike traditional organized crime, these new criminals operate on a global scale with transnational networks to conduct illicit enterprises simultaneously in many different countries. DEA has grown in sophistication and effectiveness to meet the challenge posed by international drug trafficking in the new century.

The main challenge DEA faced during the late 1980's was posed by the major drug traffickers from Medellin, Colombia. These drug lords were investigated, arrested and prosecuted by the Colombian National Police (CNP), the DEA, and U.S. Federal prosecutors, beginning with the landmark return of Carlos Lehder to face

drug charges in the United States, and ending with the death of Pablo Escobar in a shoot-out with the CNP. During this same time frame, narcotics investigations by the DEA and other Federal, state and local entities created a choke point in South Florida and the Caribbean, through which most of the illicit drugs arriving in our country were being transported. These enforcement strategies led to the demise of the Medellin Cartel.

As the Medellin traffickers disintegrated, the Cali traffickers quietly coalesced and assumed power equal to that of their predecessors. Due to law enforcement's response to the trafficking in the Caribbean, the Cali traffickers would later form an alliance with Mexican trafficking groups in order to stage and transport drugs across the Southwest Border. The drug traffickers from Cali were far more sophisticated than the Medellin group and eventually became deeply involved in all aspects of the cocaine trade, including production, transportation, wholesale distribution and money laundering. Whereas the Medellin traffickers seemed to revel in the terror and violence that became their trademark—and ultimately contributed to their downfall—the Cali traffickers attempted to avoid indiscriminate violence and sought to build their image as legitimate businessmen. The Cali leaders—the Rodriguez-Orejuela brothers, Jose Santacruz Londono, and Helmer "Pacho" Herrera-Buitrago—amassed fortunes and ran their multi-billion dollar cocaine businesses from high-rises and ranches in Colombia. Miguel Rodriguez-Orejuela and his associates comprised what was, until then, the most powerful international organized crime group in history.

During 1995 and 1996, intense law enforcement pressure was focused on the Cali leadership by the brave men and women of the Colombian National Police. As a result, all of the top trafficking leaders from Cali were either in jail or killed. During that time frame, U.S. law enforcement agencies were effectively attacking Colombian cells operating within the United States. With the Cali leaders' imprisonment in Colombia and the successful attacks by law enforcement on their U.S. cells, traffickers from Mexico took on greater prominence. A growing alliance between the Colombian traffickers and the organizations from Mexico worked to benefit both sides.

Traffickers from Mexico had long been involved in smuggling marijuana, heroin, and cocaine across the United States/Mexico border, using entrenched distribution routes to deliver drugs throughout the United States. The emergence of the Mexico-based organizations as major methamphetamine producers and traffickers also contributed to making them a major force in international drug trafficking. The Mexican traffickers, who were previously paid in cash by the Colombian traffickers for their services, began to routinely receive up to one-half of a shipment of cocaine as their payment. This led to Mexican traffickers having access to multi-ton quantities of cocaine and allowed them to expand their markets and influence in the United States, thereby making them formidable cocaine traffickers in their own right.

The United States/Mexico border is now the primary point of entry for cocaine shipments being smuggled into the United States. According to a recent assessment, more than half of the cocaine smuggled into the United States crosses the Southwest Border. Today, traffickers operating from Colombia continue to control wholesale level cocaine distribution throughout the heavily populated northeastern United States and along the eastern seaboard in cities such as Boston, Miami, Newark, New York City, and Philadelphia. Traffickers operating from Mexico, however, control wholesale cocaine distribution throughout the western and Midwestern United States. The distribution of multi-ton quantities of cocaine once dominated by the Colombia-based drug groups is now controlled by Mexico-based trafficking groups in cities such as Chicago, Dallas, Denver, Houston, Los Angeles, Phoenix, San Diego, San Francisco, and Seattle.

Members of international crime groups today pose a much greater threat than did their Medellin and Cali predecessors. They have at their disposal the most sophisticated communications technology, including faxes, the Internet, and cell phones. Additionally, they have in their arsenal radar-equipped aircraft, weapons and an army of workers who oversee the drug business from its raw beginnings in South American jungles to the urban areas and core city locations within the United States. All of this modern technology and these vast resources enable the leaders of international criminal groups to build organizations which, together with their surrogates operating within the United States, reach into the heartland of America. The leaders of these crime groups work through their organizations to transport drugs into the United States, and franchise others to distribute drugs, thereby allowing them to remain beyond the reach of American justice. Those involved in drug trafficking often generate such tremendous profits that they are able to corrupt law enforcement, military and political officials in order to create a safe haven for themselves.

Successes against the Medellin and Cali drug lords accelerated the decentralization of the international cocaine trade. In this new century, we are seeing "second generation" traffickers emerge as major players in the Colombian cocaine trade. They tend to be less willing to directly challenge government authority and are much more sophisticated in their methods of operation. They extensively use wireless communication devices, which they change with great frequency. Other emerging characteristics are the use of computerized communications, elaborate concealment of clandestine cargo, and avoidance of direct involvement in retail distribution or even direct distribution to the U.S. market. The successful identification, investigation, and prosecution of these violators has become an even greater challenge to law enforcement both in the United States and Colombia.

THE RESPONSE: TODAY'S DEA

DEA is continuing to identify and build cases against the leaders of the new criminal groups from Colombia. As the criminals have become more sophisticated, we have built what is in many ways a new DEA, far more sophisticated than that which was created in the 1970s.

As an organization, DEA has grown and changed tremendously over the years. From 1,446 agents and 1,422 support personnel in 1973, we have grown to 3,772 agents and 4,340 support staff at the end of 2000. From our first budget of $74 million in 1973, DEA's budget authority has grown to $1.44 billion for the current year.

Domestically, we now operate through 21 Field Divisions, in addition to the Special Operations Division at DEA Headquarters, with offices in every State. Also within the United States, we work through the Organized Crime Drug Enforcement Task Forces (OCDETF) program. This program was initiated in 1982 to combine federal, state, and local law enforcement efforts into a comprehensive attack against organized crime and drug traffickers. DEA continues to be the leading initiator of OCDETF cases.

Overseas, the DEA now maintains 78 offices in 57 countries. These offices support DEA domestic investigations through foreign liaison, training of host country officials, bilateral investigations, and intelligence gathering. Through the International Visitor Program, DEA provides foreign officials and U.S. diplomats with briefs on drug trafficking trends and national and international counter narcotics activities.

Electronic surveillance is critical to our success in combating the drug problem in the United States. In fact, the vast majority of court authorized electronic surveillance actions are directly tied to enforcement of the controlled substances laws and regulations of the United States. Without this essential tool, we in drug law enforcement would be unable to prevent, investigate, and solve many of the crimes associated with the growing, manufacture, or distribution of illegal drugs. In order to meet the challenges presented by these sophisticated drug trafficking organizations, it is necessary for us to attack the command and control mechanisms of these organizations. Our center for targeting command and control is the Special Operations Division (SOD), a combined DEA, U.S. Customs, FBI, IRS/Criminal Investigations, and DOJ/Criminal Division effort that supports ongoing investigations by producing detailed and comprehensive analyses of data revealing the activities and organizational structures of major drug trafficking and drug-related money laundering organizations and identifying relationships among traffickers and their related enterprises.

Today's international drug trafficking organizations are the wealthiest, most powerful, and most ruthless organized crime entities we have ever faced. We know from our investigations that they utilize their virtually unlimited wealth to purchase the most sophisticated electronic equipment available on the market to facilitate their illegal activities. The Special Operations Division has enabled us to build cases against the leaders of these powerful organizations by targeting their command and control communications with multi-jurisdictional criminal investigations based on state-of-the-art, court approved Title III electronic interceptions. We rely on the information and evidence gathered from these Title III interceptions of their communications to build a picture of the organizations, identify the individual members, and obtain evidence enabling us to make arrests and take apart whole sections of the criminal organizations at a time. The capability provided by SOD is at the core of our ability to make cases against the leadership and U.S.-based infrastructure of these powerful organizations that control the drug trade in our hemisphere.

Our State & Local Task Force program carries out one of the DEA's priority initiatives: addressing the problem of drug-related violent crime with our state and local counterparts. There are currently 1,134 Special Agent positions dedicated to this enforcement effort working alongside 1,868 State or local police officers in 203

Task Forces. Of this number, 45 task forces are funded through the HIDTA program.

DEA's Mobile Enforcement Teams (METs) were conceived in 1995 in response to the overwhelming problem of drug-related violent crime in towns and cities across the nation. MET teams assist local law enforcement officers in identifying major drug traffickers and organizations that commit homicide and other violent crimes, collecting, analyzing, and sharing intelligence, arresting drug traffickers and assisting in the arrests of violent offenders and gangs, seizing assets, and assisting prosecutors. METs have completed 294 deployments so far, with 18 more currently under way. There are 262 DEA Special Agents assigned to the MET Program nationwide, comprising 24 teams.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. Its mission is to reduce drug trafficking throughout the country by coordinating federal, state, and local law enforcement efforts.

To ensure that criminals do not benefit financially from their illegal acts, federal law provides that profits from drug-related crimes may be legally seized. Asset forfeiture is an effective weapon because it removes the profit from illegal activities thereby financially disabling the drug-trafficking organizations. Property is seized by the DEA only when it is determined to be a tool for, or the proceeds of, illegal activities such as drug trafficking, organized crime, or money laundering. The DEA has also launched major operations specifically targeting the money-laundering capabilities of major trafficking organizations.

DEA is also in the forefront of the forensic science industry. DEA's eight Regional laboratories make up the largest accredited federal lab system in the United States. They provide the best available forensic drug analysis to the law enforcement community. These Labs each serve a region of the country. The Northeast Laboratory is located in New York City, the North Central Laboratory in Chicago, the Southeast Laboratory in Miami, the South Central Laboratory in Dallas, the Southwest Laboratory in National City (CA), the Western Laboratory in San Francisco, and the Mid-Atlantic Lab in Washington, D.C. In addition, the Special Testing Laboratory is in the Washington, D.C. suburbs.

The DEA's Computer Forensics Program (CFP) is the application of computer technology and specialized seizure and evidence handling techniques to retrieve information from computer systems for investigative or intelligence purposes. Like many other business people, drug traffickers rely on computers and electronic pocket organizers to store information. Modern law enforcement routinely encounters and seizes home computers, laptops, computer networks, pocket organizers, and magnetic media in every conceivable size and format. These items, when seized, are forwarded to the CFP for duplication and extraction of information in such a way as to preserve the integrity of the evidence in a court-admissible manner. The Computer Forensics Program was established in October 1994, and has processed hundreds of computer items and pieces of electronic equipment each year since then. Over the last five years, the number of cases and computer seizures have increased by approximately 30 percent each year.

Most of the drugs in the illicit traffic are products of illicit processing or synthesis. Prior to 1988, there were virtually no legal impediments to obtaining the chemicals necessary to manufacture drugs of abuse, no records required to be maintained for inspection, and no penalties for negligence or willful diversion. However, the Chemical Diversion and Trafficking Act of 1988 extended the concept of commodity control to those chemicals most often used for the manufacture and synthesis of drugs of abuse. With the support of the State Department, the DEA pursued the same goal for incorporation into the U.N. Convention Against Illicit Drug Traffic of 1988 (the Vienna Convention). On these legal bases, DEA has established controls over a list of critical chemicals commonly diverted for the production of the major drugs of abuse.

MAJOR INVESTIGATIONS

Using the law enforcement tools available to today's DEA, as outlined above, in the past several years we have participated in a number of very significant investigations. These actions demonstrate not only the new sophistication of drug trafficking organizations at the beginning of the Twenty-First Century, but also the significance of the law enforcement response.

We continue to carry out cutting-edge, sophisticated investigations, which successfully targeted major traffickers who had previously operated without fear of capture or prosecution in the United States, believing that only their low-level operatives were at risk. These operations underscore the importance of cooperation among

international drug law enforcement agencies. Such operations benefit from the closest possible cooperation between the DEA and our foreign counterparts. These investigations will continue to lead to the dismantling of major portions of the most significant drug trafficking organizations operating today. Allow me to review just a few of DEA's recent successes.

Operation Millennium, brought to a successful conclusion in 1999, effectively demonstrated that even the highest level traffickers based in foreign countries could not manage drug operations inside the United States with impunity. Operation Millennium was made possible by direct support from the governments of Colombia and Mexico. Operation Millennium effectively targeted major cocaine suppliers who had been responsible for shipping vast quantities of cocaine from Colombia through Mexico into the United States. Operation Millennium specifically targeted drug kingpin Alejandro Bernal-Madrigal, who, by his own admission, had been smuggling 30 tons, or 500 million dosage units, of cocaine into the United States every month.

Operation Mountain Express was a joint operation between DEA's Special Operations Division and the Office of Diversion Control. Mountain Express targeted traffickers of the methamphetamine precursor, pseudoephedrine. Existing regulations make it possible for California-based Mexican criminal organizations to purchase multi-ton quantities of pseudoephedrine for use in methamphetamine production. Since January 2000, SOD coordinated a number of multi-jurisdictional investigations targeting pseudoephedrine traffickers, many of whom were of Middle Eastern origin, using 11 wiretaps during the course of the investigations.

Operation Tar Pit was a DEA led multi-jurisdictional investigation targeting a Mexican heroin transportation and trafficking organization based in Tepic, Nayarit, Mexico. Primarily, this organization imported multi-kilogram quantities of black tar heroin from Mexico into the United States. During the course of the operation, more than 30 Federal Title III investigations were conducted. In June 2000, a nationwide takedown occurred against Operation Tar Pit targets, which included the principal Mexican command and control members in Mexico, U.S. based cell heads, workers for each cell, couriers, and customers.

In November 2000, the DEA, FBI, U.S. Customs Service, and Federal prosecutors culminated an 18-month investigation targeting a multi-ethnic, transnational MDMA (Ecstasy) and cocaine distribution organization, following-up on enforcement action by Dutch police in the Netherlands. The investigation, known as Operation RED TIDE, was a textbook example of the new multi-agency, multi-national law enforcement cooperation needed to thwart organized crime in the 21st Century. As a result of this cooperative effort, Customs agents seized 1,096 pounds (2.1 million tablets) of MDMA, the largest single seizure of the drug in history. The head of the organization, Tamer Adel Ibrahim fled the United States after the seizure, but was quickly traced to Mexico and then to Europe by the multi-agency team. Ibrahim, along with others, was arrested and the Dutch National Police seized 1.2 million tablets of MDMA.

Operations like RED TIDE exemplify the unprecedented level of international law enforcement cooperation in effect today. The investigation targeting a transnational MDMA and cocaine trafficking syndicate was a cooperative effort by the U.S. law enforcement agencies, as well as the Dutch National Police/Regional Team South, Mexico's Fiscalia Especializad Para La Atencion De Delitos (FEADS), the Israeli National Police, the German Federal Police (Bundes Kriminal Amt), the Cologne Germany Police Department, the Duissburg Germany Police Department, the Italian National Police and the French National Police.

This investigation is extremely important because MDMA (Ecstasy) is a new threat with the potential to cause great damage, especially to America's youth. Operation Red Tide has ensured that a large volume of Ecstasy that would have made it into the hands of our youth never hit the streets, and sent a strong message to the traffickers that the DEA is leading a truly global response to the drug threat.

Last December, the DEA, together with U.S. Customs and the FBI, completed Operation Impunity II, resulting in 141 arrests and the seizure of 5,266 kilograms of cocaine, 9,325 pounds of marijuana, and approximately $9,663,265 in U.S. currency and assets. Impunity II follows earlier successes dating back to 1996 in Operation Limelight and Operation Impunity I and was the result of the outstanding coordination between federal, state, and local law enforcement officials and prosecutors across the country.

Operation Impunity II was a multi-agency law enforcement effort that targeted a wide-ranging conspiracy to smuggle thousands of pounds of cocaine and marijuana from Mexico, across the southwest border into Texas, for distribution throughout the United States. Impunity II targeted an organization that placed managers in the United States and retained the organizational command and control elements in Mexico. In addition to remnants from the Carrillo-Fuentes organization, agents

learned that some members of the Mexican Gulf Cartel had also become associated with the organization, including Osiel Cardenas-Guillen, allegedly a former Gulf Cartel lieutenant. In addition to the domestic enforcement activity in this country, the United States Government presented provisional arrest warrants for extradition for eight Mexican nationals in Mexico and one Dominican national in the Dominican Republic.

In January of this year, Operation White Horse targeted a large scale heroin trafficking organization, directed by Wilson SALAZAR-Maldonado, which was responsible for sending multi-kilogram quantities of heroin from Colombia to the Northeastern United States via Aruba. The investigation was conducted jointly by the Colombian National Police, DEA Bogota, Curacao, Philadelphia and New York, and the Special Operations Division. This investigation resulted in 96 arrests, as well as the seizure of multi-kilograms quantities of heroin and cocaine, weapons and U.S. currency.

CURRENT DRUG TRAFFICKING THREAT TO THE UNITED STATES

Drug law enforcement agencies face an enormous challenge in protecting American communities from drug traffickers who smuggle in cocaine, heroin, methamphetamine, and marijuana for distribution in U.S. neighborhoods as well as from domestic suppliers of these drugs.

Cocaine Trends

The primary U.S. drug threat is cocaine, particularly in its smokable form known as "crack" cocaine. The trafficking, distribution, and abuse of cocaine and crack cocaine over the past decade, along with increasing drug-related violence, seriously debilitate the quality of life in many cities and towns across the country. Most of this nation's drug law enforcement assets are directed against cocaine traffickers.

Crack, the inexpensive, smokable form of cocaine, continues to be distributed and used in most major cities. While cocaine use in the United States has declined over the past decade, the rate of use in recent years has stabilized at high levels. Crack cocaine usage, which drove these rates, has reached the saturation point in large urban areas throughout the country. Street gangs, such as the Crips and the Bloods, and groups of ethnic Dominicans, Puerto Ricans, and Jamaicans dominate the retail market for crack cocaine nationwide.

Heroin Trends

Heroin is readily available in many U.S. cities as evidenced by the unprecedented level of average retail, or street-level, purity. The increased availability of high-purity heroin, which can effectively be snorted, has given rise to a new, younger user population. While avoiding the stigma and additional health hazards of needle use, this user group is ingesting larger quantities of the drug and, according to drug treatment specialists, progressing more quickly toward addiction.

South American Heroin

The availability of South American (SA) heroin, produced in Colombia, has increased dramatically in the United States since 1993. South American heroin is available in the major metropolitan areas of the Northeast and along the East Coast. Investigations also indicate the spread of South American heroin to smaller U.S. cities as well. Within the United States, ethnic Dominican criminal groups have played a significant role in retail-level heroin distribution in northeastern markets for at least the past two decades. Currently, Dominican groups dominate retail heroin markets in northeastern cities such as New York, Boston, and Philadelphia.

Mexican Heroin

Mexican heroin has been a threat to the United States for decades. It is produced, smuggled, and distributed by polydrug trafficking groups, many of which have been in operation for more than 20 years. Nearly all of the heroin produced in Mexico is destined for distribution in the United States. Organized crime groups operating from Mexico produce, smuggle, and distribute the black tar heroin sold in the western United States. Once the heroin reaches the United States, traffickers rely upon well-entrenched polydrug smuggling and distribution networks to deliver their product to the market, primarily in the metropolitan areas of the Midwestern, southwestern, and western United States with sizable Mexican immigrant populations.

Southeast Asian Heroin

High-purity Southeast Asian (SEA) heroin dominated the market in the United States during the late 1980s and early 1990s. Over the past few years, however, all indicators point to a decrease in SEA heroin available domestically. Despite the re-

cent decline in trafficking of SEA heroin, Chinese criminal groups based in Asia remain the most sophisticated heroin trafficking organizations in the world.

Southwest Asian Heroin

While a large portion of Southwest Asian (SWA) heroin is consumed in Western Europe, Pakistan, and Iran, traffickers operating from Middle Eastern locales smuggle SWA heroin to ethnic enclaves in the United States. Criminal groups composed of ethnic Lebanese, Pakistanis, Turks, and Afghans are all involved in supplying the drug to U.S.-based groups for retail distribution. West African traffickers, who primarily smuggled SEA heroin to the United States in the 1990s, now also deal in SWA heroin.

Methamphetamine Trends

Domestic methamphetamine production, trafficking, and abuse are concentrated in the western United States. Methamphetamine is also increasingly available in portions of the South. Clandestine laboratories in California and Mexico are the primary sources of supply for methamphetamine available in the United States.

Over the last decade, the methamphetamine trafficking and abuse situation in the United States changed dramatically. In 1994, ethnic Mexican drug trafficking organizations operating "super labs" (labs capable of producing in excess of ten pounds of methamphetamine in one 24-hour production cycle) based in Mexico and California began to take control of the production and distribution of methamphetamine domestically. The entry of ethnic Mexican traffickers into the methamphetamine trade in the mid-1990s resulted in a significant increase in the supply of the drug.

The primary points of entry into the United States for methamphetamine produced in Mexico have traditionally been California ports of entry, particularly San Ysidro. Although a great amount of methamphetamine still transits this area, ports-of-entry in south Texas are experiencing significant increases in smuggling activity.

The vast majority of methamphetamine precursor chemicals diverted to clandestine laboratories in the United States are dosage-form pseudoephedrine or ephedrine drug products. They are usually purchased from U.S. manufacturers and distributors who sell case quantities of the tablets. The finished methamphetamine is then distributed throughout the United States through preexisting smuggling methods to the traffickers.

Marijuana Trends

Marijuana is the most widely abused and readily available illicit drug in the United States with an estimated 11.5 million current users. At least one-third of the U.S. population has used marijuana sometime in their lives. The drug is considered a "gateway" to the world of illicit drug abuse.

Marijuana smuggled into the United States, whether grown in Mexico or transshipped from other Latin American source areas, accounts for most of the marijuana available in the United States. Marijuana produced in Mexico remains the most widely available. Moreover, high-potency marijuana enters the U.S. drug market from Canada. The availability of marijuana from the Far East, primarily Thailand, generally is limited to the West Coast. U.S. drug law enforcement reporting also suggests increased availability of domestically grown marijuana.

MDMA Trends

Commonly referred to as Ecstasy, XTC, Clarity or Essence, the chemical substance known as 3, 4-methylenedioxymethamphetamine (MDMA) is a synthetic psychoactive drug possessing stimulant and mild hallucinogenic properties. In the early 1990s, MDMA became increasingly popular among European youth. However, it is within the last five years that MDMA use in the United States has increased at an alarming rate.

Although the vast majority of MDMA consumed domestically is produced in Europe, a limited number of MDMA laboratories operate in the United States. Law enforcement seized seven clandestine MDMA laboratories in the United States in 2000 compared to 19 seized in 1999. It should be noted that these labs were primarily capable of limited drug production. While "recipes" for the clandestine production of MDMA can be found on the Internet, acquiring the necessary precursor chemicals in the United States is difficult.

MDMA is manufactured clandestinely in Western Europe, particularly in the Netherlands and Belgium. Much of the MDMA is manufactured in the southeast section of the Netherlands near Maastricht. International MDMA traffickers based in the Netherlands and Belgium consistently use other European countries, such as France, England, Germany, and Spain as transshipment points for MDMA shipments destined for the United States. Russian, Israeli and European criminal orga-

nizations, the principal traffickers of MDMA worldwide, supply the United States with the drug.

DRUG DIVERSION

The purpose of DEA's Drug Diversion Control Program is to prevent, detect, and investigate the diversion of controlled substances from legitimate channels. The goal is to ensure that these "controlled substances" are readily available for medical use, while preventing their distribution for illicit sale and abuse.

OxyContin®

OxyContin® is a Schedule II controlled release form of the narcotic oxycodone. It is legitimately used as a medication to treat moderate to severe pain and is becoming the drug of choice in many pain management clinics. In a little over four years, sales have reached $1 billion.

The pharmacological effects of OxyContin® make it attractive to abusers as it offers reliable strength and dosage levels and may, in some instances, be covered by the abuser's health insurance. Abusers have discovered that the controlled release formula of OxyContin® can be easily compromised by inhalation or injection resulting in a powerful, morphine-like high.

Reports of the diversion and abuse of OxyContin® are currently concentrated in rural areas of the eastern United States; however, DEA's Office of Diversion Control has identified this activity as a growing problem throughout the nation. This is consistent with the increase in emergency room episodes involving oxycodone. The estimated number of episodes involving oxycodone were stable from 1990 through 1996. However, the number of emergency room episodes doubled from 1996 to 1999: 3,190 episodes in 1996 to 6,429 in 1999.

In order to combat the serious and growing problems stemming from the diversion and abuse of OxyContin®, DEA has developed and initiated its first national action plan for a prescription medication. The elements of this plan are: coordinating enforcement and intelligence operations, to include interagency efforts; utilizing regulatory and administrative authorities, including the support of other regulatory agencies; seeking industry cooperation; and implementing aggressive education and outreach efforts.

IMPACT ON THE UNITED STATES

None of the major drug traffickers headquartered overseas could operate without the assistance of national and regional drug trafficking organizations which are responsible for trafficking huge quantities of drugs into U.S. communities. These organizations are comprised of a network of operatives who transport, store and distribute drugs and collect and repatriate drug proceeds throughout the United States and whose activities are directed by drug lords based in foreign countries. In many cases, national and regional drug trafficking organizations are comprised of numerous cells whose directors are responsible for specific tasks such as communications, financial matters and/or logistics. These cell heads are sent to the United States for a period of time to carry out the business mandates of the top drug lords and are given specific tasks to accomplish. The national and regional drug syndicates have infiltrated many states and communities, bringing with them the crime and violence once limited to major urban areas. A survey of recent DEA investigations revealed that over 400 investigations stemming from Operations Reciprocity and Limelight involved drug traffickers from foreign countries who had set up operations in various cities across the United States.

Local violent drug trafficking organizations also operate across the United States and are responsible for eroding the quality of life in many American communities. Previously centered in major urban areas, violent drug trafficking groups are now part of the landscape in smaller cities and rural areas. Fueled in large part by methamphetamine production and trafficking, violent drug trafficking organizations are now affecting the crime rates in smaller cities such as Spokane, Washington and Cedar Rapids, Iowa. While these local, violent groups appear to be unrelated to the large international drug trafficking organizations headquartered overseas, it is important to note that all of the cocaine and heroin that is trafficked by these groups is produced overseas and transported to the United States for eventual distribution on the local level.

DEMAND REDUCTION

The number one goal of the National Drug Strategy is to educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco. DEA believes that there is a role for everyone to play in this goal, including law enforcement. Law

enforcement may not take the lead in demand reduction efforts, but it has a unique perspective and wealth of experience to bring to the prevention arena. DEA special agents have seen first hand the terrible impact of drug abuse in communities, and speak with a compelling authority in explaining to citizens why this problem needs to be conquered. They also have great expertise in planning, organizing and implementing proactive efforts to deal with drug abuse.

As an example of DEA's contribution to drug prevention, Demand Reduction Coordinators (DRC's) have been instrumental in working with media to place public service announcements from the Partnership for a Drug-Free America in support of the President's Youth Media Campaign. Demand Reduction Coordinators worked collaboratively with state and local authorities to produce an educational video (several thousand distributed to date) for adults and adolescents in the Midwest to educate them about the dangers of methamphetamine. In New York and Washington, D.C., Demand Reduction Coordinators developed an ad campaign geared to engaging youth that is being posted on busses, subway trains, and taxis. And the Demand Reduction Section has participated in satellite video conferences that were broadcast all over the United States.

Additionally the Demand Reduction Section, the Bureau of Justice Assistance, and the National Crime Prevention Council have conducted seminars for teams of community leaders from cities and towns that received MET deployments. The objective is to educate community leaders to start programs that prevent the return of the drug trafficking and violent crime that plagued their neighborhoods. CPD hosted a group of national experts in drug and crime prevention to review the proposed curriculum for this training.

The DEA web page is yet another way of reaching a large segment of the public with demand reduction information both for young people and their parents. But not everyone has access to computers, or is computer-literate. Therefore, DEA also reaches the public through publications and direct contact such as seminars, conferences and meetings with youth, parents, employers, employees, businesses, community and civic groups, teachers, coaches, clergy, prisoners, as well as law enforcement personnel.

The driving force behind DEA's demand reduction program has always been the particular credibility that law enforcement, and especially federal law enforcement officers bring to the drug prevention arena. DEA agents possess a certain authority because of their background and job experiences, which play an important role in the overall drug demand reduction picture. This is why DEA's current demand reduction program has been so successful.

DEA'S STRATEGIC PLAN

In order to meet the enormous challenges posed by internationally-based narcotics traffickers and their surrogates within the United States, DEA has developed a five-year Strategic Plan which is a key part of our commitment to establish and maintain a clear focus on the outcome of our efforts. In its unique capacity as the world's leading drug enforcement agency, DEA carries out its legal mandate for enforcing provisions of the controlled substances and chemical diversion, trafficking laws and regulations, and serves as the single point of contact for the coordination of all international drug investigations.

To ensure mission success, DEA attacks all levels of drug trafficking using both traditional and innovative drug control approaches, focusing its enforcement operations on the full continuum of drug trafficking. This overall strategic approach is based on the recognition that the major drug traffickers, operating both internationally and domestically, have insulated themselves from the drug distribution networks but remain closely linked to the proceeds of their trade. Consequently, the identification and forfeiture of illicitly derived assets is a powerful tool in successfully destroying the economic base of the drug trafficking organization, as well as a means of proving a connection between violators and a criminal drug conspiracy at the time of prosecution.

In view of this assessment, DEA's investigative efforts are directed against the major international drug trafficking organizations and their facilitators at every juncture in their operations—from the cultivation and production of drugs in foreign countries, to their passage through the transit zone, and eventual distribution on the streets of America's communities. DEA's Strategic Plan takes into account the current drug trafficking situation affecting the United States, and works to identify the characteristics and exploit the vulnerabilities of all three levels of the drug trade. By focusing directly on the agency's investigative priority targeting system, DEA responds to each of the following levels simultaneously:

International Targets.—DEA will eliminate the power and control of the major drug trafficking organizations and dismantle their infrastructure by disrupting and dismantling the operations of their supporting organizations that provide raw materials and chemicals, produce and transship illicit drugs, launder money worldwide, and halt the operations of their surrogates in the United States.

National/Regional Targets.—DEA will continue an aggressive and balanced enforcement program with a multi-jurisdictional approach designed to help focus Federal and interagency resources on illegal drug traffickers, their organizations and key members who have control of an area within a region of the United States, and the drugs and assets involved in their activities.

Local Initiatives.—DEA will continue to assist States and localities in attacking the violence that plagues our cities, rural areas, and small towns to protect our citizens from the impact of drugs, and help restore a positive quality of life. DEA considers this an important part of its overall strategy to complement the state and local efforts with specialized programs that bring DEA's intelligence, expertise, and leadership into specific trouble spots throughout the nation.

In each of the aforementioned forums, DEA seeks to identify, target, investigate, disrupt, and dismantle the international, national, state, and local drug trafficking organizations that are having the most significant impact on America. DEA's strategic goals reflect the agency's efforts to use its unique skills and limited resources in a manner designed to achieve maximum impact. This requires maintaining a clear focus on Deals core competency—the destruction and dismantlement of drug trafficking organizations. The implementation of DEA's strategic plan is carried out with the "holistic" approach, which I mentioned at the beginning of my statement. This approach addresses the problems posed by illicit drug availability and abuse and provides for a comprehensive approach of interdiction and enforcement, coupled with education, prevention and treatment.

Mr. Chairman, that concludes my prepared remarks. I will be happy to take any questions you may have for me at this time.

MORE IMMIGRANTS ENTERING THE COUNTRY

Senator GREGG. Thank you very much, and we will include your written statements in the record.

Commissioner, you mentioned that in the last decade we had more immigrants coming into the country than in any period in the country's history?

Mr. ROONEY. Yes. It was rather surprising to me, but in the last decade more than in any other decade, including the beginning of the last century, the first 10 years, which is rather staggering.

Senator GREGG. Are you referring to legal and illegal, or are you just talking about legal immigrants?

Mr. ROONEY. Legal.

Senator GREGG. Legal immigrants. And what percent——

Mr. ROONEY. I am talking about applications that come in, yes.

Senator GREGG. Applications?

Mr. ROONEY. Right. The processing of applications for benefits.

Senator GREGG. All right. And what percentage of those folks become citizens?

Mr. ROONEY. I do not know that off hand.

Senator GREGG. Now, you said you had an 80 percent increase in applications last year and 50 percent over last year this year?

Mr. ROONEY. Yes. The applications this year, in 2000, were 50 percent more than the previous year and 80 percent more than the year before that.

Senator GREGG. And what percentage of those applications do you approve?

Mr. ROONEY. Well, looking at two different types of applications.

We take the naturalization applications, for example, Mr. Chairman, in fiscal year 2000, we completed 1.3 million of those and reduced the backlog down to 800,000. The backlog previously had

been 1.8 million. So we are on our way to getting that backlog eliminated, which is part of the President's 52-year plan to do that.

GUEST WORKER PROPOSALS

Senator GREGG. Right. Have you taken a look at all of the guest worker proposals that have been floating around? The President talked, I guess, to President Vicente Fox about it, and it has been mentioned a number of times by Senator Gramm.

Mr. ROONEY. Yes, Mr. Chairman. In fact, I had the opportunity in my first week at INS, about 5 or 6 weeks ago, to participate in the first round of those talks with the Mexican Government.

The President put the Attorney General and Secretary Powell as the head of the talks, and a staff group from the State Department and Justice and INS—INS is part of Justice—participated in those. And there have been several proposals that have come forward in the last week.

The guest worker program, employment opportunities, is clearly a priority of the Mexican Government in those talks. And at the moment, we have looked at Senator Gramm's guest worker proposals, and we have looked at some of the other proposals that previously had been introduced in the Congress, and they vary. But we are working closely with the other agencies.

Senator GREGG. Well, as a general statement, what do you think the effect of a guest worker program would be on illegal immigration coming over the Mexico border?

Mr. ROONEY. The past problems with the types of programs that we have had, going back to the Bracero program several years ago, is that the people come into work and then they stay. Now, of course, the argument can be made, "Well, people are coming in to work illegally and staying." But in general, the programs differ in many different ways.

The Mexican Government is particularly interested in the opportunity for people to come in in a circularity concept; people coming in, working, and going home.

One of the proposals would be opened only to agriculture workers. Other proposals would be opened to a broader range of workers.

Some would offer the opportunities to apply ultimately for adjustment of status for permanent residency or citizenship. Other proposals would not.

But if we can keep track—and this is a major part and a burden that falls upon INS, of improving the data systems so that we can monitor income and outgo of the people who would be part of these programs—it would certainly go a long way toward making it less likely that illegals would come in and stay.

DETENTION SPACE

Senator GREGG. Now, you said you had 1,600 new beds under this proposal. How many new beds do you actually need?

Mr. ROONEY. I do not know if I could give you a direct response. The 1,600 bed request, which was made and is being made here before the Congress, is consistent with the projections. So we have about 19-some odd now, 19,000, and 1,600 would put us just over——

Senator GREGG. So if we funded that, you would have adequate detention capability so that you would not have to be, as you say, going through a training exercise anymore.

Mr. ROONEY. We believe so. Now, we also are very interested and hopefully the agency will be aggressive about looking at some alternatives to detention and exploring in more depth some of the programs that we have already experienced in the past where there has been success, so that we can free up some of those beds.

BORDER PATROL FACILITIES

Senator GREGG. The border facilities, which the Border Patrol use, are in pretty tough shape. In fact, my staff tells me that 63 of the 85 outposts on the Southwest border are overcrowded. Is that accurate?

Mr. ROONEY. Yes, that is, Mr. Chairman. I think we have about 70 facilities that are at double the capacity for the number of agents.

Senator GREGG. And under the budget that you have sent up, what is the workout time to get those facilities into a percentage that is reasonable?

Mr. ROONEY. The budget here does not focus much on increases for that purpose. We have some projects going on, and the focus, though, here has been to get more agents.

Senator GREGG. Where are you going to put them?

Mr. ROONEY. We are going to increase the population of each of those Border Patrol stations.

Senator GREGG. Now, do you have—I presume you have sent it to us—but do you have the facilities' workout sheet that would tell us what we would need to spend in order to bring these——

Mr. ROONEY. Yes. I do not have it handy, but we certainly can get it to the subcommittee. We have a long-range plan for all of our facilities, vehicles, fences, et cetera, helicopters, replacement plans, but unfortunately the funding has simply not been available.

Senator GREGG. Okay. I have some questions for you too, Administrator Marshall, but I wanted to let Senator Murray go.

[The information follows:]

FACILITIES CONSTRUCTION FUNDING REQUESTS

While Congress has consistently provided Immigration and Naturalization Service (INS) facilities construction funding, including $133 million in fiscal year 2001, and $128 million included in the fiscal year 2002 President's budget, Border Patrol facilities funding has not kept pace with the growth in new agents. INS has a facilities shortfall that it is addressing through a long-range plan. However, the backlog in facilities will require a number of years to overcome.

LONG-RANGE FACILITIES PLANS

The long-range facilities plans workout sheets for the Immigration and Naturalization Service were delivered to the Subcommittee in July 2001.

NORTHERN BORDER

Senator MURRAY. Thanks very much, Mr. Chairman.

Mr. Rooney, I particularly want to address my comments to you, although you may have some responses as well.

I am really concerned about the lack of commitment the INS has had in recent years on the northern border. The level of staff for

the Border Patrol inspections hasn't grown at the northern border but threats of drug trafficking and terrorist attacks have grown substantially.

We have seen commercial traffic moving across the northern border, and it has increased by more than 30 percent over the last decade. Our incidence of drug trafficking have increased threefold during that same time. And many of the world's terrorist groups have established themselves in Canada, they seek safe haven, they set up operational bases, and they attempt to gain access to the United States.

And I think the incident last year with Ahmed Ressam in December of 1999 actually, who was trying to cross into the State of Washington from Canada with 100 pounds of bomb-making supplies, is just one example of what our northern border folks have to deal with.

We are seeing an increasing number of criminal enterprises set up above our northern border that our Border Patrol has to deal with.

An inspector general report was published last year—I am not sure if you are familiar with it—but it said that there were 300 Border Patrol agents assigned to patrol the entire 4,000 miles of border between Canada and the United States. That is one agent for every 13 miles of border.

Now, in comparison, on the Southwest border, it is 2,000 miles and has 8,000 agents, so they have four agents for every mile. They have four for every mile; we have one for every 13 miles.

I think that that is significant, particularly with the increasing problems we are having with drug trafficking and terrorism that we see.

And I will add that traffic across our border is just awful. We hear complaints on a constant basis. It is increasing, the lines are increasing. We have a good relationship with our friends north of the border, and we do a lot of trade, and the traffic is really impacting the economy as well.

I am happy to see that your proposed budget adds 570 additional Border Patrol agents in 2002 and 2003 and fully funds the 5,000 positions, but this increase is not going to achieve the level of control that is outlined in your own strategic plan.

And I think I am concerned that your plan looks at the Southwest border to deal with that before the problems of the northern border, where we are seeing incredible problems that have developed. And my own constituents are becoming increasingly concerned about that.

I think if we are going to meet those threats, a substantial portion of the new border agents and inspection staff have to be deployed at the northern border. And I have submitted a request actually to this committee to require that 25 percent of those new Border Patrol agents be assigned to the northern border.

I wanted your comments on that, to see if you would support it, and to find out whether you think that the INS staffing on the northern border is adequate.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

Mr. Chairman, thank you.

Mr. Rooney, I appreciate you coming before this committee.

I am very concerned about the lack of commitment the INS has had in recent years to protecting the Northern Border. The level of staff for Border Patrol and Inspections have not grown at the Northern Border despite large increases in your budget, but the threats of drug trafficking and terrorist attack have grown substantially.

Several developments over the last decade have made security at the Northern Border a major concern.

—Commercial traffic moving across the Northern Border has increased by more than 30 percent over the last decade.

—Incidents of drug trafficking have increased three-fold during that same period.

—Many of the world's terrorist groups have established themselves in Canada, seeking safe haven, setting up operational bases and attempting to gain access to the United States. The arrest of Ahmed Ressam in December of 1999, who was trying to cross into the state of Washington from Canada with 100 pounds of bomb making supplies, is one frightening example of our security concerns at the Northern Border.

It is clear that criminal enterprises see the Northern Border as easy access to the United States, when compared to the iron fence they meet when they try to enter the United States through Mexico.

An Inspector General report published last year underscores my point. The report noted that there are only about 300 Border Patrol Agents assigned to patrol the entire 4,000 miles of border between the two countries.

That is about one agent for every thirteen miles of border.

In comparison, the Southwest Border is 2,000 miles and has 8,000 agents.

Four agents for every mile.

It found that Northern Border agents were fourteen times more likely to encounter aliens involved with smuggling weapons, and they were nine times more likely to encounter aliens involved with smuggling drugs when compared to agents along the Southwest Border.

Many other studies have shown that inspection staff at the Northern Border is also inadequate to address its needs. In fact, in the state of Washington, traffic is often stacked up for miles at many of our Washington state/Canadian border crossings, and this traffic has gotten progressively worse. They simply lack the inspection staff to handle the traffic.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 authorized 5,000 additional Border Patrol agents. To date, only 3,860 positions have been funded.

I am pleased that the Administration's proposed budget for fiscal year 2002 would add 570 additional Border Patrol agents in both 2002 and 2003, fully funding the 5,000 positions.

However, this increase will not allow the Border Patrol to achieve the level of control outlined in your own strategic plan.

This plan outlines achieving control of the Southwest Border before dealing with problems on the Northern Border. Considering this focus on the Southwest Border, it would take 161 years before Northern Border the INS turned to the concerns of the Northern Border.

It is obvious that the proposed strategy of achieving control of the Southwest Border before turning attention to the Northern Border is unrealistic and short-sighted. The Border Patrol and inspection staff need to develop a unified strategy that focuses the limited resources on as many areas of activity as possible. This strategy must be flexible enough to quickly adapt to the inevitable shifts in such activity. It does little good to maintain control over small stretches of border when the rest of the border is overwhelmed.

It is clear that if we are to meet the threats that exist at the Northern Border, a substantial proportion of new Border Patrol agents and Inspection staff must be deployed at the Northern Border. I have submitted a request to this committee requiring that at least 25 percent of new Border Patrol agents be assigned to the Northern Border.

Mr. ROONEY. Yes, Senator.

First of all, going to the strategy, the plan, you are correct in that our procedures for implementing the border control plan is on

the Southwest border first in San Diego and El Paso, et cetera, and ultimately to include the Northern border.

But as you indicated, the lines that are growing for people coming in, not on the Border Patrol side, but on the inspection side, that is a situation that we are aware of and that we are trying to address.

And what we have done is we have taken a workload analysis model of ideal staffing at the borders all over the country. And with the available resources, both Border Patrol agents and inspectors—and I must say, it is not 25 percent for the northern border. I am not sure exactly what the breakdown, maybe somebody here has it.

But increased agents as well as inspectors are deployed in accordance with a percentage of the overall needs at the border. And we are clearly not——

MEETING NEEDS AT THE NORTHERN BORDER

Senator MURRAY. Do you take into account the increasing needs at the northern border? I am concerned that your strategic plan, focusing on the south border, is ignoring the facts of the increased jeopardy we are placing our staff at the northern border in. The morale is low. We are having trouble retaining or recruiting any agents, because it is a dangerous job.

And I am worried that your strategic plan will simply mean that all of the new border patrols will go to the south border, and we will be left behind in the northern border at an increasingly difficult time.

Mr. ROONEY. Well, yes, the strategic plan does focus more on the deterrent effect starting at the Southwest border.

The staffing plan, however, where we look at both Border Patrol agents as well as inspectors, we take an overall picture of what the need is, and then based upon the number of agents that we have, we fill the need. That need, particularly in the inspections area, which you also mentioned, is based upon the percentage that would naturally be—for example, if we needed 1,000 more, and 300 were at the northern borders, then if we got a hundred, 30 would go to the northern borders, on inspections.

Senator MURRAY. Well, I am asking that as you take a look at where you place those, both inspection agents and border patrols, that you recognize the extreme difficulty we are putting those folks in today, and that they are being asked to do a job that is much more complex than on our southern border, because of the miles that they have to cover, particularly our Border Patrol, obviously.

And we have had a problem in the past with INS transferring a number of our agents to the southern border every time there is a problem and leaving our border even more impacted.

And can you assure me that that will not occur, under your watch, that we will not just simply see our Border Patrol agents transferred to the south when we know how important that is that they be on the northern border?

Mr. ROONEY. Well, we certainly will. Anytime we have an emergency situation—and we actually have had some up on the Northern border at times, particularly the concern about the demonstrations that were going on up there last month. But, yes, generally

we would try not to do that, move them out of the north to the south.

WORKLOAD MODELS

Senator MURRAY. I have met and talked with our Border Patrol, in particular, many times. And it is a very tough duty we are asking them to do.

There is increasing terrorist activity that has developed in Canada and comes across at my border. And we want to make sure we are not forgotten, as these new agents are put into place. I think that that is extremely critical.

And finally, we have not seen the workload model that you are referring to. And if I could get a copy of that, I would really appreciate it.

Mr. ROONEY. Sure. We will provide you what we can, certainly.

Senator MURRAY. Okay. Thank you very much.

Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator.

Yes, we have a border crossing in New Hampshire. We have three or four moose there, and we have actually had an agent come through once or twice.

DEA'S PROGRESS WITH MEXICO

Mr. Marshall, what sort of progress are we making with Mexico?

Mr. MARSHALL. I just visited Mexico about a month ago, and I met with the Attorney General and a number of other Cabinet members. And I am optimistic, cautiously optimistic, about our prospects in Mexico.

I believe that the Fox administration has some good ideas. I believe that they want to do the right thing. President Fox has announced his priorities as addressing corruption and drug trafficking. And from some of the actions that the Government has taken since he has been in office, I believe he is making steps in that direction.

He has done a number of things in the corruption area. One of the most significant, I think, is creating a system where they track officers that are fired from agencies for corruption, so it is not as easy for those officers to move to some other agency in some other part of the country and get rehired without knowing their history. That is a good sign.

The Administration has made progress on extradition. We have actually very recently, within the last week or two, extradited the first top-echelon Mexican citizen drug-trafficker, that person being Arturo Paez.

I have long said that extradition of the top drug kingpins out of Mexico is the first step toward breaking the cycle of corruption and intimidation, and allowing us to work with our partners in Mexico to really create a climate where we can begin to address all of these issues.

Now, I want to temper that optimism, however, with a bit of realism. And the realism is that corruption does pervade many institutions in Mexico, not only public institutions, such as law enforcement, the judiciary and the prosecutors, but also private institu-

tions with which we have to work; utility companies, telephone companies and things of that sort.

So while I am very optimistic that the Fox administration is moving in the right direction, we need to recognize that it is a monumental problem, and it will take time to fix. But I believe that the Fox Government is making the right first steps in that direction.

OMB BUDGET REQUEST

Senator GREGG. Did you make any submissions to OMB that were not funded?

Mr. MARSHALL. Well, we have a budget formulation process, obviously. And I suppose any agency probably never gets 100 percent of its budget request. But I will report to you, Senator, that the three broad areas of enhancements that we did receive were among my very top priorities.

And I have a strategic plan that I have established for DEA, and I believe these are the top three that I need to move us in the right direction in that strategic plan. I would expect future budget requests to have more items that will move us further in that direction in the areas of intelligence, infrastructure, the Special Operations Division that I talked about, and computer forensics, perhaps.

But I am pleased that we got our top priorities, and that will allow us to move in the right direction.

METHAMPHETAMINE RESOURCES

Senator GREGG. Do you have all the resources you need in the methamphetamine area?

Mr. MARSHALL. We have increased our resources to methamphetamines substantially over the last 3 or 4 budget years, I would say.

And again, Senator, if you ask any field commander, I suppose, or any head of an agency, "Do you have everything that you need to adequately address the problem?" the answer is generally going to be, "I could use more resources."

But we have made progress on methamphetamine. We have put resources in there, and I am pleased with the progress that we have made.

DEA/FBI COOPERATION

Senator GREGG. How are the efforts of cooperation at the agent level with the FBI?

Mr. MARSHALL. It is very good. We have had a relationship that has been in existence for now, I suppose, close to 20 years with the FBI having Title 21 jurisdiction. And that relationship, frankly, was a bit rocky when it started out in the early 1980s.

But we have committed to a partnership. We have committed to a productive relationship and a cooperative relationship. And we are working together very well, particularly in our Special Operations Division, where most of our substantial national operations come out of now.

Now, the relationship obviously is never totally problem-free, as you would expect with any two agencies, but we have very good co-

operation. I would say that the cooperation between DEA and FBI, and really among law enforcement in general, Senator, is better now than I have ever seen it in my career.

QUANTICO TRAINING FACILITY

Senator GREGG. Well, we hear grumblings that the DEA and the FBI have turf issues. And this has been a hangup of mine for a long time, as you know, and it is the reason I was willing to build the building at Quantico for DEA, because I wanted to at least start the agents out going to school together.

And I am not even sure that that is worked out down there. I have a sense that you are operating pretty independently, down there, of each other.

But I do hope, and I am concerned with Director Freeh's leaving, because I know he was committed to this. I am concerned that there is no systematic activity in place to create cross-culture cooperation.

Mr. MARSHALL. Senator, we have done a number of things. As you referred to, we shared the FBI Academy down there for our training purposes for, I suppose, it was close to 10 years. And during that time, we did build good relationships.

Now, that also caused some problems. I mean, there were space problems, as you would expect when a space is designed for one agency and then you have two agencies in there. And the space was basically the reason that we separated our academies.

Periodically, we do other things, such as, joint Special Agent in Charge conferences. We do cross-detailing and cross-assignments of agents in many cases—our agents to their office and theirs to ours. We have in many places FBI agents or FBI supervisors running drug routes. We have DEA agents supervising FBI agents in some of those drug routes. We have HIDTA task forces. We have Organized Crime Drug Enforcement Task Forces. We are working together in many, many arenas.

And I think that what Director Freeh and I have done to cement that was to establish our own very close relationship. We consult very frequently, and we let it be known very vocally that we expect cooperation among our two agencies.

And while there are grumblings from time to time, and while there are some issues occasionally, I would characterize those really as bumps in the road, not major potholes. And they are issues that we generally work through very quickly.

Senator GREGG. Well, I thank you both for your testimony.

We look forward to working with you. We know you both have huge obligations, huge areas to cover. And this committee certainly intends to try to be supportive and give you the resources you need to accomplish it.

Good luck.

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

QUESTIONS SUBMITTED TO THE FEDERAL BUREAU OF INVESTIGATION

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BLACK TAR HEROIN AND METHAMPHETAMINE TRAFFICKING

Question. This Subcommittee has been very helpful over the past two years in tackling an issue of great concern to me. That issue is the serious "black tar" heroin problem that has plagued several northern New Mexico counties.

Both the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) have cooperated with the state and local law enforcement officials in New Mexico to try to break the serious cycle of black tar heroin trafficking and use. Several major drug busts have been implemented in this area of New Mexico.

Would you please give the subcommittee the Department's assessment of the progress these joint law enforcement operations in breaking the Black Tar Heroin ring in Northern New Mexico?

Answer. In December 1999, DEA's Special Operations Division initiated "Operation Tar Pit," a multi-jurisdictional investigation targeting a Mexican heroin trafficking organization. The FBI's Albuquerque Division, the DEA and the New Mexico State Police (NMSP) with other local LEAs in northern New Mexico have focused this investigation on a well-entrenched heroin distribution organization controlled by individuals from Tepic, Nayarit, Mexico. Primarily, this organization smuggles multi-kilogram quantities of high purity Mexican black tar heroin from Mexico into the United States along the California and Arizona borders. However, one of the organization's primary distribution cells was located in northern New Mexico. The organization routinely sent couriers and distributors from Nayarit to the United States to transship and sell heroin. After approximately 6 months, the leaders of the organization would order the distributors back to Mexico and other individuals would be sent as replacements.

On June 15, 2000, a nationwide takedown of "Operation Tar Pit" targets occurred in several cities throughout the United States. In New Mexico, 34 subjects were arrested and prosecuted, with all of these subjects convicted of drug-related offenses. To date, "Operation Tar Pit" has resulted in the seizure of approximately 64 pounds of high purity black tar heroin, $300,000, numerous vehicles, 10 weapons, 1 residence, and the arrest of 249 individuals.

The FBI, DEA, NMSP and the various state and local law enforcement agencies continue to work closely together to target heroin distribution organizations operating in northern New Mexico. These investigations, in conjunction with "Operation Tar Pit," have greatly reduced the availability of black tar heroin and its associated crime problems. Also, multi-agency efforts targeting multiple organized criminal enterprises involved in drug trafficking show considerable result and only through a sustained multi-agency effort will LEAs be able to eliminate the distribution and use of heroin as a major drug problem in northern New Mexico.

In fiscal year 2001, the FBI allocated 21 agents to the Albuquerque Division and local resident agencies to address the drug problem. The Albuquerque Division has 2 agents assigned to the DEA task force. This task force relationship maximizes both the FBI's and the DEA's investigative efforts in the northern New Mexico area. Additionally, the Albuquerque Division's assistant special agent in charge is the Chairman of the New Mexico High Intensity Drug Trafficking Area (HIDTA) Executive Board.

During February 2001, the Albuquerque Division of the FBI, in conjunction DEA and LEAs, culminated the first phase of a 16-month drug investigation with the arrest of 25 federal subjects and 35 state subjects, who were the primary source of the organization transshipping cocaine from Mexico and California to distribution organizations in northern New Mexico and California. The organization was transshipping cocaine from Mexico and California to distribution organizations in northern New Mexico and other area of California. The organization was also associated with 2 drug trafficking organizations on the FBI's National Priority Target List.

Question. An equally serious problem is methamphetamine trafficking and usage. I believe both the FBI and DEA have encountered this illegal activity in its law enforcement activities in New Mexico, including northern New Mexico.

Would you please give the subcommittee your assessment of the effect these joint law enforcement operations in northern New Mexico have had on methamphetamine trafficking in the area?

Answer. Traditionally, northern New Mexico's primary illegal drug threat has been the transshipment and distribution of cocaine, black tar heroin and marijuana. In recent years, however, the manufacture, transshipment and distribution of meth-

amphetamine have developed into significant problems in New Mexico. The FBI crime survey and the New Mexico High Intensity Drug Trafficking Area (HIDTA) Threat Assessment have identified methamphetamine as a sizeable drug problem throughout the state. The drug trafficking threat in northern New Mexico is largely a result of the new trafficking patterns and local distribution networks. Mexican drug trafficking organizations smuggle bulk quantities of methamphetamine into the state from laboratories in Mexico and California. Law enforcement agencies (LEAs) have also discovered an increased number of methamphetamine laboratories being operated within the state.

To address the growing drug problem within the existing complement of resources, the FBI has pursued a Task Force strategy throughout the state and is participating in the following task forces: Southern New Mexico Violent Gang Task Force; the FBI-led Central New Mexico Violent Gang Task Force; the Otero County HIDTA Task Force; the Lee County HIDTA Task Force; and the Santa Fe/Rio Arriba HIDTA Task Force. The Task Forces are composed of state, local and federal LEAs in northern New Mexico and enable all participating LEAs to maximize their investigative efforts.

The LEA joint efforts resulted in the seizure of 48 methamphetamine laboratories during fiscal year 2000 and 18 methamphetamine laboratories during fiscal year 2001. Two of the laboratories seized were classified as "super-labs," capable of producing more than 10-pounds of the drug per production run. Also, during fiscal year 1999 and fiscal year 2000, the Albuquerque Division participated in 12 Organized Crime Drug Enforcement Task Force cases. Methamphetmine distribution organizations operating in the northern New Mexico area will continue to be identified and dismantled by joint LEA efforts.

Several other methamphetamine investigations have resulted from interdiction seizures on airplanes, trains, buses, and New Mexico highways. Over 15 kilograms of methamphetamine have been seized since October 1, 2000. Additionally, one seizure from a semi tractor-trailer near Gallup, New Mexico resulted in the seizure of over 363 pounds of a combined load of methamphetamine and cocaine. Analysis is proceeding to determine exactly what percentage of the load was methamphetamine and/or cocaine. The driver of the tractor-trailer, a Mexican National resided in Calexico, California and has admitted to driving three prior loads of narcotics for the organization; however, he was uncertain what drugs and what quantities had been in these prior loads.

Six investigations conducted by Albuquerque DEA in fiscal year 2001 have focused on methamphetamine trafficking groups operating within New Mexico. These investigations deal primarily with individuals or small groups of individuals who distribute from 1 gram to 1 ounce of methamphetamine. Areas involved in these investigations have included the cities of Albuquerque, Clovis, Grants, and Farmington. The most significant of these investigations was a seven-pound buy/bust operation in Farmington, New Mexico. The eventual target of this investigation was, at the time of his arrest, also under investigation as a primary heroin source of supply in Albuquerque, New Mexico.

Intelligence information obtained from the above detailed investigations indicates the following:

—While the majority of methamphetamine distributed in northern New Mexico is Mexican produced and distributed, the majority of resources and efforts are directed at the numerous small clandestine methamphetamine production laboratories. Because they pose such significant environmental and safety hazards and because they continue to increase in numbers, these clandestine manufacturing laboratories will continue to be a priority for Albuquerque DEA.

—Cooperative local impact investigations disrupt the availability and distribution of methamphetamine in northern New Mexico communities for a brief time; however, the continued availability of Mexican produced methamphetamine allows these distribution markets to recover within a few months.

—As with all other illegal narcotics, the primary methamphetamine trafficking problem in New Mexico is the transshipment of multi-pound/multi-kilogram quantities of methamphetamine through New Mexico destined for distribution markets in the east. Follow-up investigations on interdiction seizures are perhaps the most significant investigations currently conducted by the Albuquerque District Office. These investigations will significantly impact the distribution of methamphetamine in New Mexico and also will help to dismantle/disrupt Mexican-based distribution networks located in Arizona, California and Mexico that are distributing methamphetamine throughout the United States.

—While the user and distribution base for methamphetamine in New Mexico is increasing, cocaine and heroin remain the "drugs of choice" in New Mexico. The

majority of the investigative efforts of the DEA Albuquerque District Office are directed against these two drugs.

FBI DEVELOPMENT OF DOMESTIC TERRORISM DIVISION

Question. The Federal Bureau of Investigation has separated the functions of counterintelligence and antiterrorism, placing each under an assistant director who would first report to the Bureau's deputy director and then to the Director. However, it is still unclear what constitutes domestic terrorism. This permits the Bureau to now enter into any case, no matter how small, and in practical terms means that hundreds of agents can now enter into any number of crime scenes that once belonged to a variety of agencies. Worse, this could create circumstances in which the Bureau's agents, in the name of counter-domestic terrorism, poke into the activities of any organization deemed subversive, no matter how innocuous it really was.

What constitutes the Bureau's definition of domestic terrorism? Has the Bureau established clear guidelines about the decision made to enter into a case it has deemed one of domestic terrorism?

Background: The development of terrorism as a major threat and the need to meet it with increased funding and personnel has provided a solid budgetary base for the Bureau that promises to continue developing. While it is reasonable to consider such incidents as Oklahoma City and the 1996 Atlanta Oylmpic games as domestic-terrorism, the Bureau has used this rationale to take over the investigations of scores of crimes that are just that—crimes—with no hint of a greater plot for domestic violence. Meanwhile, the Bureau's failure with respect to the Investigation of Chinese spying on the nation's nuclear labs or its insistence—despite significant evidence to the contrary—that TWA Flight 800 was a terrorist incident rather than a mechanical failure, gives pause to the idea that we should continue to endorse the Bureau's expansion of the Division, or even its reorganization into "spy-catching and domestic terrorism" functions. As Dan Thomasson wrote in the Washington Times: "The concern in law enforcement . . . is that a large number of agents now will have nothing more to do than to seek out potential terrorism and deal with it no matter under whose bed they believe they have found it."

The FBI must provide parameters to define the problem and appropriate actions; otherwise, permitting the Bureau to justify anything it does under the guise of preventing it is too sweeping a concession of power.

Answer. The FBI categorizes terrorism as either domestic or international, depending on the origin, base, and objectives of the terrorist organization. In this context, domestic terrorism is the unlawful use, or threatened use, of force or violence by a group or individual based and operating entirely within the United States or its territories without foreign direction and whose acts are directed at elements of the United States Government or its population, in the furtherance of political or social goals. The FBI has entered into agreements with other agencies clearly defining the role of the FBI in exercising its primacy over terrorism matters. The FBI only operates within the confines of those agreements and pursuant to clear statutory authorities. A discussion of these authorities is set forth below.

Effective March 1, 1973, jurisdictional guidelines were adopted by the Attorney General (with the concurrence of the Postal Inspection Service and the Department of the Treasury) and published in the United States Attorneys Bulletin on April 13, 1973, governing investigations of violations of the federal explosives control statute found in Title 18, Sections 841–848. These guidelines clarified jurisdiction for the FBI, the Bureau of Alcohol, Tobacco and Firearms, and the Postal Inspection Service. The guidelines state that the FBI will exercise primary jurisdiction over all Section 844 violations perpetrated by terrorist/revolutionary groups or individuals unless otherwise directed by the Department of Justice.[1]

In addition, pursuant to Title 28, Section 533, the Attorney General "may appoint officials to detect and prosecute crimes against the United States." This statute confers on the Attorney General broad general investigative authority with respect to federal criminal offenses.

The Attorney General has delegated investigative authority to the FBI for all crimes not specifically assigned (through statute or otherwise) by Congress to another agency. This delegation was officially published under Title 28, Subpart P, Section 0.85 of the Code of Federal Regulations, which also provides in paragraph (l) that the FBI should "exercise lead agency responsibilities in investigating all

[1] The 1973 guidelines may also be consulted in order to determine which investigative agency has primary jurisdiction to investigate explosives violations not involving a terrorism nexus. For example, the investigative agency having jurisdiction over the underlying felony is assigned primary jurisdiction over Section 844(h) violations (use/carrying of explosives in commission of a felony).

crimes for which it has primary or concurrent jurisdiction and which involve terrorist activities or acts in preparation of terrorist activities within the statutory jurisdiction of the United States. Within the United States, this would include the collection, coordination, analysis, management and dissemination of intelligence and criminal information as appropriate. If another federal agency identifies an individual who is engaged in terrorist activities or in acts in preparation of terrorist activities, that agency is requested to promptly notify the FBI."

Furthermore, Presidential Decision Directive (PDD) 39, dated June 21, 1995, sets forth the United States policy on counterterrorism and outlines the FBI's jurisdictional responsibilities in relation to terrorism. This PDD built upon previous directives for combating terrorism, further elaborated a strategy and an interagency coordination mechanism and management structure to be undertaken by the Federal Government to combat both domestic and international terrorism in all its forms. The FBI was appointed the lead federal agency for both investigations and crisis or operational management of terrorist incidents. Based on the above sources, the FBI may exercise lead agency authority over any federal violation if there is a terrorism nexus. It should be noted that the FBI does not always have absolute knowledge that a criminal act is one committed by a terrorist. In those instances where it is known, or reasonably presumed (by the nature of the act or target) to be a terrorist act, the FBI should exercise its lead agency authority in order to maintain investigative control over the incident so that evidence may be preserved and investigative leads may be pursued. In those instances where the FBI does not know the motivation for the crime, it has authority to work concurrently with other agencies to pursue leads and maintain evidence control until a clear terrorism nexus is found. If the incident involves only ordinary criminal activity, the FBI defers to the agency which has primary jurisdiction.

In connection with the execution of investigative activities, guidelines exist to govern decisions to initiate investigations of domestic terrorists and to manage crisis incidents involving terrorist attacks. Some of these investigations necessitate and require coordination with other government agencies. The FBI is proud of the cooperative working relationships established with local, state and other federal agencies to ensure effective investigation of terrorist activities and appropriate crisis management. Such is demonstrated by the thirty Joint Terrorism Task Forces (JTTFs) initiated by the FBI throughout the United States. These JTTFs consist of local, state, and other federal law enforcement personnel working cooperatively with FBI special agents.

Some of the guidelines and agreements governing investigation of domestic terrorist activities and management of crisis incidents include the following:

(1) The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations;

(2) Advice to FBI Field Offices Regarding Domestic Security/Terrorism Investigations and Preliminary Inquires Under the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations;

(3) Manual of Investigative Operations and Guidelines, Part I, Sections 100, 266 and 279;

(4) PDD/NSC–39, U.S. Policy on Counterterrorism;

(5) PDD/NSC–62, Protection Against Unconventional Threats to the Homeland and Americans Overseas;

(6) PDD/NSC–63, Critical Infrastructure Protection;

(7) Weapons of Mass Destruction (WMD) Incident Contingency Plan;

(8) United States Government Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN);

(9) Federal Response Plan;

(10) Guidelines for the Mobilization, Deployment, and Employment of U.S. Government Agencies in Response to a Domestic Threat or Incident of Terrorism in Accordance with PDD–39; and

(11) Title 28, Code of Federal Regulations, Subpart P, Section 0.85.

Specifically, the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations serve as a means to ensure that FBI investigations are performed with care to protect individual rights and confined to matters of legitimate law enforcement interest. These guidelines provide guidance for all investigations by the FBI of crimes and crime-related activities, except investigations involving foreign counterintelligence and international terrorism matters. Furthermore, all investigations undertaken pursuant to the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations are conducted to ensure appropriate application of privacy laws.

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

INTERNATIONAL CRIME

Question. What types of international crime are of principal concern to the FBI, and what is the basis for that concern?

Answer. The types of international criminal activities that are of principal concern to the FBI are committed by those international criminal enterprises that pose the greatest threat to Americans and their communities, United States businesses and financial institutions, and global security and stability. The violations committed by these criminal enterprises that fall under FBI jurisdiction include drug trafficking, alien smuggling, trafficking in women and children, crimes against children, arms trafficking, trafficking in precious gems, non-drug contraband smuggling, intellectual property rights violations, financial fraud and money laundering, international art theft, and parental kidnaping.

The International Crime Threat Assessment is one of many resources upon which the FBI relies to develop its response to international crime. Through these threat assessments, field office crime surveys and liaison with foreign police organizations, the FBI has identified those international criminal enterprises that pose the greatest threat to Americans and their communities, United States businesses and financial institutions, and global security and stability.

Question. What new steps will the FBI take to improve the Federal Government's response to international crime?

Answer. To improve the Federal Government's response to international crime, the FBI will continue to provide leadership and implement international crime control initiatives such as:

Budapest Project.—The FBI/Hungarian National Police Task Force has been established in Budapest, Hungary to identify emerging Eurasian criminal enterprise threats to the United States and to disrupt those enterprises before they can become entrenched in the United States.

Linchpin Initiative.—Operation Linchpin was established to facilitate the sharing of information and operational leads, both domestic and foreign, between the law enforcement and intelligence communities. Linchpin focuses on significant international criminal groups (e.g., Eurasian, Italian, and Asian organized crime). Several law enforcement and intelligence agencies, including the FBI, are involved in sharing intelligence at regularly scheduled Linchpin meetings.

Project Millennium.—The FBI, along with law enforcement agencies from 23 countries, has provided INTERPOL with the names and profiles of thousands of Eurasian organized crime subjects in order to establish a worldwide database that would allow participating countries to cross-reference and coordinate leads involving Russian and Eastern European organized crime members.

United States-Mexico Fugitive Initiative.—An initiative with the FBI, the Department of Justice (DOJ) and the Mexican Government, designed to improve procedures for obtaining provisional arrest warrants for fugitives that have fled to the United States from Mexico.

United States-Canada International Fugitive Initiative—The DOJ, FBI, United States Marshals Service, Royal Canadian Mounted Police (RCMP), Toronto Police Service, and Immigration and Naturalization Service exchange intelligence and improve efficiency in locating/apprehending fugitives who flee to the United States from Canada and to Canada from the United States.

Canadian Eagle.—This joint initiative between Canadian law enforcement agencies and the FBI targets unscrupulous Canadian telemarketers victimizing United States citizens, particularly the elderly. The FBI is working with the RCMP and other police agencies to identify, investigate, and prosecute these individuals.

The International Securities and Commodities Working Group.—This group was established to bring together individuals dealing in international markets, primarily through FBI Legal Attachés and their counterparts, to discuss ways to effectively coordinate investigations relative to United States and international financial markets.

Plan Colombia.—DOJ and the FBI are assisting Colombia in developing a comprehensive program to investigate kidnapings. This program will include the establishment of a Colombian law enforcement task force consisting of specially trained investigators. Where appropriate, the task force will work closely with the FBI, particularly in cases involving United States nationals. The FBI is implementing a comprehensive training initiative designed to train law enforcement and military personnel from Colombia in anti-kidnaping investigative methods and procedures.

The High Intensity Financial Crimes Area (HIFCA).—This program is a Congressionally mandated approach to addressing complex and egregious money laundering

conspiracies in a task force environment. The designation of HIFCA is intended to concentrate law enforcement efforts at the federal, state, and local levels to identify, target, and prosecute money laundering activity. Due to the international nature of most money laundering crimes, HIFCA efforts to address money laundering domestically will have an impact on international money laundering conspiracies. HIFCAs have been established in the New York/Newark, Los Angeles, San Juan, Phoenix, El Paso, and San Antonio Divisions. Applications for similar designations have been made by the San Francisco and Chicago Divisions.

INTERPOL Project Rockers.—With respect to Outlaw Motorcycle Gangs the FBI participates in the INTERPOL Project Rockers annual conference and takes part in the Project Rockers Steering Committee. Representatives from Europe, Australia, and Canada also participate. The goals of the meetings center on efforts to evaluate and strengthen the international cooperation between the countries that are affected by criminal activities engaged in by Outlaw Motorcycle Gangs and its members.

Project Stocar.—This joint initiative between the FBI and INTERPOL was implemented to share and exchange data regarding international vehicle theft.

In addition to the above ongoing initiatives, the FBI is working with seven European nations to develop an automated system to connect existing art theft databases.

Question. How does the FBI propose to coordinate its response to international crime with the efforts of other federal agencies—such as the Departments of State and the Treasury—to ensure that the response is focused and the potential for bureaucratic overlap is reduced?

Answer. FBI executive management will continue to provide leadership to international crime working groups, and will continue its liaison with other federal agencies in this regard. With regard to its response to international crime, the FBI maintains effective liaison with the Central Intelligence Agency (CIA); Drug Enforcement Administration (DEA); United States Customs Service; and the United States Department of State.

The FBI will also continue to detail supervisors to the CIA and DEA in order to maintain its close relationship with these federal agencies. Further, the FBI will continue to expand its partnership with DEA in the Special Operations Division, looking to increase coverage beyond the traditional drug trafficking arena into those areas of the world currently being dominated by organized crime groups.

Question. Also, recognizing that considerable law enforcement activity to counter international crime occurs in foreign countries, how does the State Department propose to coordinate its efforts with its foreign counterparts?

Answer. The FBI cannot speak to the State Department's coordination efforts with its foreign counterparts.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

DATA STORAGE AND RETRIEVAL

Question. In a July 1999 report, the Justice Department's Inspector General strongly criticized the Federal Bureau of Investigation's (FBI's) information management system. He concluded: "The FBI's procedures for culling information for its teletypes and electronic communications and inputting it into its databases essentially makes it impossible for the FBI to state with confidence that a database search has yielded all information in the FBI's files about a particular subject."

What steps have you taken over the years to update and improve the FBI's data storage and retrieval system?

Answer. Currently, the FBI's Information Technology (IT) environment is composed of historic stovepipe systems. The FBI has consolidated all systems under the Chief Information Officer, Assistant Director Bob E. Dies (rather than maintaining them by individual Divisions). The Trilogy upgrade investment plans the initial movement to a modem database structure, to enable consolidating investigative data into a central "data warehouse." As an interim step, however, the FBI has developed a "global search" of its five most frequently used investigative applications databases to improve the ability to find data it already has (spread across numerous systems).

Since the initial deployment of Automated Case Support (ACS), the FBI has made many software updates and enhancements to increase the efficiency and effectiveness of the system. The Manual of Administrative Operations, which sets forth FBI policy on records management, has been updated to include policy on these enhancements of ACS.

The serialization (attributes only) of Top Secret/SCI documents was incorporated into ACS in September 1997 (and reiterated in February 2000,) thereby increasing the accountability of all documents related to a specific case.

Beginning in the latter half of 1998, the FBI began uploading into ACS all teletypes received from other government agencies into a control file. The uploading of these teletypes provides full-text retrieval for the yearly receipt of over 300,000 messages. A technical design and implementation plan is in place to transition the current semi-automated and manual processing of these teletypes to more direct, secure, audited, and automated methods by the second quarter of fiscal year 2002. The planned implementation will transition the current system from manual profiling to automated profiling, and from paper delivery to direct delivery of teletypes to an authorized FBI user's desktop. This system will also automatically upload these teletypes into the existing "control file," which will allow full-text retrieval, but with added security functions to protect the integrity and access to the data and information, and provide the appropriate accountability, identification, and authentication of users.

The FBI is continuing to improve its data storage and retrieval systems.

Question. Does the Federal Bureau of Investigation have adequate resources in its fiscal year 2002 budget request to correct the problem?

Answer. Today's record storage (as exemplified in the *Oklahoma City Bombing* case recently) is paper intensive and subject to manual error. The FBI is currently standing down in July to reinforce procedures that have been in place, but not always followed, in its Records Management System. As an immediate step, the FBI is planning a document tracking addition to its Trilogy program, which will not require additional funding. However, the long-term solution to the FBI's records management problem requires database management systems (Trilogy) in addition to the use of "electronic signatures" to avoid the need for paper transfers and reduce the chance of manual errors. The FBI is currently assessing the resource requirements for these improvements.

Question. When did you first learn that the Federal Bureau of Investigation (FBI) had withheld evidence from prosecutors in the Birmingham church bombing case? Why did the FBI wait as long to hand over everything it had?

Answer. The FBI's original investigation into this matter was initiated in September 1963 and was actively pursued for more than 5 years. This investigation consisted of thousands of interviews, extensive evidence examination and a variety of other investigative techniques. The original investigation, which utilized hundreds of agents throughout the United States, resulted in approximately 90 volumes of material in Birmingham (consisting of tens of thousands of pages). In addition to the Birmingham file, there were auxiliary office files opened in each of the FBI's other field offices and at FBI headquarters. In 1968, the active phase of the FBI investigation ended and, in 1972, the case was formally closed for lack of a prosecutable federal violation.

In response to a request from the Alabama Attorney General's office in 1977, the FBI made the *Sixteenth Street Baptist Church Bombing* case file available to an investigator from that office, Mr. Robert Eddy, for the purpose of establishing a basis for state prosecution. The entire file was provided with the exception of specific informant files, to include voice recordings of conversations involving an informant and one of the primary suspects, Thomas Blanton. Under an agreement with the Alabama Attorney General, case file information that would reveal the identities of FBI informants—many of whom were still in danger—was not to be disclosed. This understanding was—and still is—consistent with federal law and policy that enables federal law enforcement agencies to protect their informants.

While the voice recordings were not provided to Mr. Eddy, summaries of information derived from some of the tapes were included in the files made available. The tape recordings fell into two distinct categories: body recordings made by an FBI informant of conversations with Thomas Blanton; and recordings made through a microphone, or "bug" placed in the wall adjoining Mr. Blanton's kitchen, which became known as the "kitchen tapes." It is unclear from our review of the file to date, or from recent contact with Mr. Eddy, whether or not he was aware of the existence of any tape recordings in this matter. Summaries of information derived from the informant tape recordings were included in the files that were made available to Mr. Eddy. Although the file did not contain summaries of the "kitchen tapes," there were references within the file regarding information obtained from the kitchen tapes.

Mr. Eddy was provided FBI office space and an agent was assigned to facilitate his review of the case file. Mr. Eddy was also provided access to case agents, including those who had retired or had transferred to other field offices. Mr. Eddy's review

took approximately 6 months, during which time he had access to 90 volumes of material.

In response to concerns expressed by various civic leaders, the special agent in charge of the FBI Birmingham office reopened the investigation in 1995 on his own initiative. During the ensuing case file review by FBI personnel, the presence of the tape recordings was discovered. All tapes were subsequently released to the United States Attorney for the northern District of Alabama, who ultimately used them in the 2001 state prosecution of Mr. Blanton.

There is no indication that the "kitchen tapes" provided to the United States Attorney in 1995 were intentionally withheld from Mr. Eddy. With hindsight, some explanations for the reasons the tapes were not discovered by Mr. Eddy are more probable than others. With respect to the "kitchen tapes," the technique of recording conversations without the consent of either party, although not prohibited by law at that time and authorized by FBI Director Hoover, pursuant to Department of Justice policy in existence at the time, was considered highly sensitive. For this reason, information obtained through this technique was not clearly documented as being attributable to a "bug."

Second, it was the general policy of the FBI to use non-consensual tape recordings for criminal intelligence and internal security purposes, and they were not commonly viewed as evidence in the traditional prosecutive sense. Therefore, they were typically kept apart from witness interviews and other information of a clearly evidentiary nature. In 1967, the United States Supreme Court made clear in *Katz* v. *United States* that the non-consensual interception of private communication constituted a "search" under the Fourth Amendment and therefore, required the same constitutional protection as physical searches. Congress followed in 1968 with the Federal Wiretap Act, which established fixed procedural requirements to record private conversations and admit them into evidence in a criminal trial. This was 4 years after the tapes were made.

Third, Mr. Eddy's review occurred 13 years after the tapes were made and 9 years after active FBI investigation ceased. While Mr. Eddy had access to and interviewed agents who were familiar with the original investigation, it appears that the existence of the tapes was never discussed. Finally, summaries of the informant tapes and references to information derived from the "kitchen tapes" were contained in files made available to Mr. Eddy; however, the primary focus of his investigation was Robert Chambliss, not Thomas Blanton. This focus on Chambliss, combined with the limited time period he was given to complete his review and investigation were likely factors in Mr. Eddy's not discovering the existence of either the "kitchen tapes" or the informant tapes.

Question. What steps have you taken to determine whether the FBI has been sitting on evidence in other cases and to ensure that it does not happen again?

Answer. As explained above, the belated discovery of the tape recordings in the *Birmingham* case was not the result of the FBI "sitting on," or hiding evidence. With respect to other FBI investigations involving civil rights violations, the FBI has received no indication from any source—including federal prosecutors, the defense bar, judicial rulings, and its own internal inspection process—that there exists a practice of withholding evidence or of failing to adhere to criminal discovery requirements in any other manner.

FBI agents are throughly trained in the rules of discovery, including their legal obligations to adhere to those rules, beginning with new agent training. This training continues on a regular basis throughout a field agent's career in all FBI field offices and is continuously reinforced in practice through guidance from federal prosecutors and FBI field supervisors. Finally, the handling of evidence in a manner that both preserves its integrity and efficiently serves the discovery process is a significant part of the thorough inspection that each FBI field office receives every 3 years. Our inspection process mandates, for example, that the Chief Judge of that District be interviewed about the FBI's role in the District's federal criminal prosecutions. Other mandatory interviews include the local United States Attorney and members of his/her staff. These interviews are designed to elicit feedback about the FBI's performance in ongoing federal prosecutions and serve as the basis for recommendations for policy changes.

"HANSSEN" CASE

Question. With respect to the *Hanssen* case, the question on everyone's mind is how the alleged espionage could go on uninterrupted for 15 years without being detected. Until recently, the Federal Bureau of Investigation (FBI), unlike other national security agencies like the Central Intelligence Agency and the Department of Energy, did not routinely polygraph its employees who had access to classified infor-

mation, even though some experts recommended that such screening be done. What were the reasons for the FBI's policy against using polygraph examinations?

Answer. The FBI has had a limited polygraph program in place since 1978. The polygraph program was established in 1978 for on-board investigators on a case-by-case-basis. In 1983, the FBI expanded the program to include employees who had a need for special access. This included counterintelligence focused polygraph examinations for personnel with access to selected, highly sensitive information. A threshold was established to determine who qualifies on a case-by-case basis for the special access polygraph exams. In December 1992, the FBI's polygraph program was updated to incorporate a requirement for contract employees who have access to sensitive information and/or are assigned to select locations. This included contract linguists, select task force personnel, and other contractors on a case-by-case-basis depending on their job requirements. In March 1994, a comprehensive polygraph examination program was established for all FBI applicants. Furthermore, in June 1994, issue-based polygraph examinations began in security adjudication and other personnel administrative inquiries.

Between 1994 and 1996, serious consideration was given to instituting routine polygraph examinations of on-board employees. However, the FBI did not adopt a mandatory polygraph program due to differing views on effectiveness and the significant impact resulting from false positives.

The FBI will be glad to provide you a briefing on this issue at your convenience.

Question. Do you believe that if the Federal Bureau of Investigation had been conducting routine polygraph screening, Hanssen's alleged espionage would have been detected sooner?"

Answer. Due to the sensitive nature of Mr. Hanssen's assignments within the FBI, had the FBI's current interim polygraph program, which was initiated subsequent to his arrest and is described in the response to the next question, been in place earlier, he would have been tested. It can only be speculated as to whether such a test, if administered to Hanssen, would have led to earlier detection of his alleged espionage.

Question. According to press reports, in the wake of Hanssen's arrest, the Federal Bureau of Investigation decided to give polygraph examinations to 500 of its employees who have access to intelligence information. Why was this kind of testing appropriate after Hanssen's arrest but not before?

Answer. As a result of the *Hanssen* case, the FBI has been caused to rethink the issue of security with regard to the "trusted insider." Polygraph examinations of on-board employees are merely one of the tools which will be used in the personnel security reinvestigation processing of existing employees.

Question. The Judiciary Committee recently held a hearing on "Issues Surrounding Use of the Polygraph." All of the expert witness [es] we heard (both pro- and anti-polygraph) agreed that polygraph screening will produce a certain percentage of "false positive" responses, that is, where an innocent person's reactions falsely show deception on the polygraph. According to a recent public statement by Attorney General Ashcroft, polygraph screening has a false-positive rate of about 15 percent. If we accept that figure, that means that if you administer polygraphs to 500 people, approximately 75 people will have false positive polygraph results. What is the Federal Bureau of Investigation doing to protect the rights of those employees who may have false positive polygraph test results?

Answer. The population being tested is very selective, and the polygraph questions being asked are very focused, resulting in an anticipated false positive rate significantly lower than 15 percent. Further, independent of the exact rate of false positives, the Federal Bureau of Investigation has established a process to ensure that negative polygraph results are carefully investigated. Adverse actions against employees will not be taken based solely on the results of a polygraph examination. Rather, information developed as the result of investigative activity taken subsequent to the conduct of the polygraph examination will be used to determine if an adverse action is appropriate.

Question. Do you believe that any adverse action should be taken against an Federal Bureau of Investigation employee based solely on the results of a polygraph examination, in the absence of any corroborating evidence that they have done anything wrong or given any deceptive answers?

Answer. In a legal sense, an adverse action under 5 U.S.C. chapter 75, is a suspension in excess of 14 days up through termination or a demotion in grade. The FBI does not believe that such actions should be taken against FBI employees based solely on the results of polygraph examinations. Having said this, however, it must be readily apparent that federal agencies are obligated to take all reasonable and prudent actions to protect the interests which they represent. Therefore, though the FBI will take no adverse actions against FBI employees based solely on the results

of polygraph examinations, it may, as necessary, temporarily transfer persons to positions with less sensitive access, at no loss of pay, during the pendency of investigations pursuant to polygraph examinations.

QUESTIONS SUBMITTED TO THE DRUG ENFORCEMENT ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

LINKING DEA'S BUDGET TO PERFORMANCE

Question. The DEA has benefited in recent years from publicity attendant to a series of "largest seizure in history" busts. According to Nexis, in the past year newspapers have reported 66 of these "biggest busts" in history whether by state or type of drug or whatever.

Biggest bust stories suggest that we are now winning the war on drugs. While it is true that more drugs are interdicted, for example cocaine seizures rose from 9,000 kilos in 1983 to 108,000 in 1997, one might wonder whether, in fact, more drugs are crossing our borders. Street prices for cocaine and heroin are holding constant or even falling which also suggests that plenty of these drugs are still crossing the borders.

Americans seem willing to pay for illegal drugs and, no matter how many biggest busts in history are accomplished, replacement smugglers and dealers, even replacement countries, are ready to step in to take the place of those arrested.

What is the DEA's intention with respect to balancing a focus on supply with a focus on demand reduction?

Answer. Drug law enforcement is the primary focus of the DEA as expressed in the agency's mission statement: "To enforce the controlled substances laws and regulations of the United States and bring to the criminal and civil justice system, those organizations and principal members of organizations involved in the growing, manufacturing, or distribution of controlled substances appearing in or destined for illicit drug traffic in the United States; and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on domestic and international markets."

Because DEA's mandate is primarily supply reduction, the agency will continue to focus its resources, financial and human, toward this supply focused mission responsibility.

However, without detracting significant financial and human resources from the mission to focus on supply reduction, DEA attempts to bring balance to the agency's approach by providing demand reduction activities both in the field and at the headquarters level.

Established in 1986, DEA's Demand Reduction Section (CPD) provides information to the public including youth, community groups, educators, law enforcement organizations and businesses about drug prevention and the dangers of drugs. This is accomplished through the efforts of the agency's 22 field Demand Reduction Coordinators (DRC) and headquarters support staff. The staff closely coordinates training programs, seminars and other prevention-related activities with federal, state, and local drug prevention agencies and organizations nationwide, providing training and technical assistance to audiences around the country. In total, the Demand Reduction program represents less than one percent of the agency's annual budget appropriation.

DEA's Demand Reduction program has four national priorities. These priorities include: mobilization of communities and public awareness; education of youth; education of parents; and drug free workplaces. Stemming from these priorities are numerous initiatives to increase awareness about drugs and provide organizations with advice and the tools they need to succeed. They include:

—*MET II /"Cutting Edge" Training*.—DEA has Mobile Enforcement Teams (METs) that, at the invitation of a community's police chief, sheriff, or prosecutor, discretely work in a community for several months to eliminate targeted violent drug-trafficking organizations impacting the community. After the MET team completes its work, DEA sends a team of five leaders from that community to a three-day training session to learn how to develop and operate a community coalition and develop and implement a drug-and-crime-prevention plan. This training is called "MET II" and it incorporates the "Cutting Edge" crime prevention and community mobilization curriculum widely used in crime prevention. The Department of Justice and DEA pay for the training, so there is no cost to the participants. DEA's goal is to offer the training to every community that has hosted a MET deployment. To date, DEA has hosted 5 training

sessions for 394 leaders in 87 communities across the United States DEA is in the process of surveying these communities to see how they are using what they learned in the training.

—*Teens in Prevention (TiP)*.—TiP is a network of youth-driven, community-supported, school-based organizations. The goal of this network is to increase the number and effectiveness of young people, adults, and community organizations involved in drug and violence prevention. With a focus on individual responsibility and positive peer pressure, TiP is based on the idea that teens hear information coming from adults as lectures, but they hear information coming from their peers as gospel. TiP was launched in El Paso, Texas, in 1998 and now over 5,000 teens belong to TiP groups in Texas as well as in New Mexico and Colorado.

—*Youth Leadership Conferences*.—Keeping in mind the impact that youths have on other youth, DEA holds these conferences around the country. The purpose of this week-long event is to promote leadership skills and education about prevention issues. Conferences have been held in San Antonio, Texas as well as in Milton, Florida (at a Naval Air Station), and at the Pensacola Naval Air Station in Pensacola, Florida. To date, over 100 youth leaders have attended these sessions.

—*Law Enforcement Explorers*.—Throughout the United States, DEA DRCs are working with Boy Scouts and Law Enforcement Explorers. In some cases, DEA sponsors the Explorer post. DRCs provide training in the area of narcotic enforcement, community involvement, and general drug abuse issues for Explorers. The CPD always participates in the Boy Scout Jamboree every 4 years, as well as the biennial Law Enforcement Explorer Conference and Explorer Leadership Training sessions held at both the DEA and FBI Academies during the summer.

—*Drug Free Workplace Training*.—Most DRCs are conducting this training on a routine basis. While most large corporations have adopted Drug Free Workplace policies, small businesses are still in need of training. DRCs can provide this training, helping to develop policy for the company, implement Department of Transportation regulations, and assist in providing updates on the drug abuse situation in any particular community.

—*Regional Club Drug Conferences*.—Following an International Club Drug Conference in July, 2000, CPD planned Regional Club Drug Conferences in a number of cities in the United States. The first conference was recently held in Atlantic City, New Jersey and was attended by approximately 250 participants from the law enforcement, treatment and prevention communities. Two other conferences are planned for fiscal year 2001 in San Diego and Chicago. The focus of these conferences is to provide information on the dangers of club drugs and work to find solutions for dealing with the problem. Evaluations of the first conference were outstanding. Additional Regional Conferences are planned for fiscal year 2002 throughout the United States.

In addition to these programs, there are a variety of demand reduction initiatives going on in each of DEA's 22 field divisions around the country. Many DRCs provide drug prevention and education training for parents, teachers, community leaders and law enforcement.

It has been and will continue to be the DEA's position that agency efforts will be focused primarily on its supply-based mission. However, DEA will continue to pursue opportunities to partner with government agencies and other organizations with demand-based missions to address demand-based issues. Such collaborative efforts will receive DEA attention to the fullest extent possible without detracting from the agency's given mission.

Question. Since quantities interdicted seem to produce ever upward budgets for the agency, when the seizures may indicate a failure to stem the flow of drugs, what should we use as an indicator of success in the war on drugs?

Answer. The perception that seized quantities of illicit substances has a causal and proportionate relationship to the size of the DEA's budget is unfortunate when there are factors, such as the cost of investigative tools and basic agency support functions (i.e., Title III support, Firebird), that account for significant portions of the agency's recent budget increases.

The collective seizure trends of the DEA and of the other federal, state and local law enforcement entities may or may not indicate success in the overall assessment of the United States law enforcement community to impact the supply of drugs in the United States. The ability to isolate seizure data as an indicator is troublesome at best given the other potentially contributing factors such as the improvement of data-sharing relationships and investigative techniques among agencies. Other ex-

ternally-based factors may include the per-shipment distribution methods employed by traffickers and their concealment methods.

But beyond these difficulties in assessing the relationship, if any, between seizure data and success in anti-drug activities by the DEA, the most appropriate indicator has very little to do with data such as drug quantities seized. The DEA has developed a 5-year strategic plan in which more appropriate indicators have been introduced. Termed Measures of Effectiveness, DEA sets forth Anticipated 5-Year Outcomes in 3 areas: International Impact Targets, National Impact Targets, and Local Impact Targets. While DEA includes indicators tailored to each area, the indicator common to each references the disruption of targeted drug organizations. It is this disruption assessment that is the most appropriate indicator to measure DEA's success in anti-drug efforts.

The indicators apply to DEA's contribution to the nation's anti-drug efforts. Any more comprehensive assessment must be made a higher level and include an assessment of the efforts put forth by all agencies with anti-drug functions, whether supply- or demand-based.

LINKING DEA'S BUDGET TO GPRA INDICATORS

Question. According to the 2002 budget, the Administration has mandated that agencies use performance-based budgeting on selected programs in the fiscal year 2003 budget cycle.

Under this mandate, agencies will be required to submit performance-based budgets for selected programs in the fiscal year 2003 budget process, the first time agencies have been required to tie their spending decisions to performance goals.

The Department of Justice (DOJ) was among the poorest performers under the criteria by which performance plans were reviewed by the GAO as well as in the Mercatus evaluation.

Please tell me what specific steps you see necessary to improve the agency's performance plan and how this will be coupled with the Department's performance plan in order to fulfill the new mandate.

Answer. While, it is true that the Justice Department's fiscal year 2001 Performance Plan received low marks from the Mercatus Center and GAO; the evaluation of the combined fiscal year 2000 Performance Report and fiscal year 2002 Performance Plan noted significant improvement. In the recent ranking by the Mercatus Center, the DOJ moved from 23rd to the 5th position. In addition, GAO addressed many of the improvements that DOJ made under the section comparing the performance report and plan with the previous year's report and plan. In regard to planning and reporting of DEA's mission accomplishments, we are continuing our efforts to improve performance measurement.

To accomplish our mission, the DEA developed a Strategic Plan, which sets forth the agency's strategic goals and objectives over a 5-year time frame. It provides the long range goals and strategies by which we will measure our progress and be held accountable. This Strategic Plan is key to establishing and maintaining a clear focus on the outcome of our efforts in response to the Government Performance and Results Act (GPRA) of 1993. The plan builds on the statutory mandated mission of the DEA. It provides the framework within which we prioritize and allocate our resources and establishes the foundation for the development of more detailed annual performance plans, budgets, and related program performance information.

In order to improve the agency's performance plan there must be clearly articulated Critical Success Factors set forth in the agency's Strategic Plan in measurable terms. In other words, the actual performance measures must be set. This is the articulation of how DEA will measure its primary indicators, i.e., the disruption or dismantlement of targeted drug trafficking organizations. Second, DEA must set its performance goals for the assessment period. The performance goals will be based on a Priority Target list assembled from the field and refined by headquarters. Third, DEA must adopt whatever data collection mechanisms necessary to accurately and efficiently assemble the measurement. This is likely to include some traditional databases measuring operational output, but more importantly will include the development of a data system sufficient to capture resource data that is connected to the activity on drug trafficking organizations contained in the agency's Priority Target list.

This information will feed the Department's performance plan by providing meaningful data that can easily be blended with that of other DOJ counterparts without relying solely on traditional statistics, such as arrests and seizures.

Question. Do you have preliminary thoughts on which programs will be chosen for performance-based budgeting?

Answer. DEA plans to submit future budget requests in a format that is consistent with its Strategic Plan framework. Specifically, funding will be tracked by the 4 DEA Strategic Focus Areas: International Targets, National/Regional Targets, Local Impact, and Management Infrastructure.

DEA has not yet set in motion a decision process to determine which agency programs will receive the benefit of performance-based budgeting. Until a comprehensive assessment mechanism is in place, it is premature to identify any programs, therefore no preliminary selections can be put forth at this time.

DEA WORK WITH AMTRAK IN NEW MEXICO

Question. Although this program ended some 3 weeks ago, for several years Amtrak provided federal drug police in Albuquerque with ticketing information about passengers. As part of a singular arrangement, a computer with access to Amtrak's ticketing information resides in the DEA's local office. This computer can provide drug agents with information such as passengers' names, origination and destination, and whether the passenger paid for their travel with cash or credit as well as when the ticket was purchased. Information obtained from Amtrak helped drug agents determine which passengers they speak to and whose luggage could be checked by a canine as trains roll into Albuquerque. Amtrak receives 10 percent of any cash seized from suspected drug couriers at the Downtown Albuquerque Station.

When the article was written, the Albuquerque DEA office indicated that, although "substantial," it did not immediately know how many arrests had been made or how much cash had been seized. Also, the specter of Constitutional concerns, such as ethnic targeting and unreasonable searches and seizures, seemed to be arising.

Please provide me with specific information on the number of arrests, cash seized, and all demographics of those arrested including such data as origin of travel.

Answer. Statistics are for October 1, 1999—April 12, 2001

Demographics of Arrested Subjects:

White Non-Hispanic Males: 30.2 percent.
White Hispanic Males: 25.4 percent.
Black Non-Hispanic Males: 23.8 percent.
Black Non-Hispanic Females: 6.3 percent.
White Non-Hispanic Females: 6.3 percent.
White Hispanic Females: 6.3 percent.
Other: 1.6 percent.

Travel Origin Cities:

Los Angeles, California
San Bernardino, California
Fullerton, California
Flagstaff, Arizona

Seizures:

U.S. Currency—$2,427,848.
Marijuana—470.7 kilograms.
Cocaine—20.55 kilograms.
Crack Cocaine—3.25 kilograms.
Methamphetamine—2 kilograms.
Heroin—.4 kilograms.
Ephedrine (Precursor for methamphetamine)—74 kilograms.

DEA does not utilize racial profiling or employ a national drug trafficker profile that our Special Agents invoke in deciding whether to approach or investigate a particular individual. Rather, DEA agents rely upon their experience and training in determining when to commence an investigation. Experience has shown that there are clear patterns of activity that some drug traffickers, particularly drug couriers, often display. DEA does train its agents and law enforcement personnel from other agencies concerning behaviors and activities that experience has shown are consistent with drug trafficking. Proactive narcotic law enforcement is an effective strategy to protect the public from the drug-related crime and violence. Drug enforcement activity based on race, national origin or gender is not only ineffective, but it is unethical and illegal. Such methods have no place in DEA, or in law enforcement in general.

Question. What is the status of any Constitutional challenges, including those based on sharing of private information by federal agencies, to this practice? Please

provide information concerning the numbers of cases in which a Constitutional challenge was raised and the disposition.

Answer. DEA is not aware of any Constitutional challenges regarding DEA's access to the AMTRAK reservations systems. Based on our research to date, we find no such issues. DEA's access to the AMTRAK reservations systems is a matter of public record, and is thoroughly reported in the federal case law. AMTRAK also monitors its reservations systems for suspicious activity. The core issue here is that the information DEA accesses belongs to AMTRAK, not the individual, and the Supreme Court has held that an individual does not have an expectation of privacy in information he or she has disclosed to a third party.[1] If the government's access to information is not prohibited by the Fourth Amendment, the only other protection a party might have is statutory, such as exists with information maintained by electronic communications service providers,[2] and financial institutions.[3] But we know of no statutes that prohibit the government from obtaining train manifests from AMTRAK.

To date, defendants whose arrests have flowed from DEA's access to AMTRAK's reservations records have unsuccessfully raised Equal Protection objections based on race,[4] and unsuccessfully challenged the government's ability to use administrative subpoenas to obtain passenger information.[5] Those issues disposed of, our research has disclosed no other constitutional issues.

Question. What are your plans to share this information with other enforcement agencies?

Answer. The passenger information contained in the Amtrak database was used by members of the Albuquerque District Office's interdiction unit working at the train station. An officer with the AMTRAK Police Department is a member of this interdiction unit. The passenger information provided some indicators that, coupled with the agent or officer's training and experience, gave them reasonable suspicion to believe that an individual may be a drug courier. The agent or officer would either approach the individual in the Albuquerque train station, or pass the information on to a law enforcement agency in a city where the train was destined.

DEA did not utilize passenger information contained in the Amtrak database to develop a separate DEA database so that DEA could share the names of all AMTRAK passengers with other law enforcement agencies. DEA was only interested in identifying and interviewing suspected drug couriers.

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

ECSTASY

Question. It has come to my attention that there is a new drug on the streets of our country known as Ecstasy and we have seen a dramatic increase in the use of it over the last year or so. There have been a couple of high profile cases in my home state of Colorado where young adults who have taken this drug have died.

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[1] See *United States* v. *Jacobsen*, 466 U.S. 109, 118, 104 S. Ct. 1652, 80 L. Ed. 2d 85 (1984) ("It is well settled that when an individual reveals private information to another, he assumes the risk that his confidant will reveal that information to the authorities, and if that occurs the Fourth Amendment does not prohibit governmental use of that information."); *United States* v. *Miller*, 425 U.S. 435, 443, 96 S. Ct. 1619, 48 L. Ed. 2d 71 (1976) ("This Court has held repeatedly that the Fourth Amendment does not prohibit the obtaining of information revealed to a third party and conveyed by him to Government authorities, even if the information is revealed on the assumption that it will be used only for a limited purpose and the confidence placed in the third party will not be betrayed.").

[2] See 18 U.S.C. § 2703(c)(1)(A)(2001) ("Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service . . . to any person other than a governmental entity.").

[3] See 12 U.S.C. § 3402 ("no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer from a financial institution").

[4] See *United States* v. *Gordon*, 173 F.3d at 761–768 ("[The defendant] makes much of the fact that the description provided by [AMTRAK] referenced his race and from that he reasons the tip was race-based. This rampant speculation is not supported by any evidence in the record. . . . [The defendant] ignores the evidence that prompted the Amtrak employee to contact the DEA in the first place—he had purchased a one-way ticket, with cash, only minutes before the train departed. The AMTRAK employee contacted the DEA after noting these facts because the employee previously had been told by the DEA that these facts fit the DEA profile of an individual who is a likely transporter of drugs.").

[5] See *United States* vs. *Moffett*, 84 F.3d 1291–1293 (10th Circuit 1996) (defendant lacked standing to challenge Government's use of administrative subpoena against AMTRAK).

What, if any, findings has the DEA come across with regard to Ecstasy manufacturing, distribution, and use? Has the DEA seen an increase in the amount of Ecstasy tablets penetrating our borders from overseas distributors? Given this, can we determine from what region, or what specific countries these tablets are coming from? What are the major ports of entry?

Answer. Methylenedioxymethamphetamine (MDMA), or Ecstasy, is a synthetic, psychoactive drug possessing stimulant and mild hallucinogenic properties. Ecstasy is a dangerous drug—deceptively dangerous. For this reason, the widespread growth of Ecstasy use has been nothing short of alarming. Ecstasy-related emergency room incidents have increased from 1,143 in 1998 to 2,850 in 1999, the last full year for which data is available. In 2000, DEA seized over 3 million tablets of Ecstasy, compared to slightly over 1 million tablets in the previous year.

The oral form of MDMA is usually sold in tablets inscribed with brand logos such as the trade symbols of Mitsubishi, Rolex, and the Rolling Stones. MDMA was temporarily listed as a Schedule I controlled substance on an emergent basis in 1985 and permanently placed into Schedule I in 1988. The vast majority of MDMA consumed worldwide is manufactured in clandestine laboratories based in Western European countries such as the Netherlands and Belgium. Once the MDMA reaches the United States, a domestic wholesale distributor will sell the drug for $6 to $8 per tablet. The retailer then distributes it for $25 to $40 per tablet.

The MDMA manufactured in Europe is routinely transported and distributed by factions of Israeli and Russian organized crime groups. These organizations also utilize couriers, common carriers and parcel services to facilitate the transport of MDMA into and within the United States. Recently, Colombian and Dominican trafficking organizations have become involved in the transportation and distribution of MDMA.

The increase in MDMA consumption is directly related to the increased popularity of a social gathering known as the "rave," an all night techno-dance party. The common rave participant can be as young 14 years old and as old as the mid to late 20s. Participants can take several MDMA tablets during an evening spent at a rave to enhance the rave experience. Unfortunately, many teens do not perceive MDMA as harmful or dangerous. Acute effects of MDMA ingestion include bruxism (teeth grinding), trismus (jaw clenching), increased heart rate, increased blood pressure, hyperthermia, sweating and dehydration. Complications from MDMA use include acute renal failure, cardiac arrhythmia, cardiovascular collapse, cerebral infarction, depression, mental fatigue and psychosis.

The Drug Abuse Warning Network (DAWN) estimates reveal that nationwide hospital emergency room mentions for MDMA increased dramatically from 1993 to 1998. Seizures of MDMA also have increased drastically from 1993 to 1999. There have been reports of deaths in the United States and abroad related to the ingestion of PMA (para-methoxyamphetamine), which is represented and sold as MDMA. While the drugs may be chemically similar, it appears that PMA does not share the same physiological effects as MDMA. Believing that the tablets have a lower concentration of MDMA, the user will take several more tablets in a short period of time ("stacking") to attempt to achieve the desired effect. This repeated ingestion of tablets could lead to toxicity and a potentially fatal overdose.

Question. What has been done to stem the rising number of incidents involving the use of this drug? What specific action or plan of action is the DEA taking to curtail the illegal importation of Ecstasy into the United States? On a national front? On a local front (communities and schools)?

Answer. Due to the exponential growth of MDMA use and abuse, DEA has developed a very ambitious multi-faceted MDMA/Club Drug Initiative. The primary objective of this approach is to target and dismantle various elements of the MDMA trafficking groups from all fronts—international, national and local. To augment this enforcement initiative, DEA also has instituted a very aggressive demand reduction program targeted at students and parents alike.

Through close coordination and the sharing of intelligence with our foreign host counterparts, DEA has identified several international MDMA drug trafficking organizations and their surrogates that transport and distribute MDMA throughout the United States. Because the Netherlands is the principal source zone for ecstasy destined for the United States, DEA has worked closely with Dutch and other European law enforcement authorities in an effort to dismantle these MDMA trafficking organizations. On a national front, through close multi-agency coordination, DEA continues to pursue the domestic command and control networks of these organizations. By utilizing the resources of the Special Operations Division, DEA, in conjunction with the Federal Bureau of Investigation, the United States Customs Service, the Internal Revenue Service and other federal, state and local agencies, has effectively identified and dismantled several of these organizations.

On a local level, it has been well established that raves are the primary venues in which MDMA is used. It is quite evident that many rave club owners and operators cater to MDMA users and appear to advocate the club drug culture. As such, in furtherance of this initiative, DEA, in close coordination with state and local counterparts, has attempted to reduce rave activity through enforcement of juvenile curfews, health and fire code ordinances and various licensing requirements. Furthermore, DEA field divisions identify the most active rave clubs in their areas of responsibility as well as resources necessary to target these clubs and their owners/promoters. One anti-rave initiative of note was undertaken in New Orleans, Louisiana, by the DEA New Orleans Field Division, the New Orleans Police Department and the U.S. Attorneys Office. Through the innovative use of 21 U.S.C. 856, also referred to as the "Crack House" statute, a rave promoter was arrested and the largest rave operation in New Orleans was closed. Perhaps most significant is the fact that since the completion of this operation, "club drug" related overdoses in New Orleans have dropped 90 percent, with ecstasy overdoses disappearing altogether. This statistic clearly shows a very strong correlation between rave activity and club drug overdoses resulting in emergency room visits.

To focus national attention on the MDMA threat, DEA hosted the International Conference on Ecstasy and Club Drugs in partnership with approximately 300 officials from domestic and foreign law enforcement, judicial, chemical, prevention and treatment communities. The conference was held from July 31, 2000, to August 2, 2000, at DEA headquarters in Arlington, Virginia. As a follow-up to last year's conference, DEA is planning a series of regional club drug conferences, that will serve the purpose of taking DEA's demand reduction message out to a variety of selected communities. The first of these regional conferences was held in Atlantic City, New Jersey on May 2–3, 2001. Hosted by the DEA Newark Division in conjunction with the New Jersey State Police, and New Jersey Prevention Network, the conference focused on providing community based solutions to problems relating to the abuse of club drugs. Future regional conferences will be held in Austin, Texas, San Diego, California and Chicago, Illinois. Furthermore, the following demand reduction objectives have been institutionalized by DEA. These objectives include:

—Working with local, state, and other federal agencies and nonprofit organizations in an effort to advance drug education and prevention;
—Enhancing parental knowledge of raves and club drugs and engage their active participation in education and prevention of drug abuse; and
—Educating high school and college students on the realities of raves and the effects of club drugs on the human body.

The education of high school and college students on the realities of raves and the effects of club drugs in the human body is a necessary part of DEA's demand reduction program. Institutions of higher education that receive federal funds are required under the Higher Education Act to implement a drug and alcohol abuse prevention program for students and staff, and the DEA, working with the Department of Education, must focus institutions' efforts on meeting this requirement.

Finally, DEA will continue to apply a "holistic approach," utilizing a well coordinated combination of programs that include Demand Reduction, Education, Treatment, and a Law Enforcement strategy that makes maximum use of realistic penalties that reflect the destructive nature of Ecstasy trafficking.

HIDTA

Question. As you know, the DEA has participated in the Rocky Mountain HIDTA program since it was created in 1996. This combined anti-drug enforcement effort among federal, state, and local law enforcement agencies has been expanding its anti-drug efforts in the Rocky Mountain region. I would be interested in your opinions and observations as to the success and effectiveness of the HIDTA program generally, and the Rocky Mountain HIDTA specifically.

Answer. The HIDTA program has shown some definite results, and has been particularly effective in uniting local, state and federal agencies in the pursuit of high level regional, national and international investigations.

In general the HIDTA program has been very successful in achieving its individual goals and objectives in support of the National Drug Control Strategy. In most instances there have been continuously improving coordination and cooperation among all the HIDTA participants at all levels. Even the newly established HIDTAs have this as a principal goal to achieve for success. It should be noted that HIDTA functions through task forces that are chaired by various participating agencies. HIDTAs have continued to have a regional impact on drug enforcement operations.

The Rocky Mountain HIDTA is unique in its geographical scope. It is one of only a few HIDTAs that covers more than one state. The Rocky Mountain HIDTA covers 3 states covering approximately 286,000 square miles with a total population of approximately 7 million people. The region includes two major interstate highways, I–70 and I–80, that are primary corridors for illicit drugs going from California to areas of the midwest and the eastern United States. Traffickers from the southwest border are using rural highways through New Mexico and Arizona with no need to hit major interstates until well into Colorado and Utah where they are able to reach I–25 and the I–70 corridor.

Due to the large geographical area involved, the Rocky Mountain HIDTA has a greater number of initiatives than most other HIDTA's. Many of these initiatives do not have direct federal participation due to the limited number of federal resources in such a large geographic area.

Investigative initiatives have upgraded their investigations to focus on a more regional and national level. There is new emphasis on pursuing the investigations as far as possible, even outside their initial jurisdiction and outside their state. There is a new attitude of cooperation, coordination and support among the different initiatives working more closely than they have in the past. Arrest of drug traffickers, drug seizures, clan lab seizures and dismantling/disrupting of drug trafficking organizations have all increased. The number of investigations that were coordinated outside the Rocky Mountain HIDTA region also has increased.

SUBCOMMITTEE RECESS

Senator GREGG. If there is nothing further, the subcommittee is recessed.

[Whereupon, at 11:34 a.m., Thursday, May 17, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

THURSDAY, JUNE 28, 2001

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

The subcommittee met at 10:23 a.m., in room SH–216, Hart Senate Office Building, Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Inouye, Kohl, and Stevens.

FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF MICHAEL K. POWELL, CHAIRMAN

Senator HOLLINGS. The committee will come to order. We apologize for the lateness, but these votes and work on the floor has kept our ranking member, Senator Gregg, from being here. He is handling the bill on the floor.

We welcome Chairman Powell this morning and we would be delighted to hear from you, sir.

Mr. POWELL. Thank you, Senator. It is always an honor and a privilege to appear before you. I am particularly pleased to do so given that so many of the members of this subcommittee are also on our authorizing committee. It gives us an opportunity to continue the dialogue that we began in one forum and continue it in another to make sure that we have the resources we need to deal with the challenges we face.

Simply put, we know the old adage is things change. Sometimes they do more than change, they transform and metamorphosize, and I would suggest that that is the basis of the challenges we are facing in the communications industry today.

The Federal Communications Commission is in a period that it has never faced before. Virtually every segment of its portfolio is in the midst of its most profound revolution, whether that be television, cable, wireless technologies, or satellite technologies. All of them are struggling to take advantages of substantial and dramatic technological breakthroughs that will change forever not only the way they provide service, but the potential kinds of products and services that are going to be available to our citizens. The Federal Communications Commission is going to sit in the midst of this, trying to figure out the proper and thoughtful regulatory paradigm that will govern in this period of transformation. All the while,

service providers attempt to move their architectures to the advanced IP based, digital type of architectures that are more efficient and offer more possibility and potential for consumer welfare. So the role of the Federal Communications Commission is going to be critical in that regard.

It seems to me that in order for us to do our job well, we are going to have to have a period of change ourselves to make sure that we have what equates to a blueprint or business plan that allow us to be an efficient, effective, and responsive institution in the midst of this uncertainty, cacophony, and change. We believe that that challenge is going to be paramount, and so we have begun to develop what I fondly refer to as the Commission's business plan. That business plan will have four key planks.

The first is to constantly struggle to provide a clear, substantive policy vision that guides our deliberation. It is becoming crystal clear to me that we have to have a very pointed focus on advanced technology development and deployment, broadband technology for our citizens whether that is wireline and cable and DSL, whether it is in the wireless space in the name of third generation and advanced wireless infrastructures, or whether it is new satellite offerings. These are the products and services that our consumers are waiting to receive and I think that that has to be a central focus of the Commission.

But all the vision in the world is useless if we do not take our responsibilities to operate and manage the agency effectively and efficiently. I take great pride—it is not a burden to me—in being the central manager of the Federal Communications Commission. I take that part of the responsibility deeply seriously. I think the Commission needs to be an agency that can get to the bottom of things effectively and make decisions quickly to remove the uncertainty associated with regulatory action.

We are working hard to do that. We have developed annual strategic planning cycles. We are looking to measure our productivity measures across bureaus and offices. We are working hard to modernize our internal IT structure, putting greater emphasis on efficient electronic filing and the kinds of automated processes that allow us to get through our work more efficiently. And we are working on telecommuting so that our employees have the opportunity both to invest in their families as well as their workplace, and can continue to use the technology to provide a contribution to the public interest.

The third component, and I think perhaps the most important component of an FCC——

Senator HOLLINGS. I started to say "amen." You are doing great, but I heard the expression "public interest" and I appreciate it.

Mr. POWELL. Thank you. I know that is of interest to you and all of us.

The third component, which I think is the most important, that has been neglected, frankly, over the years, and that is the understanding that the agency is in a position of needing an independent indigenous technical capability. I will tell you, I have been at the Commission 4 years and I have seen the pitfalls of regulating companies and dealing with regulatory decisions with the likes of Steve Case or Bill Gates having to teach us how their technology works

at the same time we are supposed to make an independent regulatory judgment about that.

It is at some levels at crisis stage, and we are fond of pointing out that in 4 years, 40 percent of our engineers are eligible for retirement and we simply are not replacing that capability at anywhere near that rate of attribution. We need to make sure that our engineering and technical components will get improved upon so that we can make those decisions more effectively in a world to which the technology is the central driver of change in that industry.

Not only do we need focus on the recruitment and retention of technical talent, we need to have professional development and training when we get them. Engineers have to stay current in their guild. They have to have the programs and policies that allow them to continue to stay on the cutting edge and we need to modernize our own engineering laboratory facilities so that we can use the tools there to measure conflicting and competing claims about technology and interference and issues of the like.

And finally on that component, I think we have to remember that the technology issues are not just one for technologists. They are for lawyers and economists and policy makers and analysts, as well. We have to have a confluence in that regard. One of the things I am most proud of is we are building what I like to refer to as the "FCC University". We are working hard to develop an annual curriculum of courses in which we use our most talented individuals to hold instructional courses. We have partnered on occasion with universities, with professors, with scholars, with technologists, so that our employees have an annual cycle of being able to access that curriculum, take courses to stay current in their field, and hopefully be revitalized both in their morale and their attention to public service, which I think is also critical to the country.

And finally, the Commission needs to take a concerted and thoughtful study of its organizational structure to see whether it is organized optimally to make the kinds of decisions that these markets are increasingly demanding. We have all heard the overused word and concepts of "convergence", but what it does mean is the traditional "buckets" which we often look at in terms of regulatory policy are more and more strained by the cross-interests of different organizations and we need to look at whether there are thoughtful ways to reorganize the Commission in a way that it can more effectively respond to those functions.

But to be clear on that, in my opinion, that is not cutting the agency. I don't envision any significant diminution of personnel or assets, but more an optimization of the way we are organized and a more fruitful use of the people that we do have so that we can make decisions in this world of converged uncertainty.

So within that regard, the Commission's budget submission, we ask that you and the American taxpayer invest $248.5 million in that regard. That is maintaining the current level of the labor force at about 1,975 FTEs. This represents approximately an 8 percent increase over last year.

As is usually the case with the Commission, we have chosen to seek most of that increase in the form of regulatory fees as opposed

to direct appropriations. The direct appropriations component of the budget submission remains flat over last year, and that is the program that we hope to work with this committee and our authorizers to put into place and, hopefully, make it an institution that not only the committee but the American taxpayer is proud of.

PREPARED STATEMENT

And so with that, I am more than honored and happy to entertain your questions.

[The statement follows:]

PREPARED STATEMENT OF MICHAEL K. POWELL

In order to serve the American public, the Federal Communications Commission, as an institution, must be efficient, effective, and responsive. The challenges of reaching these goals at the Commission are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced—each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to fundamental economic and technological changes. There are new markets, new competitors, and new regulatory challenges.

Our fiscal year 2002 budget reflects the Commission's mission to keep abreast of industry changes and set rational productivity and regulatory goals. We are asking you to invest $248.5 million to ensure that the FCC has the tools to facilitate its reform efforts, upgrade its technological capabilities and further enhance its workforce. My goal is not only to make the Commission an example of efficient management practices, but to create and maintain an employee friendly environment—a place where employees can hone their skills and take pride in their service to the American people, as well as a place where employees have plenty of time to invest in their families. We can work together to encourage participation in telecommuting programs, build internal training programs, and utilize programs designed to lure the best and the brightest to government service. We can do this by purchasing and maintaining state of the art technological equipment to ensure better service to the public as well as a productive workplace.

My request for funding is tied to a specific business plan that I present here today for your evaluation. We have developed this plan along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

My goal is to improve the agency on all these levels—and to make many of these changes within the next year. To that end, I have been seeking opinions from a wide range of participants, including Members of Congress and their staffs, the businesses that come before the Commission, consumer groups, and our own skilled employees.

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Mr. Chairman, Ranking Minority Member, and Members of the Commerce, Justice, State Appropriations Subcommittee, thank you for inviting me to appear before you today to present the Federal Communications Commission's ("FCC") fiscal year 2002 Budget and discuss our priorities for the year ahead.

Although I have testified before the Senate before, this is my first appearance before your subcommittee. I want to use this opportunity to affirm my commitment to working with the Members of this Subcommittee to build a better FCC. I also want to thank the members of this subcommittee for their unyielding support in seeing to it during the past few years that the Commission received sufficient funding to complete its core mission. Although the Commission is an independent regulatory agency, the assessment, development and implementation of communications policy is a team-effort, with shared responsibilities between the various branches of

government. It is my primary responsibility to ensure that the FCC follows its statutory mandates in enforcing communications laws. And, I want to work with you to make the Commission a model of efficiency and transparency for all independent regulatory agencies.

I believe that a critical part of my job is to be a leader and steward of the Commission, and I take this responsibility very seriously. In order to serve the American public, the FCC as an institution must be efficient, effective, and responsive. The challenges of reaching these goals are complicated by the sweeping, fast-paced changes that characterize the industries that we regulate. Indeed, the Commission is experiencing a challenge it has never faced—each industry segment in our portfolio is in the midst of revolution, and is attempting to adapt to the most fundamental changes. There are new markets, new competitors, and new regulatory challenges.

Serving as Chairman of the FCC at this juncture in history gives me a unique opportunity to take stock and assess our regulatory framework, and to develop guiding principles that will encourage economic growth in the communications sector and maximize consumer welfare. Our fiscal year 2002 Budget request represents a critical part of our efforts to make the Commission more cost-effective and results-oriented. Today, I will provide you with a summary of our fiscal year 2002 Budget Estimates and discuss our plans for using these funds to enhance the Commission's productivity, and ensuring that we are capable of meeting the future needs of both consumers and the communications industry.

NEW BEGINNINGS FOR AN OLD COMMISSION

In order to understand our budget request, it is important to assess where we are now, and how we plan to use our resources in the future. The Federal Communications Commission received its initial statutory authorization when Congress passed the Communications Act of 1934. It was a time of severe economic depression—but also of technological change necessitating regulation of the cacophony of voices on the nation's airwaves. The Commission became part of Washington's alphabet soup, and developed a culture and structure designed to handle the licensing of radio stations. When change came in the beginning, it was slow and gradual, from the hardwiring of American homes for telephones, even in rural areas, to the advent of television, and the introduction of cable—these are the issues that the Commission had to deal with in the middle part of the twentieth century. The Commission divvied up the airwaves according to what was seen as the highest and best use of the spectrum and often decided who would receive the spectrum based on the subjective evaluation of the character of the applicants.

The Commission's processes and mission have evolved during the past 70 years. While we still spend a great deal of time on spectrum management, the number of potential users and uses increases dramatically each year. Instead of exclusively focusing on broadcasting and hardwired phones, we concentrate on expanding the spectrum to accommodate new technologies like third-generation wireless and ultra-wideband. Our goals and regulatory mission are defined in a host of adjustments to the Communications Act of 1934, including the Telecommunications Act of 1996. Our responsibility to auction the spectrum is a creation of the budget and appropriations process, and it currently represents both a mechanism for encouraging competition and a valuable source of revenue for the U.S. Treasury. Today, the Commission's primary mission is to promote a fully competitive marketplace as well as access for all Americans to communications services. We achieve our mission with a combination of manpower and technology—from electronic auctions, to automated licensing, and innovative spectrum management techniques.

No one in 1934, or even 1964, could have foreseen the revolution in communications that we have experienced in the last decade alone. We know that communications developments are not finite and that they will no longer come slowly. The winds of profound and dynamic change, unleashed in part by the 1996 Act, have buffeted the Commission and blown it into a position where its decisions have far-reaching impact on the future of communications, not only in the United States, but also throughout the world. We have come a long way from an agency where the principal focus was the assignment of radio licenses, and its principal activity was conducting lengthy comparative hearings to assign those licenses. This new environment is no longer linear, but chaotic and dynamic. During the next part of this decade, we expect the communications markets to expand exponentially and develop in a competitive environment.

In thirty years, the Commission will not be our FCC, but our children's FCC. I want to join with you to make the FCC a better place and to ensure that we keep in step with the future. To facilitate progress and not stand in its way, we must

review our mission and goals within the confines of Congress' mandate and develop an internal mechanism for improving our ability to foster competition in an ever-changing marketplace. For this agency to fulfill its congressional charge, indeed to remain relevant at all, it must put together a new business model and build the type of team that can execute it effectively. And with your help, that is precisely what we intend to do.

AN INVESTMENT IN THE FUTURE: THE FCC'S 2002 BUDGET

To realize a more effective, efficient and responsive FCC, it requires enhancing productivity, management review and retraining, as well as technological upgrades to integrate all of these facets into a productive work environment. Today, I ask you to invest in achieving these objectives. Our fiscal year 2002 Budget requests that you commit $248,545,000 to the future of communications policy. Our total budget request is $18.5 million over last year's appropriation, representing slightly more than an eight-percent increase. This increase is critical to financing programmatic and mandatory costs. The budget supports a staffing level of 1,975 full-time equivalents ("FTEs"). This level includes FTEs funded from both appropriations and auctions resources.

Much of the increase—41 percent—covers uncontrollable cost increases to fund proposed government-wide pay raises, rent increases and other inflationary increases. Specifically, our request includes $6 million for mandatory salary and benefit increases and $1.6 million for Consumer Price Index adjustments in contract services. The remaining portion of our budget—and, by far the most critical—comprises programmatic increases to accomplish the Commission's comprehensive information technology strategic plan initiatives. We are requesting $10,997,000 for these information technology ("IT") enhancements. This amount includes funding for equipment originally scheduled (but not funded) for replacement in fiscal year 2000 and fiscal year 2001.

We intend to use our requested funding to build upon past improvements. In the past few years, we have streamlined our licensing procedures and implemented electronic filing capability in 78 applications—that is 72 percent of all major information systems. At the end of fiscal year 2000, approximately 62 percent of all applications were filed electronically. And, 93 percent of all applicants were acted on within our processing goals. The use of information technology has led to improved processing time as well as a significant decrease in the number of backlogged applications. The failure to invest in our information technology systems, either in the form of lifecycle replacement or technological upgrades, could lead to backsliding in our backlog elimination operations, and undermine our efforts to reform the Commission. It is important, however, that we do not automate what may be a flawed process. I intend to initiate a strategic review of our processes to ensure that they are accomplishing their intended goals.

I am cognizant of the fact that the funds I request here today belong to the taxpayer and not the Commission. For that reason, we ask only what is necessary to maintain and improve the Commission's services and resources. It is important to note, however, that since 1987, the Commission has worked to reduce the cost of government operations by implementing the congressionally mandated user fee cost recovery programs. The first program, the "Application Processing Fee Program," was designed to recover a substantial portion of the costs of the Commission's application processing functions, which account for the majority of the licensing activity costs.

In 1994, we implemented the "Regulatory Fees Cost Recovery Program." Since that time, we have collected fees to recover the costs attributable to the Commission's competition, enforcement and public information services. Unlike the Application Processing Fee Program, these fees can be retained by the Commission and applied to obligations incurred during the current fiscal year, thereby reducing the amount of appropriated funds required from the General Fund of the Treasury. Since fiscal year 1994, the fee offset to our appropriation has increased from 38 percent to approximately 87 percent in fiscal year 2001. I plan to maintain that level and even increase it slightly to 88 percent during fiscal year 2002. The actual appropriation requested by the Commission for the next fiscal year represents $29,788,000 in net direct budget authority since we intend to collect $218,757,000 in offsetting collections from regulatory fees. I am proud of our work in reducing our direct appropriation, and I believe that given the appropriate tools, we will improve on this record.

KEEPING OUR PART OF THE BARGAIN

Two months ago, I testified before the House Subcommittee on Telecommunications and the Internet concerning FCC reauthorization and reform. Last month I testified before the House Commerce, Justice, State Appropriations Subcommittee. In both of those instances, I gave my commitment to following through on reform and asked our House authorizers and appropriators to join me in this effort. Although the financial needs outlined here are an important component of our reform efforts, we already have implemented a management review designed to make the Commission a model agency. I pledge to you that I will use the taxpayers' funds constructively as a way to improve our services and I provide you here with a four-point business plan that you can use to evaluate the financial worth of our efforts. Let me emphasize that we are not "reinventing" the Commission, because that would be Congress' prerogative, and until legislation provides us with the ability to reprioritize some of our functions, we will work within the statutory limits set by Congress. My plan is designed to use our requested funding in a constructive fashion—to improve the management and employment environment in a way that benefits the American people.

FCC REFORM: THE NEW BUSINESS PLAN

I conceive of FCC reform as a comprehensive retooling and redirection of the Commission's entire mission. Our approach is to write and execute a new business plan built along four dimensions: (1) a clear substantive policy vision, consistent with the various communications statutes and rules, that guides our deliberations; (2) a pointed emphasis on management that builds a strong team, produces a cohesive and efficient operation, and leads to clear and timely decisions; (3) an extensive training and development program to ensure that we possess independent technical and economic expertise; and (4) organizational restructuring to align our institution with the realities of a dynamic and converging marketplace.

Substantive Vision

The United States has a proud legacy in the area of communications services. This nation built the finest voice communication system in the world, as well as top-notch mass media delivery systems in the form of radio, television, and cable. These systems have reached maturity though—we understand the basic technology and architecture; we largely understand the cost characteristics; and, we understand what the consumer wants and what the product is. And, government regulation and policy had coalesced around these understandings, principally in the form of regulated monopoly and oligopoly.

We are now only beginning to appreciate and deploy the new advanced architectures and technologies of services like broadband. The cost characteristics may differ substantially from those of traditional networks to which we are accustomed. Broadband Internet products are still being developed and we all wait to see what service offerings consumers will and will not embrace. It is a world of dynamic and chaotic experimentation and unpredictable change.

I believe government policy needs to migrate steadily toward the digital broadband future, but recognize that we will be unable to anticipate every change before it happens. I submit that this digital broadband migration should be built around incubation, innovation and investment. At the Commission, our policy direction will focus on this migration and will have several directional guideposts:

—Facilitate the timely and efficient deployment of broadband infrastructure. Endeavor to promote the growth of a wide variety of technologies that can compete with each other for the delivery of content and will strive not to favor—or uniquely burden—any particular one.

—Pursue the universal service goals of ubiquity and affordability as new networks are deployed, and do so in creative fashion.

—Redirect our focus onto innovation and investment. The conditions for experimentation and change and the flow of money to support new ventures have often been misunderstood or neglected. If the infrastructure is never invented, is never deployed, or lacks economic viability we will not see even a glimmer of the bright future we envision.

—Harness competition and market forces. Drive efficient change and resist the temptation, as regulators, to meld markets in the image of any particular industry player.

—Rationalize and harmonize regulations across industry segments wherever we can and wherever the statute will allow.

—Shift from constantly expanding the bevy of permissive regulations to strong and effective enforcement of truly necessary ones. To that end, I support H.R.

1765, which would increase by 10 fold statutory levels for forfeitures, as well as extend the statute of limitations for common carrier enforcement actions to two years. When combined with solid auditing and enforcement of our rules, especially those prohibiting regulated entities from passing along their fines to ratepayers, I believe that these changes will have a solid, deterrent effect against illegal activities.

Operations and Management

All the vision in the world is useless if you do not build and manage an institution that can execute it. We intend to actively manage the agency. Indecision and avoidance are not legitimate policies and, thus, we will strive to reduce backlogs and put systems in place that will prevent these problems. Managers will be measured, in part, on this basis. The Commission will develop an annual strategic planning process that will be integrated with the federal budget cycle and the review of our performance as an institution and as individuals. We are working to establish uniform measures of productivity across the agency to facilitate this activity.

The Commission is developing a set of internal procedures that will allow it to function more smoothly. These procedures will cover subjects such as Commission deliberation, voting procedures and internal document security.

The Commission should continue to modernize its information technology infrastructure to ensure productivity gains. We must strive to be a virtual agency—one in which someone in Connecticut is able to access us as easily and readily as someone on Connecticut Avenue. We are working to make this goal a reality through increased electronic access capability. We are engaged in a time-consuming and expensive project, but one that is critical to our ability to remain relevant in this new millennium. We must continue with due speed to use the advances of technology to our advantage.

We have 18 major information technology systems that incorporate electronic filing or offer public access to data. The industry can file most license requests, equipment authorizations, and comments electronically. A 72 percent electronic filing capability is not enough—we will do better. We administered well over three million licenses last year, so it is critical that we are efficient in this area. It is also important that citizens all over the United States have the ability to contact us easily and from anywhere—whether by computer, phone or letter. Last year, we received well over one million inquiries from consumers. The public must be an active voice in the communications transformation, for they are the ultimate beneficiaries of the abundant choices resulting from competition.

Better management and a wider application of technology initiatives leads to enhanced productivity and an improved quality of life for employees. The Commission should be a place to work, not live. Employees should have a fair opportunity to work from home, providing greater flexibility to meet the demands of modern family life. That is why the Commission undertook an ambitious rollout plan for telecommuting last year. We intend to overlay our virtual agency concept to the benefit of FCC staff through an expansive telecommuting program, which is open to nearly 100 percent of the Commission's employees. Approximately 400 of our eligible employees, about 20 percent, have chosen to telecommute on either a regular or ad hoc basis. We began the telecommuting program to increase productivity, improve morale, improve job satisfaction and reduce absenteeism. I am pleased to say that other agencies look to us as a model.

Technical and Economic Expertise

Since advances in technology are driving the communications revolution, the Commission must have a strong fluency in the language of technology. We cannot depend on those we regulate for on-the-job tutorials while we make decisions. Over the last six years, our engineering staff has decreased by more than 20 percent. Within the next four years, 40 percent of our engineering staff will be eligible to retire. Conversely, we are not replenishing the coffers at the other end by bringing in new employees. Like other governmental departments and agencies, we are competing for this talent in a tight labor market and are challenged to convince talent to enter government service. This has been most apparent trying to recruit entry-level engineers at the GS–5 and GS–7 levels.

To address this situation the Commission is developing an agency-wide "Excellence in Engineering" program. We will examine creative ways to gain greater personnel and pay flexibility to attract technical talent. Increased salaries alone, however, will not do the trick, nor is it the sole motivator for anyone entering government service. While government service in and of itself should elicit a sense of pride, we will increase our technical employees' worth by ensuring that they are able to continue to develop in their field, through strong training and development pro-

grams and job rotation. Our laboratory facilities in Columbia, Maryland need to be upgraded to provide engineers with the tools to engage in critical and challenging work. If we receive full funding this year, we believe that we can adequately address the initial needs of this program, and then have the flexibility to plan for the future to request additional funding during the next budget cycle.

It also is vital that we train our non-engineering staff in the areas of engineering and advanced technology. We already have begun to develop an FCC "university" of sorts using our own staff and guest lecturers, and taking advantage of various programs currently available through the government and local academic institutions. We can use this Washington, D.C. location to our advantage and tap into industry and academia. We can use local scholars and have them participate in an educational curriculum, to provide lectures, to provide classroom instruction, to provide counsel and advice.

I am putting similar emphasis on economics and market analysis. These tools are essential to our agency's mission. We have the opportunity to take advantage of both internal resources, visiting experts, and outside educational programs to help not only our economists improve their skills but to help all the FCC's employees understand better the impact of our rules on technological innovations, and competitive markets. It is critical that we look to a plethora of information sources in gathering opinions and forming our policy.

Restructuring

Communications policy has been written in carefully confined buckets premised on certain types of technology. The FCC's organizational structure largely mirrors that premise. But the convergence of technology tears down those traditional distinctions and makes it evermore difficult to apply those labels to modern communications providers. In the same way, it makes it more important than ever for us to examine whether those organizational buckets still hold water.

About a year ago, we began breaking down the technology-based divisions with the creation of the Enforcement Bureau and the Consumer Information Bureau. With those reorganizations, we created two bureaus aligned along functional responsibility. We created the Enforcement Bureau to improve the effectiveness of our enforcement activities in an increasingly competitive and converging market. We created the Consumer Information Bureau to enhance consumers' ability to obtain quick, clear and consistent information about communications regulations and programs. These changes have proven to be beneficial. As the industry moves toward fuller competition, the missions of these bureaus become even more critical. For consumers to take full advantage of the choices that competition brings, it is important that they have access to information that allows them to make an informed choice. Their ability to easily and quickly convey to us instances where the markets are not providing useful information to consumers in a particular circumstance or with a particular business is our early warning system for market failure or malfeasance on the part of industry players. While the consolidation of these functions is almost complete, there are some additional functions that are transferable into or out of those two bureaus.

We have undertaken a structural reorganization project that builds on some of the initial efforts of my predecessor, Chairman William E. Kennard. Our efforts will be guided by a few key objectives: (1) a functional organization designed along market lines, rather than technical ones; (2) a flatter substantive bureau structure; and (3) greater consolidation of key support functions.

Our program will proceed in phases. We have begun by systematically taking account of the agency's activities and functions to see what is working well and what is not. From that review we will produce a Phase I, short term, restructuring plan and a Phase II, longer range plan. The Phase II plan will consider whether wholesale change is necessary and whether it is timely to move away even more from technology-based buckets. We will be looking at what economic or marketplace triggers are indicative of the need for further restructuring. The question has been asked whether the Commission should be aligned along functional lines—e.g., enforcement, consumer information, spectrum management, licensing and competition—given increased convergence in the industry. This question deserves to be asked and answered. But first, we must seek additional and substantial information, and be completely satisfied that it is the right thing to do, before we move to rearrange substantially the organizational structure of the agency.

My goal is to improve the agency on all these fronts. An informed decision, however, is better than one based merely on supposition. We are seeking the opinions and thoughts from a wide range of participants as we proceed down the path of reform. I also look forward to working closely with this Subcommittee and other Members of Congress and their staffs on this matter.

CONCLUSION

The primary impetus for my reform program is to ensure that the Commission develops an enhanced ability to carry out its core mission: promoting the public interest through communications competition in a cost-effective, efficient, and transparent regulatory environment. We are not here to find a solution to every problem related to communications. We can promote an atmosphere of competition where we step into the picture to ensure fairness of process, to stop predatory and anti-competitive behavior, and to make certain that the airwaves are free from clutter and pirates. We can and should make certain that the public interest and public safety are protected, while recognizing that we must work within the four-corners of our statutory mandate.

I cannot predict the future, nor can anyone else at the Commission. When faced with future challenges that are uncertain, the best approach is to build a first-class operation, with top talent, that is trained and disciplined enough to adapt quickly to new and changing situations. No army, for example, can know in advance what it will find when it engages on the battlefield. The fog and terror of war never afford the luxury of predictability. The key to success is to have a force that is well-trained in tactics, strategy and the weapons it will need. A force that is disciplined and able to adjust quickly and adapt to fluid conditions—threats and opportunities both will present themselves through the haze. I hope to build, along with my colleagues and the outstanding FCC staff, just such a unit—one well suited to an uncertain future.

Thank you. I would be happy to answer any questions this Subcommittee may have.

Senator HOLLINGS. Does this take care of the engineers, experts, and lawyers, too, that you need, because it looks like everything you do is appealed and joined or what have you, so you have got to make a complete record. On the one hand, you have got to have the personnel in order to do the work. Otherwise, you have got to have the engineers, like you say, to know what we are talking about. This takes care of it?

Mr. POWELL. No, it does not take care of it.

Senator HOLLINGS. Two-hundred-and-forty-eight-point-five.

Mr. POWELL. It does not, over time, take care of it. I mean, what I envision is that we have a program that is a multi-year program and this is the first step of the program, which is critical. This budget submission includes resources that we intend to dedicate to this function and to this program. But I assure you that we will, as we learn more about our needs in subsequent years, continue to pursue additional funding in support of that program. In a perfect world, I would love more now. But I think that we, if we are fully funded, we will have the critical resources we need to begin the first steps of this program and make a meaningful difference in our functions within the next fiscal year.

Senator HOLLINGS. Well, on the House side, they cut the FCC some $9 million, I think?

Mr. POWELL. Yes, sir. I think it is more than $9 million, roughly $10 million, which is fairly significant because if you remove that amount, you have essentially removed all of the funding requests dedicated to new initiatives or the restoration of IT infrastructure. Basically, the majority of what remains are the cost-of-living adjustment increases that are the uncontrollable expenses of the Commission.

Senator HOLLINGS. That is good. I think the committee will want to make sure you have the entire amount requested. As a matter of curiosity, over the years, this argument has ensued until recently with the bankruptcy court in the *Next Wave* case. Not getting into the case, but rather to the fundamentals, who owns the spectrum? Are you and I trustees for that spectrum or do you just

really sell at auction, time, for example, a license, for that spectrum?

Mr. POWELL. It is clearly the case that the spectrum is the public property of the American taxpayer and that we try to create the highest and efficient best use of that spectrum on behalf of that taxpayer.

Senator HOLLINGS. We have licensing.

Mr. POWELL. Yes.

Senator HOLLINGS. Let us assume you gave me a license, a 10-year license. Aren't there conditions under that license for performance?

Mr. POWELL. Yes.

Senator HOLLINGS. In other words, suppose I just took the license and just sat on it. Could the Commission take action to recover that license or take it back for nonperformance?

Mr. POWELL. Yes. Indeed, the Commission often establishes conditions and benchmarks that allow it to efficiently and effectively reclaim the spectrum to reissue it for a higher and best use.

Senator HOLLINGS. You are good, and I appreciate it very much.

Excuse me. Boy, I am honored. Here is the senior Senator. I am a junior Senator, not only to Strom, but to Senator Inouye. Senator Inouye, excuse me, Senator. You are so quiet and polite.

Senator INOUYE. Mr. Chairman, I thank you very much. I have an opening statement I would like to have made part of the record.

Senator HOLLINGS. That will be included in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR DANIEL K. INOUYE

Thank you Commissioner Powell for addressing us today. The FCC is tasked with many important undertakings as it encounters the rapidly changing marketplace and works toward fostering and protecting open and fair competition.

I applaud you for your goal to reform the efficiency and structure of the FCC, however, we cannot afford to lose sight of what is most important—providing affordable and reliable access to telecommunications services for all consumers regardless of income level and regardless of whether they live in densely populated urban areas, as well as sparsely populated rural America.

I look forward to hearing from you about the Commission's funding requirements and plans for fiscal year 2002.

TAUZIN-DINGELL

Senator INOUYE. May I ask a question, which may not be completely relevant, but every time I turn on the radio or the television set, almost every 5 minutes, there is Tauzin-Dingell, either for or against.

Mr. POWELL. Yes.

Senator INOUYE. I suppose you have views, don't you? Can you share them with us?

Mr. POWELL. Senator, I generally do not take a position on legislation, but I will give you what I think the tradeoffs are. There are two competing visions for competition currently struggling for ascendancy. In my opinion, one vision is represented in part by the bill, which is the most important market to the American citizens is the digital broadband market, and that the most efficient way and the most likely way that that is going to be provided to consumers are going to be through technology-differentiated products.

So the telephone company or the telephone infrastructure will be one broadband service. The cable industry will be a separate, competing, substitutable broadband service. Wireless might provide a third. Satellite might provide a fourth.

And if that vision were to be realized, some will argue that then you do not have to worry as much about concentration within one of those stovepipes, that those are each competitors with each other, using differentiated technologies. I will leave for other people's judgment whether that day has arrived or whether you have a sufficient amount of confidence in that.

It is clear that we have very viable mass market products out in the marketplace on cable and DSL. Wireless is out there, but somewhat further behind as a technology, as is satellite. Is two enough? Is three enough? Is four enough before one has the confidence to be less concerned about intra-competition?

The other vision says that it is still very important to have competition within a technology so that you still have to have effective interconnection relationships, et cetera, et cetera, and that those should be preserved for now. I think that in many ways, those are the two competing visions, even though the advertisements do a bad job of describing them, that are being wrestled about in that, and so that is my view of what is at issue.

Senator INOUYE. Do the present laws provide for competition?

Mr. POWELL. The present laws do provide for competition. I think the issue is at what cost and to whom. There is no question that there is an inherent difficulty—they are not necessarily insurmountable—when competition has heavy dependencies, critical dependencies to get your inputs from those to whom you compete. The Bell interconnection regime, which has its value, from my perspective, as a competitive approach, but just frankly does require an enormous amount of regulation and an enormous amount of arbitration to resolve conflict of interconnection. It is a very time consuming and expensive approach, but it is an effective approach up to a point.

It just seems to me that there are different players who gain differently from any regime you choose, but I do believe that we have some fundamentals in place for competition, yes.

Senator INOUYE. Will the adoption of this measure have an impact upon your operations?

Mr. POWELL. Oh, it would have a fairly dramatic impact. It would be essentially a substantial change, a reformation of the current telecommunications statute. There would be a, though I have not done the analysis, there would be a whole host of regulatory proceedings and rulemakings that would be either changed, modified, or abrogated as a consequence of the change, and I suspect that the Commission would have another extensive period of reevaluating its regulatory base, its rules, to be consistent with the new statutory backdrop of the regulation.

So though we have not necessarily analyzed every aspect of what would be affected and what resources would be required. I think it is fair to say it would be a pretty major undertaking, even if inherently deregulatory in nature. I mean, unwinding things is an exercise as much as introducing things, and so the Commission certainly would adopt and adjust changes.

Senator INOUYE. Thank you very much.

Mr. POWELL. Thank you, Senator.

Senator HOLLINGS. The committee will stand in recess until the return of the Chair. Thank you very much.

Mr. POWELL. Thank you, Senator.

Senator KOHL [presiding]. Chairman Powell.

Mr. POWELL. Senator Kohl.

TELECOM ACT

Senator KOHL. It has been over 5 years since we enacted the Telecom Act and there have been serious questions as to its real effectiveness. Instead of competition, it seems that what we have is litigation, and instead of more companies competing, we have got companies merging into even fewer companies. Before the Act, we had seven big telephone companies and now we are down, as you know, to four. So we are not sure what the solution is and we would like to hear what your ideas are to bring about more robust competition in the telecom industry, especially the local phone and cable television markets.

More importantly, how would you convince Wisconsin citizens that passage of the Telecom Act was a good thing for them? Residents in Wisconsin haven't seen the benefits of increased choice or even something as simple as lower cable rates. So what would you say to the people of Wisconsin?

Mr. POWELL. I would be happy to talk to them. I think that part of the challenge in explaining the value, which I will argue is immense to consumers, that there have been many values, some of which are attributable to the 1996 Act. I think one of things that we have to do is figure out how we measure the consumer value.

In 1996, there were an extraordinary amount of things unavailable to consumers that are now available to them and in extraordinary numbers. For example, very few Americans owned mobile telephone services in 1996, a fairly small percentage. Today, 40 percent of every man, woman, and child in the United States owns a mobile telephone and uses that telephone to a great degree unrivaled anywhere in the world in terms of the number of minutes used by consumers. That is competition, because if I make a telephone call on my mobile phone in my driveway rather than walk in and pick up the telephone, that is a call that would have previously occurred on the telephone infrastructure. But we do not capture that very well when we think about competition, but there is no question in my mind that mobile telephony has proven to be a very substantial set of competitors to wireline telephone and brought great value to consumers.

In 1996, very few people had access to the Internet. In year 2000, 90 percent of Americans have access to at least narrowband with 10 ISPs or more. What is interesting about that is that it provided new ways to communicate that we also do not capture. If I want to talk to my sister, I might call her, but I might send her an e-mail. It is still a communication. The communication that I did not pick up the phone to make, I sent her an e-mail to make. Or I used the new innovations of instant messaging to have chats with her while I was talking to her.

Broadband was nonexistent in 1996 for consumers and it really comes into the market in 1998. While that pace could be a lot faster, 12 percent today of Americans subscribe to that service. Cable modem capability is at least reaching a level of potential service and access for a vast number of Americans and the growth of DSL has been in the triple digits over the last couple years, and this is just a couple years.

So this is not to defend the places where it is not working well. Traditional telephony competition for residential consumers is far below what we would have hoped and expected. I think that it is a challenging proposition economically and I think it was hard to foresee all the kinds of challenges to economic viability.

One of the areas that I put a lot of emphasis on is in terms of the interconnecting relationships between the incumbent is we have to have a much stronger enforcement function.

BETTER ENFORCEMENT TOOLS

Senator KOHL. All right, let me ask that question. You said last month that you needed stronger enforcement tools in order to better implement the Act. So what sort of a bill would you draft to beef up your enforcement powers?

Mr. POWELL. I would love to work with the subcommittee on that question. I think that what is most important is whether you have serious and substantial and credible penalty regime. The penalties available to us now are just simply trivial. I mean, a company will never say $1 million fine is trivial, but it is trivial to a billion dollar company, and it is trivial, more importantly, to when you are making a rational decision as to whether it is more expensive to make it viable for a competitor to use your facility than it is to pay the fine.

If an operation support system has to be modified to make it effective for a competitor to use it but that system costs $1 billion and if you don't do it effectively, you will get fined $1 million, it doesn't seem to me phenomenal why the wrong decision can get made in that context.

The penalties have never been, as best as I know, adapted to even inflation, and I just think that they need to be increased by an order of magnitude because the Commission is not resourced well enough to enforce every local market in the country, but it has to have deterrent value, and I think that the antitrust laws, which you, Stuart, are well aware of that, there is a reason antitrust has treble damages. It is because it can't be everywhere all the time, but the threat of that level of penalty helps deter—helps deter—conduct that impinges on competitive possibility.

TELEPHONE BILLS CONFUSION

Senator KOHL. Okay. Turning to another subject, Mr. Powell, last week, you gave a speech in which you stressed the importance of the FCC's consumer agenda. Of course, we very much support your efforts on this front. In particular, you mentioned an initiative to clarify consumer confusion as it relates to telephone bills. Today's phone bills, as you know, practically require services of a lawyer to sort out the various fees, charges, and taxes that fill line after line of the invoice.

I very much support this sort of initiative. Can you tell us in any detail what your plans are to make telephone bills easier to understand for the average consumer?

Mr. POWELL. I think there are a number of fronts we can pursue in that regard, and it is active and we are doing it, so this by no means is an exhaustive list, but one of the things that we have been exploring is can't we be a forum for explanation?

That is, for example, we are playing with a web-based product that would essentially provide copies, exemplary copies of major telephone company bills, and that each line item might be an active button, so that if you did not understand what it meant on line three when it says, "Federal universal whatever," you could click that and get a plain English explanation of where that comes from, perhaps with points of contact if you are frustrated by that charge. Whose responsibility is this charge? Is this a Government charge? Is this a commercial charge? Is it a competitive charge? And if you had a number of exemplary bills in that regard, you might be able to help consumers deal with the confusion of line proliferation.

Of course, that kind of begs the question. That is, is it remedying a confusing situation. And I have thought about this for years, looking at the confusion consumers have over the bill and the uproar that goes on with increases in phone bills. What is interesting, it really is not the amount as much as it is the perception of being cut to death, bleeding to death by small cuts. Every time you turn around, there is a new line that pops up there.

And I think that there is a whole effort that we can pursue in line simplification. You know, I personally wish that the entire Federal universal service components which are critical were just one line, right, and I will explain that line to you. I will provide brochures or literature of what is included in it. But I think consumers would feel that their bill is more stable if, rather than every 6 months when we do a proceeding or carriers make a change, that suddenly there are not 7 lines, there are 9, there are 12. That sends a—growth in that component, I think, is a source of great confusion and frustration to consumers.

And then they do not know how much of that is a competitive thing. If I switch carriers, does this line item stay there or is that something that I can compete out of my bill? I think we still have some good work that we can do in that area.

Senator KOHL. I will be looking forward to what you come up with.

Mr. POWELL. Thank you.

CABLE TELEVISION SERVICE COSTS

Senator KOHL. One more question, Mr. Powell. I continue to be concerned, as we all are, with the rising cost of cable television service, with cable rates rising at nearly triple the rate of inflation in many places. Part of this rising rate is the cost a consumer pays to the cable company to rent the set-top box, which is necessary to receive many cable channels, and many people don't understand why the rental cost of these boxes continues to rise. We have been trying to create a real competitive market for these boxes so consumers can walk into a store and buy a box rather than having to

rent it from the cable company month after month and pay these increases.

But after 5 years of trying, consumers still cannot buy a box off the shelf. Why can't consumers, Mr. Powell, buy set-top boxes directly from manufacturers instead of having to rent them?

Mr. POWELL. Well, of course, the Congress passed statutes that tried to ensure that we created the regulatory environment that would make that permissible, which we did do. I think that the problem going on in the market is one of a sort of marketing and economic viability. Here is what I think is principally what the challenge is.

The retail outlet—there is a struggle going on among manufacturers and retail outlets about revenue sharing on the infrastructure. So, for example, if Circuit City sells you dish TV, to use a satellite example, they get a cut, a continuing cut of that revenue from the dish company. So a lot of what struggling is going on is whether retailers will have an opportunity to be part of the business model of these boxes.

The other thing is that the manufacturers have struggled to make the box cheap enough and have enough value that it will really be of interest to consumers when they walk in the store. If all the box does is you take it home and it descrambles, at least their judgment seems to be that there is not much of a market for that.

What I have seen recently at trade shows is that there is an effort to start integrating the cable functionality with other consumer electronics functionalities so that the whole value of the box rises, just like dish folks are doing. So the cable box will have a DVD player in it and the cable box may have TIVO built into it so that the consumer will get the value of getting a DVD player and a TIVO player and, oh, by the way, it does cable. That is taking a lot longer than I think anybody expected in the marketplace, but at least as last I looked at it, it seemed that those boxes were on the way to stores in the relatively near future.

Senator KOHL. Thank you very much.

Mr. POWELL. You are welcome, sir.

Senator HOLLINGS [presiding]. Thank you. Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman. I will be brief, Mr. Chairman.

DEPARTMENT OF DEFENSE NEEDS

I have had a series of meetings during the last few days with the Department of Defense and we are all looking at Defense's request for additional monies this year. We have already instituted a review of the needs of the Department of Defense for spectrum, and I am sure you are involved with that. I hope you are. You at the FCC share the responsibility with the Department of Defense, I think.

I made the following suggestion and I wonder what you think about it. I suggested that Defense should be very hard-headed about what they really need in terms of spectrum. They ought to turn back a substantial amount so that it can be auctioned off on the understanding that Defense would get a substantial portion of the funds that came in. We have seen a temporary shortage of

funds at the Defense Department for 2 years because of changes in the economy and other reasons, and I think it might be possible.

Do you think you would be willing to work with the Department of Defense on this? Would you tell us your opinion about the Department of Defense being eligible to receive a substantial portion of funds resulting from the sale of their spectrum to support their new modernization programs?

Mr. POWELL. Absolutely. It is a tough judgment of value, the needs of national security and the needs of the commercial market for the betterment of our citizens on advanced technology. It is a tough call. But I think that even if you get there, if you find the spectrum, you have got to make sure that the defense needs are taken care of through some form of reallocation of the use of funds in order to mitigate or ameliorate the dislocation.

From the Federal communications perspective, while budget authorities certainly keep their eyes on the amounts of money, I think it is a judgment of the Congress as to what the best use of the proceeds of auctions are. We do not draw on them significantly. They are yielded back to the Treasury, and I think that the idea of tying public policy to money that you receive as a consequence of that auction toward public policy objectives is a good idea and is something that I have always wondered why we did not do more. That is, look to auction proceeds to continue to supplement and advance other public policy purposes, but, you know, some of that is above my pay grade, but I think it is a creative idea.

UNIVERSAL SERVICE FUND

Senator STEVENS. Thank you very much. The other thing is, I continue to be worried about the future of the universal service fund. We have discussed this before, and I know the chairman has been interested in it. That fund was initially conceived of to meet rural problems, primarily Alaska problems. Now, I foresee a time when the universal service account will go down, particularly because of the enormous strains on it for providing Internet services to hospitals, libraries, and schools in areas that are not rural. That is a policy we are not going to change, but the revenue base for universal service is declining and the demands are increasing. The result may well be that rural America goes back to the 20th century and does not go forward in this century as far as the new technology is concerned.

I have asked some of the major players, such as AOL and others, to confer with us about how to meet this challenge. One solution might be a tax on the Internet, which some people suggest. I have never supported that yet, but it may be the only alternative to maintain the universal service fund. If the fund continues to pay out the costs of connecting people to the Internet whose providers do not pay anything into the universal service fund, then it is obvious that the demise is closer rather than farther away.

I would like to find some way to save the concept of an industry-based fund that is not a tax. That is what universal service was in the first place, a contribution from those who used the services of long distance in order to ensure that their calls reached all parts of the country. We have such a multiplicity of communications de-

vices and concepts now. Many of them do not pay into the universal service fund, or if they do, they pay very small amounts.

What do you think about the idea that it might be your job to call together a conference of people who should be providing contributions to those funds and see what they are willing to do?

Mr. POWELL. Well, I would agree that I think it is one of our most sacred responsibilities to try to ensure that the parade of concerns and horribles you have do not occur, and that requires a lot of tough judgments, including, just to come through some of the things you pointed out, really making hard calls between competing demands. I mean, one of the reasons we promote is the schools and libraries program, for example, but we are careful to try to rigorously keep it within control so that it does not further jeopardize other aspects of universal service which are equally valuable. I think that is the hard part of what we do for a living, but that is what we do and will continue to do.

I think that your concerns about how will advanced technologies, new architectures affect the fundamental values of universal service—from my perspective, the first thing I would say is, number one, the unequivocal assertion that ubiquity and affordability for rural America remains a critical and paramount objective no matter what the architecture or the infrastructure is and looking for not only the traditional way of trying to ensure that occurs, but whether there are new and creative ways.

One way, of course, always is spread the pain as widely as possible to ensure that no one component of that bears too unbearable a burden. There is no question that this is a coming set of serious questions in the sense that as these architectures move to IP and data and broadband networks, how we will ensure that those fundamental, ubiquitous affordability goals continue to go with it. And I think that the dialogue between some of the preeminent companies that are working in this area is probably useful. I would like to go back and think about other ways that we might at least try to be a facilitator of debate and evaluation of that question and see if we cannot at least see what kinds of problems are going to occur and what ways we might have a solution.

I sort of reserve judgment on whether I think the answer definitely is whoever, AOL or whoever, should pay universal service, but one of the things I think that we have to struggle with is the statutes' limitation to telecommunications carriers as the source for funds, and that has always been an issue, as you know, as to whether the bucket of who you can look at is limited by the 1996 Act. So I think Congress would also need to be pretty involved in future considerations about expanding the revenue base.

I also think it has been unfortunate that we, because of court decisions, we cannot draw on intra-State revenues to help supplement universal service expenses. So that is an enormous amount of telecommunication activity occurs intra-State and the decisions of courts that the statute does not permit that is another inroad on our ability.

But that said, we have worked hard in the last couple years to reform and modify universal service that has led to net increases in money available to continue these goals, so I think that we are also taking the short-term measures. We have to keep that viable.

HARDWARE TAXING

Senator STEVENS. Thank you for that. I hope you do it. I do not believe this is a tax question, although it could evolve into a tax question, God forbid. It will be years before we get another tax bill that will look into circumstances such as taxing the hardware that goes along with new technology. I am not suggesting we should. But there has to be a revenue base somewhere to assure that these means of communications pay their way in terms of assuring the message that they originate can be delivered anywhere: ubiquity, universality, whatever you want to call it.

Unfortunately, the promise of new technology in terms of telecommunications, tele-education and the basic concepts of eliminating isolation through access to certain forms of entertainment and such, those are rapidly being denied to rural America, in my judgment. They are made available to schools, libraries, and health facilities, that is true. But while the children may have Internet in school, their parents do not have it at home, the local small businesses do not have it, and even the postmaster doesn't have it under present circumstances.

So, somehow or other, that has got to be smoothed out. But this may come at a greater cost to whomever is putting up the money to interconnect those areas. I think that should be a universal service obligation, but the money is not there to do it.

I would urge you to take a hand in bringing together the great minds of this country who are leading us into new generations of technology and have them commit to the preservation of universality as far as communications are concerned. Thank you, Mr. Chairman.

Senator HOLLINGS. Thank you, Senator Stevens.

Chairman Powell, I had to leave for a vote, and as I was leaving, Senator Inouye asked you about Tauzin-Dingell. Can you repeat that answer again for me, please?

Mr. POWELL. It was so carefully crafted, too.

TAUZIN-DINGELL

Sure, Senator, I can. I began with the usual caveat of a regulator, which is I do not generally take a clear position on legislation and have not on Tauzin-Dingell and will not. But I pointed out to the Senator that I thought that I could give some articulation of what I thought was being battled over and what the choices were.

It seemed to me that there are, at an intellectual level, there is sort of this competing vision of what competition should look like. That is, one vision is that real competition is really only going to come from different technology platforms competing for broadband service to customers. So the phone network will be one platform that will be available to consumers. Cable modems will be another platform. Wireless might eventually be a third, and maybe satellites a fourth, and if that were really the world or you could really achieve that world, then you didn't need to be as concerned about competitive alternatives within any one of those buckets.

That is, even if in the worst case, every one of those industry segments was a monopolist, for example, just to use the worst case possible, they would still be competitors to each other so the argu-

ment would go they really aren't monopolists because there are four of them competing for the same set of customers. I think at some level, that is the vision that is the analytical vision that underlies the bill.

On the other hand, there is the view that, no, it is still critically important to have competition from entrepreneurs and new entrants within a market, so that would be issues like interconnection with phone companies or open access in cable or open access in wireless and that we still need to preserve aggressively that level of competition, too.

And then at the end of the day, it is sort of, like, and on what time frame and when, meaning how many—if you believe in this platform idea, how many of them do you need before you are comfortable the consumer is going to be served, and that is just a judgment that I think the members of the institution will have to make. But I kind of think that is what is battling for supremacy.

Senator HOLLINGS. Let me correct that answer and state very categorically the institution has made that decision. You see, I heard part of that answer as I was leaving and I said, I had better get back, and I was glad the other Senators were here so that we could get this cleared up once and for all. As an administrative body, you administer the law, right?

Mr. POWELL. Correct.

Senator HOLLINGS. In all candor, the suggestion made by Senator Stevens and your answer that you get them together to set policy as a committee, I think the authorizing committee ought to get us all together with your expertise, definitely, and experience, and get us together and see what we can do. I don't think the Senators should be asking the administrative body to corral together and set the policy.

That being the case, what was the policy in the 1996 Act? You have got to get to the initiative of that particular act, which was by the Bell companies themselves. You are right about all of this bursting technology, only it did not wait until 2001 for it to burst. It was bursting out all during the 1980s and the 1990s, the Internet, computerization, satellites.

I remember a race back in the late 1970s, running for reelection. I went to Carolina Furnishings in Greenville, and talk about communications, they had an artist there that flashed a curtain pattern onto the satellite, down to Australia, and I heard the Australia fellow say he liked and ordered that particular curtain pattern. This has been going on, busting out.

The only thing was that the best of the best, namely the Bell companies, had the best and still have the best of communications. They wanted to deregulate. They wanted to get into long distance and all these particular technologies. And so they couldn't get any financing because the market was indeterminate and everything else like that. Nobody would move. They couldn't invest in it, and there were all kinds of rumors about deregulation and that we had deregulated the airlines, we had deregulated natural gas, we had deregulated trucking.

I had been a resister, but as the chairman of the committee, I started and had the original bill, S. 1822, and I said, all right, and they said, all right. I mean, it was a matter of agreement. There

was never any disagreement. We deregulated and section 251 wasn't a question of what platform and everything else like that. It said, you have got to sell at the wholesale price, period. And so on section 251, that started all the little competitive CLECs. That is what started it.

And they said, now we want you to open up and be totally deregulated, and they said, well, that is what we want. We want to get into long distance and all of these technologies. So we said, well, wait a minute, now. We do not want to mess up the local exchange and the services given and everything else of that kind. You have got a monopoly. It was created in law and we guaranteed you a profit and everything else like that and guaranteed you no competition. Now when we more or less guarantee you competition on what basis, not to extend your monopoly.

So we said, look, you can go anywhere in the country as a Bell Company and get into any of the technologies you wish, just so long as you don't do it in your own region where you have got the monopoly. We just don't want to continue that. The whole idea was not about which platforms are going on now. The distinguished chairman on the House side wasn't in the room in all of these negotiations, and we can bring back the original players and everything else about the intent of Congress, but the intent of Congress was spelled out and you can read 271 and you can see the exact wording was deliberate. That was supposed to have happened.

The whole initiative on the House side is based on a whole new technology. Data was not even considered. I can show you the statements made. Data was mentioned, 474 times both in the bill and 271, by the Senators, in the debate on the House and Senate side, and in the conference report, 470-some times. So, I mean, that whole premise of now we are going to get added services is a big charade, a big strawman to extend the monopoly.

Now, the Commission has done a good job. They have held their feet to the fire. These Bells have been coming and coming and coming, and other than a little bit down in Texas, some in Kansas, some up in New York and now moving into Connecticut, they have found compliance. But they are the ones that brought the bill and questioned the constitutionality. You could see exactly what they intended to do was to extend their monopoly some 5 years ago, from 1996 up here to 2001.

So it isn't for the Commission to decide whether there is enough competition in this platform and enough competition in that platform, no sir. It was to deregulate, period, and let the platforms ensue. Let them develop as they will, not to decide, is there enough satellite, is there enough CLECs, is there enough Bells, that kind of thing at all. That wasn't the idea. I never heard that.

I thought I had heard a part of that going out the door, and I said, I had better get back—I hoped you were still here—so I could correct that premise. It is not a deliberative matter now that we ought to sit back and start considering. What we did is not what the choices are or what the competition should look like, it was whether or not we got competition and that was it. There is no question that as long as they think they have got a Commission or they have got some in Congress to help them extend their monopoly, they will squat. They won't move. They will hold on.

They still own—of course, the CLECs have got about 8 percent. That is what you folks have found at the Commission level. But actually, the ownership of that last line into the house, into the business, is 98 percent still owned by the monopoly. That is the big thing, that somehow we have got to get on top of and make them know. I think if they know, they are ready to move and to get into all the dynamism of the technology that you described.

That is what they told us. They congratulated me on what we had done. We have got the letters and everything else like that. We worked around the clock. Their lawyers came in, just reiterated for the record on every Friday morning, and they sat with our staff on the Commerce Committee and it took over 4 years to get it done. Of course, the competition, the long distance and others, came in every Tuesday morning. But it was a very deliberate thing because we know, as we know now, everybody has got the power to kill somebody else's bill in this Congress. No one has got the real power to pass. So the sides have got to get together.

So we are in the favorable position. You can kill Tauzin-Dingell, but what I am trying to do is get you folks to understand the law and the intent so that these Bell companies will start moving, because they have been playing a sordid game now for 6 years, and going everywhere.

It was amusing, when they had the Senator from North Dakota at the hearing before the committee the other day and the question was, why don't you go to North Dakota, and they said it was too far. I said, Buenos Aires is not too far. They said it was too difficult. I said, Lima, Peru, where it is in Spanish, is not too difficult. They are making money hand over fist but they are not extending. They are investing it in all those dynamic technologies that you see are bursting out all over, and they ought to be bursting out all over.

But the kidney stone in this whole system now that must be passed are these Bell companies knowing and understanding that the law is going to be enforced, and the Commissions heretofore have been doing just that. We have had three different chairman since that time.

ADDITIONAL COMMITTEE QUESTIONS

We appreciate your appearance here this morning.

Mr. POWELL. Thank you, Senator.

Senator HOLLINGS. Thank you very much.

Mr. POWELL. All right. Take care.

Senator HOLLINGS. Yes, sir.

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

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

Question. There has been a sense in the news media, on Wall Street, and some segments of the industry that your market-based approach to regulatory policy will result in relaxed enforcement of the Telecommunications Act of 1996 and deregulation of Bell companies. Is this an accurate assumption?

Answer. The Commission has a statutory duty to carry out the laws enacted by Congress fully and faithfully, and I am committed to doing so. I have emphasized that the Commission should vigorously enforce the Communications Act and Com-

mission rules, and should do so in a prompt manner. The Enforcement Bureau and Common Carrier Bureau monitor both compliance with merger conditions and Section 271 approvals. We review, on a monthly basis, performance reports from each regional Bell Operating Company ("BOC") that has received long distance authority to determine whether there has been any deterioration in performance, so that any "backsliding" can be promptly detected and remedied. I will remain vigilant with respect to these enforcement activities and will expand them where appropriate.

To date, the Commission has found that the BOCs have opened six of their state markets to local competition. As I stated recently in connection with the Verizon Massachusetts 271 Order, the Commission will continue to apply the same rigor that it always has to Section 271 applications. No BOC will receive in-region long distance authority until it has met or exceeded the standards set forth in Section 271 thereby demonstrating that its local market is open to competition. I will continue to work vigilantly to ensure that the rules of the road are not only in place, but also vigorously enforced, so that consumers can benefit from both competitive LEC entry into the local market and BOC entry into the long distance market.

Although the Commission is working hard with its existing resources to enforce the local competition provisions of the 1996 Act, I believe there is even more that we can do with the help of Congress. Currently, under 47 U.S.C. § 503(b)(2)(B), the Commission's forfeiture authority for violations of the Act or Commission rules by common carriers is limited to $120,000 for a single violation, and $1.2 million for a continuing violation, including inflationary adjustments. To enhance the deterrent effect of Commission fines and make sanctions more meaningful, Congress should consider increasing the forfeiture amount to $1 million for a single violation and $10 million for a continuing violation.

Question. The broadcast industry is in the midst of its digital transition, and there are concerns about whether the broadcast industry will make this transition successfully. The FCC has a number of proceedings before it that relate to the digital transition. These include proceedings on must-carry and digital television tuners. What must be done, in order for the digital transition to be successful—that is for broadcasters to migrate their systems from analog to digital service, begin showing digital programming, and vacate the spectrum they are currently using for analog service?

Answer. The transition to digital television is a tremendous undertaking, which is well under way. There are now approximately 200 stations on the air with digital television signals. There are, however, a number of challenges ahead. But while the FCC has an important role in facilitating the transition to DTV, the most significant challenges are in the hands of the industries that are working together to launch this new service.

As an initial matter, the FCC should continue to provide broadcasters with regulatory and licensing certainty. For example, after extensive testing and analysis, we recently re-confirmed the 8–VSB transmission standard. We also recently clarified the level and timing of service that DTV broadcasters must provide to their communities of license. We will continue to clarify potentially ambiguous requirements to ensure that the rules of the digital road are clear. In that regard, we have in place a DTV periodic review mechanism to examine issues that arise on an ongoing basis and to provide guidance to licensees as early as possible in the build-out process. On licensing matters, we have granted, and will continue to grant, all applications that generally conform to the DTV Table of Allotments, and have expedited processing for any applicant that has expressed a readiness and a willingness to build DTV facilities.

In addition, there are several important issues affecting the DTV transition that are currently under Commission review. For instance, we are currently seeking public comment on the question of mandatory cable carriage of both the analog and digital signals during the transition. Similarly, the FCC has issued a notice of proposed rulemaking seeking comment on a requirement that certain television sets contain a tuner that can receive over-the-air DTV signals. There are also some difficult challenges to the DTV transition that are not within the FCC's direct jurisdiction, such as copy protection. In those areas, the FCC is prepared to do what it can to help facilitate agreements among industries and is monitoring discussions with the industries involved.

Question. I have long been concerned about undue concentration in the media marketplace. Today we see the proliferation of vertically integrated companies that control content and distribution in a potentially anticompetitive manner. Some of the existing rules designed to guard against such anticompetitive conduct are the program access rules, which sunset next year. Do you believe we should allow these rules to sunset, or should we reinstate them for the foreseeable future?

Answer. I have not yet formulated a position on whether Section 628(c)(2)(D) of the Communications Act should be allowed to sunset or be extended. It is widely recognized that the program access provisions of the 1992 Cable Act and the Commission's implementing rules have been instrumental in helping new entrants such as the Direct Broadcast Satellite ("DBS") companies and overbuilders compete more effectively with incumbent cable television operators. It is also true, however, that the percentage of vertically integrated program services in the cable television industry has declined in recent years. For example, between 1994 and 2000, while the total number of nationally distributed cable networks increased from 106 to 281, the proportion of these networks affiliated with one or more cable television operators actually declined from 53 percent to 35 percent.

Question. In January of this year, the D.C. Circuit Court struck down the FCC's EEO rules as unconstitutional. The FCC then petitioned the D.C. Circuit Court for rehearing. However, this month the court denied the FCC's petition for rehearing. In light of these court decisions, what action can the FCC take to foster entry of minorities and women into the broadcast industry?

Answer. I have consistently supported EEO rules that prohibit discrimination by FCC licensees. If the public interest means anything at all, it means that those who hold a government license may not discriminate against the citizens from whom the license ultimately is derived. As my voting record shows, I favor EEO rules that prohibit discrimination and require broad outreach in a race and gender neutral manner. In my view this is the only judicially sustainable way to ensure that all Americans, including minorities and women, have access to opportunities in the communications field. In this regard, I plan to ask my colleagues to work with me to develop a notice of proposed rulemaking aimed at putting such rules in place.

Question. Media consolidation is of great concern to me. I have been troubled by some of your comments that ownership caps are based on "romantic notions." Although the level of consolidation in the media industry in the marketplace today may not rise to the level of a violation of our antitrust laws, it nonetheless may have an adverse impact on such public interest objectives as diversity of ownership, diversity of voices, and localism. Can you assure this committee that you intend to work to honor these public interest objectives?

Answer. I am firmly committed to honoring all the public interest tenets of the Communications Act, including the long-standing objectives of promoting diversity and localism. I believe that, as the federal agency that regulates the communications industry, we have an obligation to ensure that the citizens of this nation have access to diverse viewpoints on matters, local and national, that affect their lives. I also recognize that the best way to fulfill that obligation may change over time. Congress also recognized this when it enacted Section 202(h) of the Telecommunications Act of 1996. I take seriously the statutory duty embodied in that provision to examine our ownership rules biennially in light of competitive changes to these industries, and I intend to carry out that duty faithfully. I can assure you that any modifications we may make to our ownership rules will only be made after a thorough and rigorous review of the impact of those modifications on the public interest.

Question. There has been substantial discussion about ways to accelerate the deployment of broadband or high speed data service. However, in Indian country, the rate of telephone penetration still lags noticeably below that of the general population. What can be done to ensure that the nation's Indian population is able to obtain the same telephone and broadband communications options that are available in other parts of the country?

Answer. The Commission has taken several important steps to facilitate the provision of telecommunications service to individuals on tribal lands, including: (1) the Tribal Universal Service Order; (2) the Tribal Wireless Services Order; (3) initiation of the Indian Telecommunications Training Initiative ("ITTI"); and (4) establishment of a Tribal Government Liaison.

In June 2000, the Commission adopted universal service measures to promote telecommunications subscribership and infrastructure deployment within American Indian and Alaska Native tribal communities, which, on average, have the lowest reported telephone subscribership levels in the country. For example, the Tribal Universal Service Order (FCC 00–208) modified the Commission's universal service rules in order to target universal service support to low-income subscribers living on tribal lands by: (1) increasing the Lifeline program discount to bring monthly telephone costs down to as little as $1 per month; (2) increasing the Link Up program discount to provide up to $100 off initial telephone installation costs; and (3) broadening the qualification criteria for Lifeline and Link Up to increase the number of low-income subscribers on tribal lands.

In the Tribal Wireless Services Order (FCC 00–209), the Commission adopted rules and policies to provide incentives for wireless telecommunications carriers to

serve individuals living on tribal lands. The Commission expanded its policies to make bidding credits available to winning bidders who use their licenses to deploy facilities and provide service to federally recognized tribal lands that have a telephone penetration rate equal to or below 70 percent. At present, the Commission is considering modifications to the rules guiding bidding credits, including: (1) expansion of the bidding program to tribal areas with penetration rates above 70 percent, but significantly below the national average; and (2) extending credits to licensees that enter into partitioning agreements with tribal authorities to allow the tribal government or a third-party carrier to provide service.

The Commission also initiated the Indian Telecommunications Training Initiative ("ITTI") last year to facilitate the deployment of telecommunications services at reasonable rates to all Indians living on federally recognized tribal lands by providing educational and networking opportunities to Indian tribal governments and telecommunications industry leaders. The first conference, held in September 2000, attracted representatives from 135 tribes, some of which have since reported successful experiences in advancing telecommunications deployment. More recently, in June of this year, an ITTI industry conference provided intercultural training and information on doing business with Indian tribes for equipment manufacturers and service providers. The second ITTI national conference will be held in September of this year, with expected attendance between 600 and 1,000 people.

In addition, for the past three years, the Commission has designated a Tribal Government Liaison to consult with tribal entities about specific measures that will assist the Commission in improving telecommunications service to Indian Country. This Liaison coordinates across Commission Bureaus and Offices on various forms of outreach to tribal entities and on matters that involve questions of federal Indian law and policy. The Liaison serves as an initial point of contact for tribes and a support resource for Commission staff.

With respect to advanced services, the Commission conducts an annual Section 706 Inquiry to determine whether advanced telecommunications capabilities are being deployed to all Americans in a reasonable and timely manner. Last year, we committed to monitoring closely the deployment of these services, especially to areas of the country that might be particularly vulnerable to not receiving timely access, such as tribal territories.

Through a combination of efforts—including the Indian Training Initiative, our Tribal Government Liaison, and our universal service and Section 706 proceedings—I am confident that we will be able to find creative ways to address the telecommunications needs of this nation's Indian population.

Question. The territories of American Samoa, Guam and the Commonwealth of the Northern Marianas Islands, despite paying into the universal service fund, have not been able to benefit from the universal service, Rural Health Care program.

The Rural Health Care Program establishes discounts based on a comparison of rural and urban telecommunication rates, with a theory that those in rural areas should pay the same amount for equivalent service as those in urban areas. This is problematic for the Pacific Insular areas due to the designation of their "urban areas." While the urban area is usually defined around a city with a population of 50,000, the FCC designated the "urban city" for these Pacific Insular areas to be Pago Pago for American Samoa, Agana for Guam, and Garrapan for the Commonwealth of the Northern Marianas Islands. None of these cities have a population of 50,000. In fact, the populations of these cities are less than 10,000.

The FCC, to its credit, recognized that the Pacific Insular Areas might be at a disadvantage and in September 1999, issued a docket for a proposed rulemaking change (FCC Docket 96–45). To my knowledge the responses to the FCC docket were all positive in support of the redefinition of the urban area.

Given the great need in the Pacific Insular areas and the positive comments to the proposed rulemaking, I hope that you would agree that it would be reasonable for the FCC to re-designate the urban areas to be either Honolulu or "the closest urban city with a population of more than 50,000 that has a medical school and advanced medical facilities."

Answer. I believe that the Rural Healthcare Program is critical to the goal of bringing the advances of medical science to underserved areas through the use of telecommunications. I intend to explore ways to more fully utilize the funds that have been set aside for this program. Specifically, I appreciate your concern that the Commission's current definition of urban area with respect to the Pacific Island jurisdictions does not enable health care providers in these jurisdictions to be connected to a major urban center. With the addition of our new Commissioners, I intend to review this matter expeditiously.

Question. The House Energy and Commerce Committee conducted a hearing two weeks ago regarding the E911 Phase 2 implementation. I believe a point made at

the hearing was that a "one size fits all" solution would have a disproportionately negative impact upon wireless carriers serving rural America than upon those serving urban America. Moreover, although I am committed to implementing Phase 2 as soon as possible, I am told that many rural carriers are finding the implementation schedule set by the Commission to be daunting due in large part to the lack of equipment needed to comply with Commission mandates.

Mr. Chairman, have you discussed enforcement options and ramification of such potential actions with your Enforcement Bureau?

Is the Commission going to fully take into account the unique needs of carriers serving rural America prior to taking any enforcement-related actions, especially those who have filed Phase 2 waiver requests?

Answer. I have met with the Chiefs of both the Enforcement and Wireless Telecommunications Bureaus to discuss E911 implementation and enforcement. Because full E911 implementation is an important public safety goal, we will not hesitate to take whatever enforcement action is warranted in cases where carriers fail to comply with the Commission's E911 requirements for both Phase 1 and Phase 2 implementation. Such enforcement action could be taken in response to a complaint or at the initiation of the Enforcement Bureau.

We are also sensitive to the special challenges faced by rural carriers. Thus, carriers have the opportunity, before any enforcement action is taken, to bring to the Commission's attention all factors that they feel mitigate—in part or in full—any sanction. Prior to any action, we would take all such factors into account, including any unique problems encountered by carriers serving rural America.

Question. Mr. Chairman, I want to thank you for responding to a letter I wrote to you regarding the Northpoint matter. I was pleased to learn that the FCC is working expeditiously so that MVDDS (multichannel video distribution and data service) will be licensed and deployed.

Hawaii gets second-class DBS service compared to the 48 continental states, but we are hardly alone in not being able to get local channels via satellite. Clearly, a new terrestrial-based multi-channel provider will help Hawaii, as well as rural America.

What is the status of the FCC's efforts and when can we expect the FCC to issue a license?

Answer. The 12.2–12.7 GHz proceeding is one of the most complex allocation proceedings before the Commission. Three services could potentially occupy this spectrum in a complex sharing arrangement that involves Direct Broadcast Satellite service ("DBS"), Non-Geostationary ("NGSO") satellites, and terrestrial users, such as Northpoint (as part of a new terrestrial fixed Multichannel Video Distribution and Data Service ("MVDDS")).

Several matters affect the Commission's ability to address these applications. For example, Section 1012 of the "District of Columbia Appropriations Act, 2001," requires the Commission to provide for independent testing for interference potential of any terrestrial service technology proposing to use the direct broadcast satellite frequency band (12.2–12.7 GHz). This requirement, to ensure that the technical interference considerations have been fully vetted and considered, has been an extraordinary undertaking. The independent tester, MITRE Corp., subsequently completed the required interference study and submitted its report to the Commission on April 18, 2001. The Commission placed the report on public notice on April 23, 2001, and sought comment on the report. Comments responsive to the study were due on May 15, 2001, and replies were due on May 23, 2001. The Commission's engineers are currently in the process of finalizing their evaluation of the engineering questions for the purpose of making a sound judgment about technical interference.

Another set of issues we have to work through that are just as significant as the technical interference question arise from the different regulatory schemes applicable to wireless land-based and satellite-based services. Because, as noted above, three services could potentially use this spectrum, the Commission must determine the applicability of the distinct statutory frameworks that are used to license spectrum for domestic and international satellite services as well as terrestrial services. The Balanced Budget Act of 1997 requires the Commission to license by competitive bidding spectrum for which mutually exclusive applications are accepted for filing, unless an exemption applies. On the other hand, the Orbit Act does not allow the Commission to use competitive bidding to license spectrum used for the provision of international or global satellite communications services. Thus, the use of the spectrum for multiple types of services presents novel issues.

Because of these complexities, this proceeding has been especially difficult to resolve. The Commission is working expeditiously in this regard and plans to act on a Further Notice of Proposed Rule Making to establish licensing, technical, and service rules for MVDDS no later than the end of this year, and—subject to the na-

ture of any petitions for reconsideration of the rule making proceeding—then expects to commence with the licensing process.

QUESTIONS SUBMITTED BY SENATOR HERB KOHL

FCC REFORM AND THE "SHOT CLOCK" BILL

Question. Chairman Powell, you've repeatedly said that you want to streamline the FCC's internal operations. In fact, you've been quoted as saying that the "most important" goal of the Commission under your watch is to make the FCC an "efficient, well-managed and decisive" organization. We encourage this sort of reform, though you've got a daunting task on your hands.

As you know, we've been particularly interested in speeding up the license transfer review process at the FCC. The "shot clock" legislation that we introduced last Congress would have imposed deadlines upon the Commission's review. You've said you want to speed up to the merger review process, but that "prophylactic" time limits were not needed. We hope you're right.

What's your plan? What will you do as Chairman to expedite FCC merger review? For example, do you plan to continue the work of the "Transaction Team" initiated by your predecessor, Chairman Kennard?

Answer. As you are aware, I have commenced a full review of the way the Commission operates with a view towards improving efficiency and making the Commission more responsive to the needs of the fast-changing industries that it regulates. The way that license transfer applications, including mergers, are processed is part of that review.

Most license transfer applications, and most mergers, do not present difficult or complex issues and can be processed quickly. At the Commission meeting on July 12, we issued a Notice of Proposed Rulemaking to streamline certain actions on applications to transfer control of authorizations to provide domestic telephone service under Section 214 of the Act. On the other hand, some mergers present complex legal and factual issues that require careful and thorough consideration. I believe that active case management and avoiding duplication of the work of other agencies and departments of government is the best way to ensure timely disposition of these cases. To this end, the Transaction Team continues to play an important role as an active coordinator of the Commission's effort in merger review. I am confident that its timely involvement in major transactions will have a beneficial effect in expediting the merger review process.

CARIBBEAN PHONE SCAMS

Question. Mr. Chairman, let's turn to an issue that may not be making the headlines, but one that is important to American consumers. As you know, 20 new area codes were created for the Caribbean in 1999. Though these numbers are international toll calls, they can be dialed as easily as any other long distance call in this country. What's worse is that a few unscrupulous characters—con artists—have devised schemes to fraudulently lure Americans to call these international numbers. They get people to call these numbers with real bottom-of-the-barrel tactics—telling people they need to call to receive information of an injured loved one, to avoid a lawsuit, or to accept a luxurious prize or vacation. Of course, the consumer doesn't realize she is calling an international phone number until the increased charges appear on the phone bill. These scam artists need to be put out of business.

Chairman Powell, I have an idea that would put an end to these "international calling scams" and I'd like your input. We are considering drafting legislation that would require a notification to the caller before an international call is connected. For example, say you dial an international number—intentionally or by accident. Before the call begins to ring, you would hear a simple, short notification that you are dialing an international phone number that may incur higher rates. What do you think of that idea, both as a way to prevent these scams and as a pro-consumer measure?

Answer. I applaud your goal. We at the Commission are aware of and are also concerned about these scams, and we encourage consumers to contact our Consumer Information Bureau and to use our informal complaint procedure. When consumers send a complaint to us we forward it to the relevant carrier and that carrier is required to respond to us, and the consumer, in a limited amount of time. We have had a lot of success resolving complaints to consumers' satisfaction using this process. I should mention, though, that out of the tens of thousands of complaints we received in the last twelve months concerning telephone issues only approximately one hundred touched on this issue. As to the idea of mandating notifications on all

international calls, I believe there may be value in consulting with industry. Carriers are in the best position to provide information on how such notification might be done, whether all 2,600 providers of long distance service would need to participate, the costs that would be imposed on carriers, and whether those costs would increase rates for consumers.

UNIVERSAL SERVICE REFORM

Question. The Commission recently dealt with some difficult issues regarding smaller telephone companies. You are to be commended for approving the Rural Task Force Proposal in which many of my constituents participated. As you are well aware, the solvency and vitality of the Universal Service Fund is very important to the ratepayers of Wisconsin.

What are your views on additional proposals and policy suggestions aimed toward guaranteeing the solvency of the Fund? For example, would you include an initiative to expand the base of the Fund and if so, what services would you cover with a larger Fund?

Answer. The solvency of the Universal Service Fund is of great concern to me, especially in light of recent changes in the telecommunications marketplace. As you know, Section 254 of the Communications Act mandates that only telecommunications carriers that provide interstate service shall contribute to universal service. Although universal service support programs have grown, growth in interstate industry revenues—the contribution revenue base—has not kept pace with program growth. Accordingly, the Commission recently initiated a proceeding to streamline and improve the universal service contribution system. Among other things, the Commission sought comment on ways to expand the contribution base, including, for example, whether carriers should contribute on a flat-rate basis rather than contributing a percentage of their interstate revenues.

The Commission also recently initiated a proceeding to review the list of services supported by federal universal service. The Commission has asked the Federal-State Joint Board on Universal Service to review the definition of the core services supported by universal service, including whether to include intrastate or interstate toll services, expanded area service, and prepaid calling plans.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question. Chairman Powell, I am pleased to welcome you to this Subcommittee.

As you know, New Mexico is a large, sparsely populated rural state.

As such, translators are of immense importance to the people of my state. In fact, one-third to one-half of New Mexico's population rely on translators to bring television broadcasts to their homes.

The statutorily mandated conversion from analog to digital television requires new digital translators to be acquired and sufficient spectrum to translate digital signals.

Recognizing that translators represent the only source of free, over-the-air broadcasting capability to rural areas, what is the FCC's plan for digital translator service to those regions? If no such plan has been initiated, when could we expect the Commission to act on this important issue?

Answer. In January of this year in the DTV Periodic Review, the Commission recognized the need for a proceeding to address fundamental issues regarding authorization and protection of DTV booster, DTV translator and digital Low Power Television stations. The Commission has authorized experiments for digital translators to further evaluate the feasibility of this service. Those experiments are now being conducted in Utah and some of the initial indications have been encouraging. We expect to have a final report on the results of the experiments early next year.

Question. The FCC has stated that delivery of broadband internet access is particularly slow in rural and minority communities. "Rural" and "minority" define much of New Mexico.

I understand that deploying these services is a business decision rooted in profit maximization and that some companies focus investment on denser population centers, rather than rural America.

Yet, I am researching options to ensure that rural America, like my state of New Mexico, may have the same level of services as our biggest cities.

I applaud those companies who invest in rural America and look forward to working with them. I am also interested in new technologies that focus on rural and underserved areas.

Satellite technology that provides high speed broadband service is one such innovation. Yet, I am troubled by reports that certain companies horde orbital licenses

without developing and deploying satellites when other companies are prepared to bring such services to rural areas but lack the requisite licenses.

It is my understanding that when the FCC originally assigned licenses in May 1997 it waived its anti-warehousing rules but said it would, instead, strictly enforce milestones to ensure the utilization of slots.

Has this approach been effective in requiring first-round licensees to deploy their satellites or return their licenses ensuring competition in rural markets for high-speed data services via satellite?

Answer. The enforcement of milestones has been very effective in ensuring competition and the use of valuable orbit and spectrum resources. By way of clarification, however, we note that the Commission did not waive its "anti-warehousing" rules in assigning licenses in the first processing round for Ka-band satellite systems. Rather, the Commission waived its financial requirements. Generally, the application of this rule prevents underfinanced applicants from holding spectrum while attempting to procure financing to the detriment of qualified applicants ready to go forward. However, because there were sufficient orbital locations available to accommodate all applicants, with additional locations left over, the Commission determined that authorizing all of the first round systems would not prevent any applicants from using this spectrum. To ensure orbit and spectrum resources did not go unused, the Commission stated that it would enforce system milestone schedules.

Last year, the Commission demonstrated its commitment to enforcing milestones when it revoked the authorizations of three Ka-band licensees for failure to meet their construction commencement milestones. Although the Commission subsequently reinstated the license of one company for good cause, as a result of these revocations orbital locations that would not have otherwise been utilized are available for applicants in the second Ka-band processing round. Thus, it appears that all of the second round applicants may be accommodated. The entry of new licensees will expand and improve the variety of advanced communications services to the United States, including rural and underserved areas. The Commission will continue to monitor all licensees for compliance and enforce its milestones as necessary.

Question. I strongly support competition in business. Competition gives consumers better products, optimal service, and better prices.

As you know, some mobile telephone companies claim that they require more spectrum in order to provide additional services. Spectrum is a public commodity that the FCC is charged with managing and licensing.

Recognizing the virtues of competition, the revenue generated through spectrum auctions, and the consumer's interest in diverse products and services;

Should incumbent spectrum licensees demonstrate that they are using spectrum before they are given more?

Answer. A requirement that incumbent licensees demonstrate that they are using spectrum before they are given more may be more effective in some areas than in others. The Commission, for example, has rules for some non-commercial wireless services (e.g., private land mobile, non-commercial microwave, maritime) that require licensees to demonstrate they are adequately using their current spectrum holdings before applying for more spectrum. These non-commercial licenses, which are not awarded through competitive bidding, tend for be for smaller amounts of spectrum than those licenses awarded through competitive bidding. These licenses also are not generally used for wide-area systems and often have various eligibility and operational restrictions.

On the other hand, the Commission does not require commercial mobile wireless providers to utilize all of their currently held spectrum before acquiring more spectrum. In the commercial context, we believe there is a need to maintain some additional licensing flexibility that permits licensees to some extent to aggregate their spectrum holdings to accommodate spectrum-intensive advanced telecommunications services. In these circumstances, we have used other types of safeguards. The Commission maintains performance requirements for commercial mobile providers, as directed by the Congress. Commercial licensees must meet specified coverage requirements or demonstrate substantial service at certain periods within their license terms. The Commission monitors implementation of these rules to ensure that they are meeting the goals set forth by statute or public policy and will readdress them as conditions warrant. Moreover, increasingly, market conditions provide strong incentives for licensees to use spectrum allocated to them, especially as the number of commercial mobile telephone service providers continues to grow. The Commission's latest report on this industry—*The Sixth Annual Commercial Mobile Radio Service ("CMRS") Competition Report*—estimates that 91 percent of the U.S. population lives in counties with some level of mobile telephone service by three or more distinct providers, while 75 percent live in counties with five or more providers. These carriers are finding that, in order to remain competitive, they must

offer a larger variety of services at better prices, and, it is estimated that the move towards third generation ("3G") high-speed mobile data and voice service will only increase this competition.

The Commission will continue to monitor closely both marketplace and policy incentives to ensure that the spectrum is used efficiently, whether for public safety, private or commercial purposes, and will monitor their effectiveness in helping to ensure spectrum efficiency.

SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF LAURA SIMONE UNGER, ACTING CHAIRMAN

SUMMARY STATEMENT OF CHAIRMAN UNGER

Senator HOLLINGS. Chairman Unger, will you please come forward. Chairman Unger, we welcome you to the committee and we would be delighted to hear from you at this time.

Ms. UNGER. Thank you very much, Chairman Hollings. I think I now know what to say about competition, should that issue arise during the course of my testimony today.

But I appreciate the opportunity to testify today on behalf of the Securities and Exchange Commission in support of the President's fiscal year 2002 budget request. As I am sure you know the SEC today faces some of the most complex and difficult issues it has ever considered.

At the same time, more Americans invest in our securities markets than ever before. Twenty years ago, only 5.7 percent of Americans owned mutual funds. Today, some 88 million shareholders representing 51 percent of U.S. households hold $7.4 trillion in mutual funds. This exceeds by about $4 trillion the amount on deposit at commercial banks and surpasses by $2 trillion the total financial assets of commercial banks.

At the same time, our markets continue to be transformed by the rapid pace of technological change in recent years. New technologies, new market entrants, and new financial products are reshaping our markets. For example, electronic trading platforms, some of which didn't exist just a few years ago, are now matching buyers and sellers of hundreds of millions of shares every day, anonymously, and for fractions of a penny a share.

Consider also emerging new products. The QQQ, which the industry calls Cubes, is an index product that tracks the Nasdaq 100 and didn't exist 2 years ago. Yesterday, it traded almost 53 million shares, which is more shares than were traded in Microsoft, GE, and IBM combined.

No less important, our markets today are increasingly global, a trend that most people expect to accelerate in the coming years. Globalization, as you might expect, affects almost every aspect of the SEC's work. We must be able to regulate our markets without boundaries and investigate and prosecute securities fraud irrespective of where that conduct originated.

All of these developments raise complex and critically important challenges that the SEC must be prepared to meet. At the same time that our markets are undergoing such dramatic changes, the SEC is struggling to keep pace. With approximately 3,000 staff, the SEC is a small Federal agency, but the industry we oversee grows daily and includes nearly 700,000 registered representatives employed by 8,000 broker-dealers, some 15,000 companies that file re-

ports with us, some 30,000 investment company portfolios, and almost 8,000 registered investment advisors. Over $41 trillion in stocks are expected to trade hands this year on the exchanges and Nasdaq.

Against this backdrop, the President's fiscal year 2002 budget requests an appropriation of $437.9 million for the SEC. This is only 3.6 percent more than our fiscal year 2001 enacted level of $422.8 million. The $437.9 million request provides the resources necessary to meet most of the Commission's needs. It is a zero-growth budget that funds all but $5.2 million of the Commission's cost increases with no programmatic staffing increases.

We support this request. Ironically, though, we can manage at this level only because of the severe staffing problems that we face. In the last 3 years, more than 1,000 SEC employees, nearly one-third of the agency's staff, have left the Commission, which is a rate nearly double the Government average. Not only do we lose too many employees, but we also struggle to find qualified people willing to work for the salary and benefits we offer.

Over the last several months, the SEC consistently has had about 280 vacant positions, amounting to almost 9 percent of our hiring ceiling. Because filling open positions has proven to be so difficult, we intend to use the staffing funds to cover some of the mandatory costs for fiscal year 2002. However, constraining the SEC's growth and relying on cutting unfilled positions is not sustainable over the long term.

In the coming years, I do believe the SEC will need staffing increases to meet the challenges that I described earlier. In addition, the staffing increases will be needed to meet our increasingly complex regulatory responsibilities under the Gramm-Leach-Bliley Act and the Commodities Futures Modernization Act of 2000.

Finally, as you know, both the House and Senate have passed legislation that would, among other things, give the SEC the ability to grant and match the pay of our sister regulators at the Federal banking agencies, known as pay parity. While the SEC economists, lawyers, accountants, and examiners perform many of the same duties and responsibilities and functions as the bank regulators, and we often work side by side with them, the staff at the Federal banking agencies make anywhere from 25 to 40 percent more than the SEC staff, their counterparts at the SEC. This pay disparity has been a significant drain on morale and has perpetuated the staffing crisis that has threatened to hamper the agency's effectiveness.

As you know, the SEC, our Congressional oversight committees, the securities industry, and the corporate community have all been strong supporters of pay parity. Pay parity is important for investors, the securities industry, and for our markets. I do hope this critical legislation will be enacted soon and passed in conference in the near future. In the event that pay parity is enacted during this session, the full funding for our new pay scale would require additional funds beyond our current request.

PREPARED STATEMENT

I appreciate the opportunity to appear here today and request that my written statement be included in the record.

Senator HOLLINGS. It will be included.

[The statement follows:]

PREPARED STATEMENT OF LAURA S. UNGER

Chairman Hollings, Ranking Member Gregg, and Members of the Subcommittee: I appreciate this opportunity to testify on behalf of the Securities and Exchange Commission ("SEC" or "Commission") in support of the SEC's fiscal 2002 budget. The SEC is a civil law enforcement agency. Since its creation in 1934, the SEC's mission has been to administer and enforce the federal securities laws in order to protect investors, and to maintain fair, honest, and efficient markets. We accomplish this mission by overseeing the markets through a public-private partnership. This system of shared regulation among the SEC, state regulators, self-regulatory organizations ("SROs"), and the securities industry enables the Commission to leverage its resources and is markedly different from the approach taken by other federal regulators. Even with this system, however, the SEC must stretch to keep pace with the rapidly changing marketplace.

The Commission today faces some of the most complex and difficult issues it has ever considered. No segment of American business has been more transformed by the rapid pace of technological innovation in recent years than the securities industry. New technologies, new participants, and new financial products are reshaping our markets. Our markets also are becoming increasingly global—a trend that most expect to accelerate in the coming years. In addition, our national securities markets are taking steps to shed their long-held membership status and are moving to become publicly held entities. In short, it is now more important than ever that the SEC remain vigilant in policing and maintaining the integrity and transparency of our securities markets.

We are a nation of investors. Twenty years ago, only 5.7 percent of Americans owned mutual funds. Today, some 88 million shareholders, representing 51 percent of U.S. households, hold mutual funds. Our nation's investors have an unprecedented stake in our markets. Whether through college savings plans or retirement accounts, our collective stake in U.S. markets continues to grow, and we are increasingly dependent on the success and integrity of those markets. In addition, online trading and new technologies have empowered individual investors in ways that were previously unimaginable. It is against this backdrop that I intend to discuss the President's fiscal 2002 budget request for the SEC and the primary challenge we currently face: our inability to attract and retain staff.

The President's fiscal 2002 budget requests an appropriation of $437.9 million for the SEC, 3.6 percent more than our fiscal 2001 enacted level of $422.8 million. This $437.9 million request, while providing the resources necessary to meet the Commission's current needs, is a zero-growth budget. It only partially funds the Commission's inflationary and mandatory cost increases, does not provide any programmatic staffing increases, and actually requires the Commission to make a small reduction in its authorized staff level.

We intend to support the Administration and meet the challenges ahead by continuing to use our existing resources as efficiently and effectively as possible. Unfortunately, and perhaps ironically, we only have the ability to operate at this funding level because of the severe staffing problems we currently face. In particular, our inability to pay staff at a level comparable with the other federal financial regulatory agencies has hampered our ability to attract and retain staff. The resulting high turnover that we have experienced has resulted in a significant efficiency loss and has left certain positions unfilled indefinitely. Because filling these positions has proven to be so difficult, we intend to fund some of our mandatory costs by making reductions in the number of vacancies that we will fill in fiscal 2002. However, constraining the SEC's growth and relying on cutting unfilled positions is not preferred and certainly is not sustainable over the long term.

The SEC will need significant additional resources in fiscal 2003 and beyond to respond to both the continuing innovations in our markets and the increasing regulatory responsibilities we face as a result of several recent legislative initiatives. In particular, we will require additional examination and oversight staff to meet our new responsibilities under the recently enacted Commodities Futures Modernization Act of 2000 ("CFMA"), which provides for joint oversight with the Commodities Futures Trading Commission of new security futures products, and the landmark Gramm-Leach-Bliley Act ("GLBA").

In addition, the SEC critically needs to stay abreast of the rapid evolution of our securities markets. New markets and new trading models are constantly emerging. Electronic trading platforms—some of which didn't exist just a few years ago—are now anonymously matching buyers and sellers of hundreds of millions of shares

every day. In February of last year, the Commission approved the International Securities Exchange's application to become the first new national securities exchange in twenty-seven years. Now, four entities have applied for registration as an exchange. At the same time, the traditional exchange and over-the-counter markets continue to innovate. Both the New York Stock Exchange and Nasdaq are in the process of incorporating greater automation into their markets, launching complex and important initiatives such as NYSE Direct and the SuperMontage.

No less pressing is our need to keep up with the challenges presented by today's increasingly global marketplace. Companies throughout the world are now seeking capital on a cross-border basis. In addition, U.S. investors today can view real-time quotes from foreign markets, and electronic linkages reduce the costs to U.S. investors of trading directly in foreign markets. These developments make it increasingly important for the SEC to promote high quality disclosure and transparency standards, including high quality internationally acceptable accounting standards.

Despite these long-term needs, our fiscal 2002 request will allow the Commission to continue such important initiatives as:

—combating the rise in Internet and financial reporting fraud;
—overseeing the securities industry's automation changes in connection with the transition to a T+1 settlement system;
—maintaining our formal inspection cycle program for the increasing number of alternative trading systems;
—updating and improving prospectus requirements for variable insurance products;
—developing a tailored disclosure document for unit investment trusts; and
—addressing developments in domestic and international accounting and auditing matters.

Having outlined our ongoing priorities and how we intend to manage the funding level approved in the President's budget, I would now like to discuss the Commission's severe difficulties in attracting and retaining qualified staff and the status of our pay parity effort.

STAFFING CRISIS

On June 14, 2001, the House of Representatives voted 404 to 22 in favor of H.R. 1088, the Investor and Capital Markets Relief Act, the companion to S. 143, the Competitive Market Supervision Act of 2001, which the Senate passed by unanimous consent earlier this year. Both of these bills would provide the SEC with the authority necessary to match the pay and benefits of federal banking agencies. We currently believe that this legislation will be enacted prior to the start of fiscal 2002 on October 1, 2001. As such, I would like to take this opportunity to review the SEC's current staffing crisis and to discuss the additional resources that we will need to implement pay parity.

As a result of Congress's passage of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) in 1989, none of the federal banking regulators is subject to the government-wide pay schedule. As a result, they are able to provide their staffs with appreciably more in compensation and benefits than we can. This disparity is a significant drain on morale. It is difficult to explain to SEC staff why they should not be paid at comparable levels, especially when they are conducting similar oversight, regulatory, and examination activities. It is one thing for staff to make salary comparisons with the private sector, but quite another for them to see their government counterparts making substantially more than they are.

This is particularly true in the wake of the landmark GLBA mentioned above. The GLBA demands that the Commission undertake examinations and inspections of highly complex financial services firms. Moreover, by allowing additional affiliations between securities firms, banks, and insurance companies, the GLBA requires increased coordination of activities among all the financial regulators. Even more so than in the past, Commission staff are working side-by-side with their counterparts from the banking regulatory agencies, including the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. However, we cannot match the salaries that our sister regulators pay.

I appreciate the continued support of our authorizing and appropriating committees and their recognition that pay parity is good public policy. With approximately 3,000 staff, the SEC is small by federal agency standards. This staff is charged with overseeing an industry that includes about 700,000 registered representatives of approximately 8,000 broker-dealers, some 15,000 companies that file reports with us, about 30,000 investment company portfolios, and about 8,000 registered investment advisers. Over $41 trillion in stocks are expected to trade hands this year on the nation's stock exchanges and Nasdaq, including transactions on numerous new elec-

tronic communication networks. Mutual funds now hold close to $7 trillion in assets. This is more than double the amount on deposit at commercial banks and surpasses by $2 trillion the total financial assets of commercial banks. Unlike bank deposits, however, mutual fund assets are uninsured and no SROs help us regulate this sector. Social security reform initiatives also raise the possibility of greatly increasing the number of American's invested in our capital markets.

With such important responsibilities and at such a critical time in our markets' development, the Commission simply cannot afford to continue to suffer a serious staffing crisis. Since 1996, our attrition rate has been increasing, particularly among our more senior professionals. Over the last two fiscal years, the Commission has lost 30 percent of its attorneys, accountants, and examiners.[1] If this trend continues unabated, the Commission's mission of protecting investors and maintaining market integrity will be seriously threatened.

We currently estimate that implementing pay parity will cost approximately $70 million in fiscal 2002, with yearly adjustments for inflation thereafter. This increase brings our revised fiscal 2002 appropriation request to $508 million. While I recognize that this represents a large increase for the Commission, I strongly believe that the most vital resource the SEC has is its highly professional and well-regarded staff and that they ought to be compensated at levels consistent with the other Federal financial regulators.[2] I look forward to working with you to ensure that this additional funding is provided and this issue is resolved.

FEE REDUCTIONS

In addition, I would like to take this opportunity to briefly comment on the fee provisions of both S. 143 and H.R. 1088. Both bills would significantly reduce fees for investors, market participants, and companies making filings with the Commission, while preserving the amount of offsetting collections available to this Committee to fund the agency in coming years.[3] These bills also spread the cost of regulation among those who benefit from the activities of the Commission and address the agency's funding structure in a comprehensive and balanced manner. The fee provisions in these bills not only have the support of the SEC, but also of the Administration.

STATION PLACE LEASE PROCUREMENT

Finally, I would like to provide some additional details regarding the Commission's new headquarters lease. On May 29, 2001 the SEC awarded a 14-year lease for 650,000 rentable square feet at Station Place, adjacent to Union Station, to Louis Dreyfus Properties, LLC, of New York. This decision was made after an extensive two-year procurement during which the Commission held a vigorous competition and consulted with its authorizing committees, appropriations committees, the Public Works Committee, the General Services Administration ("GSA"), the Office of Management and Budget ("OMB"), and the District of Columbia.

The Commission's current headquarters lease at 450 5th Street, N.W. ends in fiscal 2004 and we were required to compete for a new lease pursuant to the Competi-

[1] Over the past several years the Commission has explored virtually every available approach to keeping staff longer. In 1992, we petitioned and received from the Office of Personnel Management ("OPM") the authority to pay the majority of our attorneys and accountants approximately 10 percent above their base pay. While special pay was a step in the right direction, its value erodes over time and it proved to be a short-term solution. This is because staff that receive special pay do not receive the government-wide locality increase each year, which means that their special pay becomes less valuable over time and hence becomes less effective as a retention tool. Our appropriation last year included funds to reinstate special pay rates for certain attorneys, accountants, and examiners and OPM recently approved our proposed special pay rates for these employees. While this should help, based on our experience we know that this is at most a temporary and partial remedy to the SEC's staffing crisis. In addition, even with special pay, the salaries at the federal banking regulators are still substantially more than we can pay our staff.

[2] A broad cross-section of the securities industry, corporate community, and investor groups have expressed support for pay parity, including the Securities Industry Association, the Investment Company Institute, the Investment Counsel Association of America, the Business Roundtable, the California Public Employees' Retirement System (CalPERS), Teachers Insurance and Annuity Association College Retirement Equity Fund (TIAA-CREF), the National Association of Securities Dealers, the New York Stock Exchange, and Fidelity Investments.

[3] The Congressional Budget Office estimates that fees required to be collected by the SEC from all sources will total over $2.47 billion in fiscal 2001. This amount represents more than five times the SEC's enacted fiscal 2001 appropriation of $422.8 million. As stated, both S. 143 and H.R. 1088 are designed to reduce fees while maintaining the amount of offsetting collections that are available to the SEC's appropriators. In fiscal 2002, this amount is estimated at $1.15 billion.

tion in Contracting Act.[4] The SEC has been at this location since 1982 and has been suffering from overcrowding for the last several years. In calendar 2000, we procured additional space at 901 E Street, N.W. and moved several units out of our headquarters to ameliorate overcrowding.[5] While this last move was essential to deal with severe overcrowding, it has negatively impacted the activities of the Commission and reduced our efficiency. In preparing to obtain new space, the SEC sought to consolidate the agency's offices, relieve existing overcrowding, meet safety and health requirements, and ensure adequate access to mass transit. We received a number of proposals and enjoyed a healthy competition. Station Place offered the best means to reach our goals. More specifically, it was the lowest cost, highest technically rated offer in the procurement and represents the best value to the government.

During this procurement, the Commission followed all applicable laws and worked closely with GSA and OMB. From an appropriations perspective, the Commission's award to Station Place was scored as an operating lease and will not require an upfront appropriation of funds to be constructed. Instead, its rental costs will be covered on a yearly basis through our appropriation, much as now. I want to assure you that this move is appropriate for the Commission, good for the city, and the best deal available to the government.

CONCLUSION

Our nation's markets and the SEC are at a crossroads. New technologies and activities continue to pose new challenges and threats to the integrity of our markets, as does increased globalization. I appreciate the support that this Committee has provided the SEC in the past and look forward to having a fruitful dialogue regarding the resource needs and policy issues that currently face the Commission. I also appreciate the willingness this Committee has already shown in recognizing the need to resolve the SEC's intractable staffing problems. I look forward to working with you toward final passage and funding of pay parity legislation.

PAY PARITY

Senator HOLLINGS. Let me ask you, how much for pay parity?

Ms. UNGER. How much is the cost?

Senator HOLLINGS. Right.

Ms. UNGER. Seventy-point-nine million dollars.

Senator HOLLINGS. You sound the alarm that one-third of the staff has left in the last year and you still have 280 vacant positions. At the same time, though, your request assumes the reduction of some 41 FTEs and 57 other positions, almost 100 positions. Do you support that request, or was that OMB's request?

Ms. UNGER. That was the President's budget, which we do support.

PENALTY COLLECTIONS

Senator HOLLINGS. And then that is not what SEC needs. We want to make sure you do a good job, and heretofore, you have done a good job. I have a question about the disgorgement, because you have got a recent Inspector General's report that was just published that you let quite a bit of penalty fines go by the board. Can you explain that?

Ms. UNGER. Yes. I think the report mentions that of about $366 million of penalties that were assessed, about $60-something mil-

[4] The Commission currently has several leases expiring in the regions, in addition to the agency's headquarters lease. We originally signed many of these leases during the late 1980s and early 1990s when prices in the real estate market were depressed and significantly lower than the rates that can be obtained today.

[5] The Commission previously moved a large portion of its administrative, information technology, and operations functions out of headquarters and into the Commission's Operations Center in Alexandria, VA in the early and mid 1990s as a first step toward alleviating overcrowding. Those functions will remain in Alexandria after the Commission moves to Station Place.

lion was waived. That is usually done under very specific circumstances where the defendant has made a showing that they have an inability to pay.

I, as a Commissioner, when I first joined the agency, did a top-to-bottom review of the Enforcement Division and noted that we could do better in collecting penalties, and I think we have strengthened the criteria for permitting when defendants can waive disgorgement. But, of course, we are constantly looking at and reviewing that.

We have, since the report that you just mentioned was released, implemented a few additional steps. One is that we require the defendant to sign a waiver so that we can get their actual financial report, their public report. Another is that the Chief Counsel's Office of our Division of Enforcement will review each and every request for a waiver. And the third thing is the inability to pay. We have established a more consistent approach to granting these waivers and have established clearer criteria for the staff.

VACANT POSITIONS

Senator HOLLINGS. How much money do you need to fill those 280 vacant positions?

Ms. UNGER. I think the figure that we had given as to what we would like our budget to be was closer to $577 million.

Senator HOLLINGS. Five-hundred-and-seventy-seven million?

Ms. UNGER. That would include pay parity and full staffing.

Senator HOLLINGS. Now we are talking sense.

Ms. UNGER. Of course, we can always make do with more money, Mr. Chairman.

CONCLUSION OF HEARINGS

Senator HOLLINGS. Well, we appreciate very much your opinion and indulgence. With the late hour and everything of that kind, the committee will leave the record open, because we have some Senators that want to ask some questions. We will leave that record open for those questions and your answers, and unless you have other comments, the committee will be in recess subject to the call of the Chair.

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

Senator HOLLINGS. Thank you very much.

The subcommittee is in recess.

[Whereupon, at 11:29 a.m., Thursday, June 28, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2002

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

DEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2002 budget request for programs within the subcommittee's jurisdiction.]

THE JUDICIARY

PREPARED STATEMENT OF HONORABLE JOHN G. HEYBURN II, CHAIRMAN, COMMITTEE ON THE BUDGET, JUDICIAL CONFERENCE OF THE UNITED STATES

INTRODUCTION

Chairman Gregg and Members of the Subcommittee, thank you for giving me the opportunity to testify on the judiciary's fiscal year 2002 budget request. I look forward to working with you, the other members of the subcommittee, and your dedicated staff as we go through this process.

Before addressing our fiscal year 2002 request, on behalf of the entire judiciary, and especially our very busy courts along the southwest border, I would like to express our sincere appreciation for the generous funding levels this subcommittee and the Congress provided to the judiciary for fiscal year 2001. As you know, the courts were facing a severe crisis along the southwest border and the fiscal year 2001 appropriations provided the funds needed to hire staff to address the workload explosion that occurred there over the past few years. It is the first time since 1998 that we have been able to fund the courts' staffing needs. For that we are thankful. The increase this subcommittee provided in fiscal year 2001 will demonstratively improve justice across the country. I would be remiss if I did not state at this point that while the additional staff resources provided by Congress will make a huge difference, many courts, especially those along the southwest border, are woefully short of judges. I will discuss this issue in more detail later in my statement.

BUDGET OVERVIEW

Overall, the judiciary has submitted a fiscal year 2002 budget request that is necessary to maintain our current level of staff and operations and to allow the courts to handle growing workload and other critical needs. In total, we are requesting a $610 million increase in appropriations for all judiciary accounts over the fiscal year 2001 enacted level. More than three-quarters of this increase ($464 million) funds base adjustments needed to continue current operations. The remainder ($146 million) is primarily to rectify the critical deficiencies in the Supreme Court Building that I believe you will be discussing with the justices next week ($110 million), and to continue the efforts begun last year to provide the courts the staffing resources

needed to keep pace with workload increases. A detailed explanation of our fiscal year 2002 request is included as an Appendix.

ENSURING THE QUALITY OF JUSTICE

An independent judiciary that all of our citizens trust and respect is a fundamental tenet of our nation. In order to foster that independence, citizens must believe that their disputes will be resolved in a fair and expeditious manner. To do so requires a commitment by the Congress to provide the courts adequate resources. Our request before you today provides a blueprint of those resource requirements.

Of course, we in the Judicial Branch must also make a commitment, to do everything in our power to utilize the resources provided by Congress effectively and efficiently. Later in my statement I will discuss our ongoing efforts to contain costs in the judiciary, but first I would like to take you behind the scenes and provide examples of the dedicated work performed throughout our judicial system.

Probation officers who supervise convicted felons as part of their sentence are a key component of the judicial system. Our probation officers work very closely with those they supervise, not only to ensure those individuals do not slip back into a life of crime, but also to assist them in changing their lives for the better. For example, Val, a single mom who was deeply involved in the drug culture, was imprisoned for distribution of cocaine. Once released from prison, Val was placed under the supervision of one of our probation officers. With the encouragement and support of her probation officer, Val worked steadily and supported her child, and at the same time, earned an undergraduate degree. She then went on to obtain a law degree, was subsequently admitted to the state bar, clerked for a state court judge, and was eventually admitted to practice in federal court.

The federal judiciary also brings about fairness and justice to the common citizen who is wronged and has only the court as its last resort for protection.

A probation officer's rigorous enforcement of the conditions of supervision compelled one offender, a businessman who had embezzled from his employees' pension funds, to return his ill-gotten gains back to his victims. The offender steadfastly protested that he did not have money to pay the court-ordered restitution. However, the probation officer's scrutiny of the offender's affluent lifestyle and his questionable commingling of business and personal finances revealed otherwise. As a result of the officer's efforts, the offender paid $40,000, the balance of restitution owed.

Respect for our system of justice inspires the citizens who serve as jurors to go beyond the call of duty, as evidenced in a recent civil case that jurors considered for three days before reaching a verdict. It was later discovered that one of the jurors was functionally illiterate. The others took the time to read every exhibit to him.

Finally, this country's independent judiciary serves as a model worldwide to bring fairness and human rights to other nations. A visit by Russian Judge Sergei Pashin to a United States District Court helped inspire his desire to change Russia's courts into something more than a rubber stamp for prosecutors. Judge Pashin found in America a system of justice that was ". . . interested only in finding the truth."

Our ability to provide a level of service our citizens deserve is dependent in large part on the resources provided by Congress. The balance of my statement describes those resource needs in the following areas—(1) an appropriate level of compensation for private panel attorneys; (2) a level of judicial officers and support staff commensurate with the workload placed upon them; (3) an adequate level of security in the courthouses; and (4) adequate compensation for our judicial officers.

DEFENDER SERVICES

There are two areas where significant increases in resources are required in the defender services area to avoid adversely affecting the quality of our justice system. An increase of $23 million is needed to provide counsel for 5,200 additional representations projected for fiscal year 2002. This requirement is in large part a function of the projected increase in criminal filings by the Department of Justice. The other significant increase requested in this account is to provide $35 million to raise the compensation for private panel attorneys.

The increase of $35 million to raise the compensation for private panel attorneys is of the utmost importance to the federal judiciary. One of the biggest impediments to maintaining a fair system of justice is the low rate of pay that private panel attorneys receive. In 1986, Congress amended the Criminal Justice Act (CJA) to allow the judiciary to pay $75 per hour for both in-court and out-of-court work. At that time, the hourly rates were $60 for in-court and $40 for out-of-court. This amendment also allowed the judiciary to raise the $75 rate in future years to reflect inflation. Instead of keeping pace with inflation, Congress has only funded an hourly

rate of $75 in-court and $55 out-of-court in most locations. In 1986 dollars, this $75/$55 rate is equivalent to only $46 in-court and $33 out-of-court, significantly less than the $60 and $40 rates that were effective in 1986.

The $113 rate that is being requested for fiscal year 2002 is the amount that was envisioned by the amendment to the CJA in 1986, adjusted for inflation as the statute provides. The failure to implement higher panel attorney rates is increasingly becoming a problem in the federal criminal justice system. In some districts, judges are unable to find qualified attorneys to take many CJA appointments because the current rate often does not cover overhead costs. For example, a panel attorney with over 20 years of criminal law experience indicated that he is unable to provide his employees with health care or retirement benefits due to the low rates of pay. He added that rents in downtown Seattle have skyrocketed in recent years, from $12 per square foot in 1988 in his building to approximately $36 today.

The quality of justice will suffer further and citizens will begin to question the fairness of our judicial system when unqualified lawyers who don't have expertise in federal criminal practice are appointed to represent those defendants who are financially unable to retain counsel.

COURT SUPPORT STAFF

The judiciary is requesting $16 million for 212 new court support FTE to allow the courts to keep pace with changes in its largely uncontrollable workload. Court staff are the backbone of court operations and as caseload grows, staff must grow along with it. Without sufficient staff, processes are short-changed, cases may be delayed, support provided to judicial officers and the public will deteriorate, and public safety is compromised. This can lead to a lack of confidence in our judicial system among our citizenry.

Most of the requested increase is for the probation and pretrial services program. Probation and pretrial services offices play an integral role in our criminal justice system and ensure public safety in our communities. There are almost 129,000 offenders under the supervision of probation and pretrial services officers as compared to 125,000 prisoners currently in federal prisons. The daily cost of supervision in the community in fiscal year 1999 was $7.74 compared to $59.41 for the Bureau of Prisons. The extent to which the offices are adequately staffed directly affects how closely they can monitor the activities of dangerous convicted felons and prevent potential problems. For instance, an offender on supervised release receiving mental health counseling, was given a polygraph examination to gauge the danger he posed to the community. It revealed that he was stalking an eight-year-old girl. The child's family was notified, the offender received treatment to address the problem, and a potential sexual assault was averted.

Probation and pretrial services offices need sufficient resources to provide necessary mental health and substance abuse treatment for offenders. The fiscal year 2002 request includes a $5.2 million increase for this purpose. These types of treatment programs can put people on the road to success. For example, John served a term of imprisonment following conviction for conspiracy to distribute marijuana and cocaine. While incarcerated, he successfully completed a drug and alcohol treatment program. When released, John entered an aftercare program (under contract with the Probation Office) and regularly attended Alcoholics Anonymous and Narcotics Anonymous meetings. Eventually, he got a part-time job as a rehabilitation technician at a local outpatient chemical dependency treatment center. While continuing his part-time employment at the treatment center, John completed both a bachelor's degree and a master's degree in counseling, and is currently a doctoral candidate in the field of counseling. His career goal is to remain in the field of addiction counseling.

COURT SECURITY

A key tool in ensuring the quality of justice is maintaining adequate security in our nation's courthouses. If our citizens feel safe in the courtroom, they will feel more confident about what happens in those buildings. Being thoroughly screened when entering courthouses and having court security officers visible throughout is an absolute necessity to protect all who enter our courthouses.

Unfortunately, our court security appropriation, which funds court security officers and security systems, is one for which Congress could not find sufficient resources to meet the needs in fiscal year 2001. The fiscal year 2002 request rectifies these deficiencies, particularly in the area of replacing inadequate and outdated equipment. In addition, it includes funds for both court security officers and equipment for new buildings that will be coming online in fiscal year 2002.

Another security concern, though not part of the judiciary's budget request, is the lack of resources available to the U.S. Marshals Service. The Marshals Service is responsible for the security of courthouses, judges, court proceedings, and the public who come into our buildings. They are also responsible for the transportation and security of prisoners and fugitive apprehensions. They are experiencing severe personnel resource deficiencies, particularly along the southwest border, where they do not always have enough deputy U.S. Marshals to move prisoners safely from their holding cells, through public hallways in courthouses, or to monitor them in the courtrooms. The Marshals Service should be funded so they can perform all of their security related missions in a safe and professional manner.

JUDICIAL COMPENSATION

We live in a society where cost-of-living salary adjustments to maintain purchasing power—whether such adjustments are made pursuant to a collective bargaining agreement or a statute as in the case of Social Security—are a fact of economic life. Yet, over the past eight years members, judges, and high level executive branch officials have received only three annual Employment Cost Index (ECI) adjustments. As a result, their purchasing power has declined by over 13 percent, which amounts to more than $16,000 per year. While we are very grateful that Congress approved an ECI adjustment for fiscal year 2001, and particularly for your leadership in that effort, Chairman Gregg, it is noteworthy that even the 2.7 percent increase failed to keep pace with the change in the cost of living.

The corrosive effects of this salary erosion on judges were well documented in a recent report published by the American and Federal Bar Associations. That report discussed in detail the potential effects of denying judges annual ECI adjustments, including its effect on judges' recruitment, retention, and productivity. The report was favorably received by the media. It also confirmed the views of the Chief Justice, who in his 2000 year-end statement observed that "in order to continue to provide the nation a capable and effective judicial system we must be able to attract and retain experienced men and women of quality and diversity to perform a demanding position in the public service . . . In order to continue to attract highly qualified and diverse federal judges—judges whom we ask and expect to remain for life—we must provide them adequate compensation."

For the aforementioned reasons, the Judicial Conference strongly encourages Congress to authorize an Employment Cost Index (ECI) adjustment for federal judges, members of Congress, and top officials in the executive branch for 2002 and subsequent years, as provided by law; enact legislation to give judges and other high level federal officials a "catch-up" pay adjustment of 9.6 percent to recapture previous ECI adjustments that were not provided; and authorize a Presidential commission to consider and make recommendations to the President on appropriate salaries for high-level officials in all three branches of the government.

NEW JUDGESHIPS

Without judges, justice cannot be administered. There has not been a major judgeship bill since 1990. Yet increases in federal jurisdiction and law enforcement resources over that period have contributed to a more than 25 percent increase in workload for the judiciary. Only through the appropriations process has there been a modest increase in judgeships with nine added in the fiscal year 2000 and ten in the fiscal year 2001 appropriations bills. The Judicial Conference of the United States currently is requesting that 54 Article III judgeships be created. Despite Congress' efforts in the last two appropriations bills, there are some districts—particularly those along the southwest border—where the workload has more than doubled, but where the number of judgeships remains constant. Justice in these locations has been compromised because the judges have not been there to meet the workload demands.

COST CONTAINMENT

One area in which the judiciary takes great pride is its continual effort to work more efficiently and effectively while still maintaining the high quality of justice. The Optimal Utilization of Judicial Resources Report that we send to your subcommittee annually is a compilation of our initiatives. A bird's-eye view of a court illustrates the range of efforts we have underway.

In a federal courthouse, a bankruptcy clerk is able to use the Internet for transactions made by the Bankruptcy Noticing System. The Internet connection replaces the U.S. Mail method, saving postage expenses and allowing the transmission of notices at a fraction of the time. Postage costs were further reduced when fax options were introduced to the Bankruptcy Noticing Program in fiscal year 2000.

At the same time, a court executive might be checking e-mail for an important memo from the Administrative Office. In fiscal year 2000 the Administrative Office began to send official policy directives, time-sensitive documents, and other important information to chief judges and court unit executives, electronically rather than using paper memos.

Meanwhile, in a district clerk's office, staff are calculating juror payments using the Jury Management System, an automated software system that also prints and scans qualification questionnaires and summonses, and tracks jurors, among other things. This system is expected to be implemented in most courts by the end of 2001. The system reduces errors caused by redundant data entry and gives the court immediate access to juror statistics.

A clerk of court's office also is receiving hundreds of case filings from attorneys—with no one standing in line at the court. Instead, they may be miles away, in their own offices, making use of the Case Management/Electronic Case Files System to send and retrieve case documents over the Internet. In turn, a court uses the electronic records for efficient docketing, scheduling, and notice production. In addition, litigants are able to search, locate, retrieve, and deliver case documents electronically. A version of the system is installed already in 14 bankruptcy courts and seven district courts. The judiciary has completed testing of the bankruptcy version and is now beginning nationwide implementation.

Staff in a judge's chambers are going on-line to post a notice of an available law clerk position on the Federal Law Clerk Information System. The judiciary developed this national database to save time and help judges and law students with the annual process of hiring law clerks. In the short time this system has been available, nearly one-third of all judges are using it and the number is growing.

In a busy courthouse, a courtroom equipped with a television monitor and a video camera can be used to hold a hearing, in which the parties are separated by several hundred miles. In the district courts, videoconferencing is being used in pretrial, civil, and certain criminal proceedings, prisoner matters, sentencing, settlement conferences, arraignments, and witness appeals. Videoconferencing saves travel time and reduces security risks in transporting prisoners. At the appellate level, oral arguments may be heard using videoconferencing, again saving time and the cost of travel. To date, more than 200 federal court sites have been equipped to received these broadcasts.

Television monitors may also be in use elsewhere in the courthouse, but in a very different role. Judicial employees at the court are participating in a classroom instruction on use of a word-processing program. Also on the agenda is a program for probation and pretrial services officers on the special needs of offenders. Programs transmitted over the distance learning network, the Federal Judicial Television Network, allow employees to receive instruction without traveling to training sessions. Millions of travel dollars are saved by the use of distance training.

CONTRIBUTIONS OF THE ADMINISTRATIVE OFFICE

The Administrative Office of the United States Courts is critical to the judiciary's ability to provide quality justice. The Director of the Administrative Office serves as the chief administrative officer for the federal courts. The Administrative Office provides essential administrative support, program management, and policy development assistance to federal courts nationwide. Administrative Office employees support 32,000 judiciary employees, including 2,000 Article III, bankruptcy, and magistrate judges, as well as probation and pretrial services officers, circuit executives, federal public defenders, clerks of court, court reporters and interpreters, financial administrators, jury administrators, systems managers and others.

Support of the Judicial Conference and its committees remains an essential function of the Administrative Office. The twenty-four committees have Administrative Office staff experts who work closely with them in conducting research and supporting their judiciary-wide policy and governance function. The Administrative Office also executes and implements Judicial Conference actions.

An important Administrative Office responsibility is supporting, coordinating, and implementing the judiciary's numerous efforts to reduce costs and manage resources most efficiently. The various cost-containment efforts I just summarized, as well as all of those listed in the Optimal Utilization Report, are only possible because of the efforts of the Administrative Office. Without the Administrative Office, many of the savings and cost avoidance initiatives would not have materialized.

In the interest of continuous service improvement, the Administrative Office conducts or oversees, in connection with Judicial Conference Committees, a large number of strategic studies of judiciary programs and operations. An independent study of the national information technology program found that the judiciary is making

effective use of technology. The study indicated that this is a significant accomplishment given that the judiciary's investment in information technology is well below federal government benchmarks and what would be expected given the complexity of the judiciary. The Administrative Office also oversaw a comprehensive management assessment of its space and facilities program. The Administrative Office is working with an outside contractor to conduct a strategic comprehensive assessment of the probation and pretrial services system. The broad issue is whether there are ways to accomplish the system mission more effectively when facing increasing responsibilities, changing federal criminal populations, and constrained budgets. There is also a study being conducted of the judiciary's security program to evaluate its effectiveness and efficiency.

The fiscal year 2002 budget request for the Administrative Office is $4.8 million over fiscal year 2001 appropriations. Most of this increase would fund base adjustments needed to continue current operations. The remainder ($693,000) will be devoted to improving programmatic oversight and support of court programs such as the probation and pretrial services system as well as to developing major automated systems. In addition, funds are requested for equipment maintenance and replacement and software upgrades to allow the core Administrative Office financial and automated systems to remain functional and current.

I urge the Committee to fund fully the Administrative Office's budget request. The Administrative Office is integral to the judiciary's ability to do its work. Without the Administrative Office's support, the judiciary could not continue to function as effectively. The increase in funding will ensure that the Administrative Office continues to provide program leadership and administrative support to the courts, and lead the efforts for them to operate efficiently.

CONTRIBUTIONS OF THE FEDERAL JUDICIAL CENTER

The Federal Judicial Center is the federal judiciary's agency for continuing education and training. With this subcommittee's encouragement, it has worked hard in the last few years, with the resources available to it, to provide even more of its education through "distance learning" which does not require participants to travel to the training.

As Judge Smith's statement notes, educational programs sponsored by the Center or arranged locally using Center resources reached over 50,000 participants last year, and over 90 percent of those participating did so at their desks, before a TV monitor, or elsewhere in the courthouse.

Even educational technology, though, requires resources. Last year, the Center received a current services appropriation, but no more. This was the first current services appropriation for the Center in ten years. This year the Board of the Center proposes a modest increase for normal adjustments to the base budget and for additional positions to enhance the effectiveness of its distance learning.

In evaluating the Center's request, I ask the subcommittee to consider not only how the Center uses technology for education but also the importance of the education itself to the fair and efficient operation of the judicial branch. Center orientation seminars, for example, introduce every judge to his or her responsibility for effective docket management. And, in respect to the growing amount of complex litigation involving scientific and technical evidence, as the Chief Justice said in his year-end statement, "FJC education programs and reference guides help judges sort out relevant facts and applicable law from the panoply of information with which the adversary system bombards them. The FJC thus contributes to the independent decision making that is the judge's fundamental duty."

For another example, Center education helps probation officers deal with the range of sophisticated offenders convicted of federal crimes. Judge Smith's statement summarizes these and many other ways in which Center education and Center research improve the administration of justice.

I believe the Center's request deserves the committee's support and urge favorable action on the full amount.

CONCLUSION

Chairman Gregg and members of the subcommittee, this concludes my statement. I look forward to working with you in the future.

APPENDIX

SUMMARY

The fiscal year 2002 appropriation request for the Courts of Appeals, District Courts and Other Judicial Services totals $4,538,547,000, an increase of

$481,823,000 over the fiscal year 2001 available appropriation. In addition to appropriated funds, the judiciary utilizes other funding sources to supplement our appropriations including fee collections, carry forward of fee balances from a prior year, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 2002 is only $356,810,000 or 8.1 percent.

Of the $481,823,000 increase in appropriations, 94 percent ($452,071,000) is adjustments to the fiscal year 2001 base associated with standard pay and other inflationary increases as well as other adjustments that will allow the courts to maintain current services in fiscal year 2002. The remaining 6 percent ($29,752,000) is needed to respond to increased requirements for magistrate judges, federal defender offices, security, drug and mental health treatment, and to fund additional court staff required to process growing workload. The request for the principal programs are summarized below.

SALARIES AND EXPENSES

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of $3,964,528,000 is required for this account in fiscal year 2002. Funding totaling $226,062,000 is expected to be available from other sources including fee collections and carry forward balances to fund S&E requirements. This leaves an appropriation need of $3,738,466,000 which is $374,357,000 above the fiscal year 2001 available appropriation.

Over 90 percent of the $374,357,000 increase ($347,328,000) is needed to fund adjustments to the fiscal year 2001 base including: pay and benefit increases for judges ($12,133,000); increases in the number of filled Article III judges, senior judges and magistrates judges adjustments ($15,783,000); pay and benefit increases for court support and probation and pretrial services staff ($126,982,000); annualization of new court support and probation and pretrial services positions partially funded in fiscal year 2001 ($30,443,000); increases necessary to maintain fiscal year 2001 staffing levels because of a reduction in non-appropriated funding ($105,175,000); increases for space rental and associated costs ($61,300,000); inflationary increases for operating costs ($9,731,000); and reductions in non-recurring costs (−$14,219,000).

The remaining 4 percent ($27,029,000) will fund 14 additional magistrate judges and their staff to help Article III judges handle the growing volume of civil and criminal cases facing the courts ($5,638,000); 212 court support FTEs to address a net increase in workload, almost entirely in the probation and pretrial services offices ($16,149,000); and increased mental health and substance abuse treatment for projected growth in the number of offenders and defendants under supervision requiring this treatment ($5,242,000).

DEFENDER SERVICES

An appropriation of $521,517,000 is required for the Defender Services program to provide representation for indigent criminal defendants in fiscal year 2002. This is an increase of $87,474,000 above the available fiscal year 2001 appropriation.

Over 99 percent of this increase ($86,874,000) is needed for adjustments to the fiscal year 2001 base for inflationary and workload increases. Included in these adjustments are standard pay and inflation increases as well as other adjustments that will allow the program to maintain the base caseload costs ($28,494,000); an increase of the non-capital hourly panel attorney rate to $113 for all districts beginning April 1, 2002 ($35,135,000); and an increase associated with a workload increase of 5,200 additional representations in fiscal year 2002 ($23,245,000).

The remaining increase ($600,000) will fund the start up costs of two new federal defender organizations. The Congress and the Judicial Conference have urged us to establish more federal defender organizations as an alternative to using panel attorneys in districts where this would be appropriate.

FEES OF JURORS AND COMMISSIONERS

For the Fees of Jurors program, an appropriation of $50,131,000 is required, a decline of $9,305,000 from the fiscal year 2001 available appropriation. This decline is the result in the steady growth of carry forward balances in this account that can be used to offset the appropriations requirement (−$9,089,000); a decrease in the projected number of juror days (−$669,000); and an increase for inflation ($453,000).

COURT SECURITY

For the Court Security program, an appropriation of $228,433,000 is required, which is an increase of $29,297,000 above the fiscal year 2001 available appropriation. Over 90 percent of the requested increase ($27,174,000) is for adjustments to base including: an increase for standard pay, benefit and contractual services inflation ($9,168,000); an increase to annualize the costs for 72 new court security officers (CSOs) partially funded in fiscal year 2001 ($1,684,000); an increase to provide a security presence in new and renovated courthouse space being delivered during fiscal year 2002 ($4,667,000); and an increase for the cyclical replacement of security systems and equipment ($11,655,000).

The remaining increase of $2,123,000 will improve communications systems in buildings with inadequate capabilities and fund security systems in probation and pretrial services offices to meet current U.S. Court Design Guide requirements.

PREPARED STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

INTRODUCTION

Chairman Gregg and Members of the Subcommittee, thank you for giving me the opportunity to testify before you on the fiscal year 2002 budget request for the Administrative Office of the United States Courts (AO). I am also pleased to continue to work with you and your dedicated staff.

ROLE OF THE ADMINISTRATIVE OFFICE

The AO serves as the central support agency for the administration of the federal court system. The AO was created in 1939 in response to the separation of powers concerns that were raised by the Department of Justice being responsible for the judiciary's administrative needs. Over sixty years later, judicial independence and exemplary service to the courts continue to be the guiding principles that govern and influence AO operations.

The AO plays a key role in the administration of justice and management of change in the courts. It supports the Judicial Conference of the United States and its 24 committees in determining and implementing judiciary policies; develops new methods, systems, and programs for conducting the business of the federal courts efficiently and effectively; assists the courts in implementing better practices; develops and supports new innovative technologies that enhance the operations of the courts; collects and analyzes statistics on the business of the federal courts for planning and determining the judiciary's resource needs; provides financial management services; provides personnel and payroll support for 32,000 judiciary employees; conducts audits; and has implemented a strong internal controls program designed to safeguard against fraud, waste, and abuse.

The work of all of the AO's employees supports the judges and court staff across the country and ensures that the judicial machine runs smoothly. In a period of resource constraints, and as the activity of the federal courts continues to grow in both size and complexity, the AO will continue to strive for administrative excellence through ingenuity, commitment, and innovation.

PROGRAM ASSESSMENTS

Another important leadership role the AO plays is in conducting management studies. These studies, performed with outside independent contractors, are aimed at improving court operations in major judiciary programs. (1) An assessment of the effectiveness and efficiency of the judiciary's space and facilities program was recently completed. The study recognizes that the judiciary has an effective long-range planning process which yields good projections for space planning needs. The study also offers several technical and process refinements to the long-range planning process. (2) A study of the judiciary's information technology program has also recently been completed. This study found that the judiciary is making effective use of information technology and that its investment in information technology, both equipment and human resources, is significantly below federal government benchmarks given our complex information environment. The study also provided seven strategic recommendations designed to help the judiciary continue seeking and capitalizing on technology improvement opportunities. All the recommendations are already at some stage of being implemented. (3) Assessments of the court security and probation and pretrial services program are currently being conducted.

ADMINISTRATIVE OFFICE BUDGET REQUEST

The AO's appropriation request for fiscal year 2002 is $63,029,000, which is an increase of $4,817,000 or 8.3 percent above the available fiscal year 2001 AO appropriation. Eighty-five percent of the increase or $4,124,000 is necessary to fund uncontrollable adjustments to base for standard pay, benefit and inflationary increases. The remaining small increase of $693,000 will be used to improve the AO's programmatic oversight and support of court activities and improve the operations of core financial and automated systems.

Included in this request is funding for only four additional full-time equivalents. These additional AO staff will be devoted to providing technical support to probation and pretrial services and court administration programs with their 22,000 staff, and to developing major automated systems which support the administrative functions discussed above. These staff will focus on conducting program and efficiency reviews; developing new case management programs and systems; and improving financial management and contracting procedures and regulations. These additional FTE will bring funded AO staffing levels back up to where they were in fiscal year 1996. While the AO could effectively use many more staff, the request is for a minimal increase.

Also included in the request is a $313,000 increase to fund necessary automation equipment and services. Due to funding constraints since fiscal year 2000, the AO has not been able to meet fully its requirements for equipment and services. This additional $313,000 will improve the operations of core AO financial and automation systems, including the Central Accounting System and the AO data communications network. Without these additional funds, we will not be able to restore reductions made in fiscal year 2000 to the basic level of automation service necessary at the AO, including user assistance, software, and infrastructure support for the entire judiciary. Given the dependence on personal computers and the data communications network to conduct AO business and provide essential support to the courts, it is crucial that funds be provided for replacement of essential equipment and software to keep the AO's inventory functional and up-to-date.

MODEL OF EFFICIENCY

This budget request demonstrates the AO's commitment to being a model of efficiency within the federal government. As an administrative support organization whose workload is largely driven by the size and workload of the courts it supports, the AO's growth over the past several years has not kept up with the growth experienced in the courts. Between fiscal years 1996 and 2002, the courts are projected to experience a 15 percent growth in funded staff, increasing the AO's workload substantially, while the AO's total staffing levels remain unchanged. Comparing the AO's budget to that of the Department of Justice's "Management and Administration" activities is further evidence of the AO's leanness. The appropriation for the AO is only 1.6 percent of the judiciary's total appropriation, while the Department of Justice's "Management and Administration" activities comprise 5.4 percent of the Department's total appropriation for fiscal year 2000.

ACCOMPLISHMENTS AND CHALLENGES FOR THE FUTURE

The federal judiciary accomplishes its constitutional mission with only two-tenths of one percent of the federal government's budget, and the AO accomplishes its mission with less than two percent of the judiciary's appropriations. However, we recognize the fiscal constraints facing the Congress in the appropriations process and the necessity to use our small portion of the federal budget efficiently and economically. In order to achieve this, the AO is tasked with developing new systems, programs, and policies that will allow the courts to continue to provide, and in many cases improve, the quality of services provided to the bench, bar and the public as workload continues to increase. This is a daunting task on which our dedicated staff works very hard every day. I would like to take a few minutes to describe some of our accomplishments, as well as some ongoing activities and challenges that face the federal judiciary and the AO in fiscal year 2002. Additional examples can be found in The Optimal Utilization of Judicial Resources report submitted to the subcommittee in February.

Management of Court Facilities

Due to the nature of its work, the judiciary is a space intensive organization whose mission requires that we be available to the entire population of the United States. The judiciary has operations in over 760 separate facilities across the country. These include accommodations for probation and pretrial services offices and court support functions as well as courthouses. Many buildings housing the judici-

ary are aging. The judiciary is currently housed in about 225 buildings that are over 50 years old. Even where the structures remain serviceable, the architecture of that time did not envision the security and technological needs of today.

The AO, along with the Judicial Conference and GSA, has aggressively worked to develop policies to minimize the amount of space required and the costs associated with it. This task is very challenging given the judiciary's need for additional space to accommodate workload growth and the need to replace aging and outdated space. This work has resulted in the U.S. Courts Design Guide which is used to standardize new space acquired by the judiciary. The AO has also played an integral role in the development of a rigorous long-range facilities planning process that is used to estimate the courts' space needs. This long-range planning process received the General Services Administration's (GSA) Annual Achievement Award for Real Property Innovation in 1998. In a January 2001 report titled, Federal Judiciary Space: Update on Improvements of the Long-Range Planning Process, the General Accounting Office (GAO) praised recent improvements the judiciary has made to the long-range planning process.

While the judiciary's space requirements continue to grow, the AO remains committed to developing and implementing policies that both provide the courts with the space they require to complete their mission and minimize the costs associated with operating this space.

Investment in and Recruitment of Skilled Personnel

In a January 2001 report titled High Risk Series—An Update, the General Accounting Office (GAO) cites a key challenge facing the federal government as "Acquiring and developing staff whose size, skills and deployment meet agency needs." The report goes on to state that "human capital shortfalls are eroding the ability of many agencies and threatening the ability of others to effectively, efficiently, and economically perform their missions". Although the judiciary was not included in this study, its findings are directly pertinent to the judiciary, in fact the judiciary's challenges are even greater than that of the Executive Branch's. While the judiciary faces the prospect of losing 40 percent of its employees to retirement over the next five years, we have additional recruitment issues, such as the recruitment of law enforcement personnel along the southwest border.

In order to address this problem, the AO has implemented several programs to enhance the courts' ability to hire and retain skilled employees. Examples of these programs include an employee-pay-all long-term care insurance program, and a flexible benefit program which allows employees to pay for certain medical care, dependent care, and commuter expenses on a pre-tax basis. Recognizing these as innovative new programs, the Congress is now considering or has approved some of these benefit programs for the Executive Branch. For example, Executive Branch employees are authorized to pay for health insurance premiums on a pre-tax basis and long-term care insurance will be available to federal employees in October 2001. The AO is continuing to research potential recruitment and retention programs that address problems such as retaining information technology staff and recruiting law clerks.

Another program the AO has implemented that enhances court managers' ability to manage their staffing needs is the Court Personnel System. This initiative provides court managers with increased flexibility to structure their workforce efficiently by decentralizing decision-making authority from Washington to the local level. For example, given an individual court's circumstances, local court managers have the authority to determine how many information technology staff are required to effectively operate their court's business within its funding allocation.

The AO, in support of the Judicial Conference, will continue to be a leader in the federal government in the development of innovative programs that enhance the courts' ability to hire and retain skilled staff.

Automated Systems and Technology Advances

Under the guidance of the Judicial Conference Committee on Automation and Technology, the AO continues to study and invest in technological innovation to enhance the quality and efficiency of court proceedings, to improve the services to the bar and public, and to reduce costs. The AO has an ambitious automation program underway, with several major projects in various stages of development and implementation. While all of these projects enhance court operations, they will also require a sustained commitment from the AO over the next several years to complete their design, install them in the courts, and train and support court users on an ongoing basis. A few examples of the automation programs managed by the AO include:

Videoconferencing.—To date, there are 200 federal court sites equipped with videoconferencing capabilities. The courts are using this equipment to conduct a variety of court proceedings including pretrial, civil and criminal proceedings, prisoner matters, sentencing, settlement conferences, witness appearances in trials, arraignments, bankruptcy hearings, and appellate oral arguments. The courts are also using this technology for administrative meetings, conferences and training seminars.

Case Management and Electronic Case Files (CM/ECF).—This new system will provide the courts with a new more efficient case processing application that will allow court staff to focus their effort on ensuring more effective case management practices. The CM/ECF system will also include electronic case filing capabilities (which will be implemented at the individual court's discretion) allowing judges, court staff, attorneys and others to send and retrieve case documents over the Internet without leaving their desks. A version of these applications is already installed in 14 bankruptcy courts and seven district courts. Other federal agencies and state courts have been following our progress on this system and, seeing our work, are beginning to explore how they might adapt such a concept to their operations.

While providing substantial qualitative and quantitative benefits to the courts, this system is consuming a substantial amount of AO staffing resources in the development, testing, installation, and training of court users.

Electronic Bankruptcy Noticing.—This system operates like a sophisticated e-mail system by transmitting bankruptcy notices electronically and eliminating the production and mailing of papers. Internet e-mail and fax options make this program accessible to virtually the entire bankruptcy community.

Federal Judiciary Television Network (FJTN).—In fiscal year 2000, the judiciary completed implementation of the FJTN, a satellite-based distance learning network. Each day the network provides more than eight hours of educational and training broadcasts to over 285 locations throughout the judiciary. The programs provide information on a wide range of issues such as supervising offenders and defendants, the law clerk appointment process, and statistical reporting procedures. The FJTN, along with other distance learning techniques such as videoconferencing, videotapes and computer-based training, allows the AO, the Federal Judicial Center and the U.S. Sentencing Commission to deliver high-quality training and instruction to a larger audience at reduced costs compared to traditional classroom instruction.

Federal Law Clerk Information System.—This Internet-based application implemented by the AO allows judges to post law clerk position announcements nationwide and to monitor the availability of applicants. It also provides law school graduates the ability to locate opportunities to clerk for a federal judge using a nationwide database instead of contacting individual judges.

Core Administrative Systems.—The AO is in the process of modernizing many of the courts' core administrative systems including the financial accounting system, the personnel management system, the jury management system, and the Criminal Justice Act panel attorney payment system. These new systems are designed to improve the management of information, the tracking of resources, and the decision-making processes of the courts. While these new administrative systems are desperately needed by the courts, their successful implementation is dependent partially on the level of support and training provided by the AO during each system's implementation. The AO needs adequate funding to ensure the courts get the support and training required.

Expansion of the Rule of Law and the Administration of Justice Throughout the World

The AO supports the Judicial Conference Committee on International Judicial Relations in coordinating the Third Branch's relationship with foreign judiciaries and organizations involved in international judicial relations, the expansion of the rule of law, and the administration of justice. Federal judges and AO staff provide information, training and expertise on a wide range of subjects such as: judicial independence and accountability, judicial ethics and discipline, court administration, civil procedure, and the selection and appointment of judges. Requests for assistance are made and funded by institutions such as foreign judiciaries, the United States Agency for International Development, the Department of State, and the World Bank.

Last year the AO conducted briefings for 57 foreign delegations, including 263 judges. A few examples of these programs include: a program for judges and court officials from Tanzania on judicial ethics and corruption; a program for judges from Russia on court administration; a program for judges from China on judicial administration and the use of automation and technology in the courts; and a program for the newly established bankruptcy court in Thailand on court administration.

Last year, the federal judiciary also provided case management assistance to the European Court of Human Rights.

Remote Supervision Technologies

In fiscal year 2001, the number of offenders under the supervision of probation officers is projected to be 103,900 and the number of defendants received for supervision by pretrial services officers is projected to be 33,300. This total of 137,200 persons under supervision is higher than the approximately 125,000 prisoners being house in federal prisons. In certain circumstances, supervision of offenders and defendants is a cost effective alternative to incarceration as the daily cost of supervision in fiscal year 1999 was $7.74 compared to $59.41 for the Bureau of Prisons.

While the number of persons under supervision is at an all-time high and projected to continue to increase, the population of offenders under supervision is changing from those on probation to persons released from prison. Offenders released from prison typically pose a higher risk to the public as they have difficulty transitioning from prison to our communities, are more likely to require substance or mental health treatment, and have committed more dangerous crimes.

In order to address these problems, the AO is assisting probation and pretrial services offices in exploring the use of remote supervision technologies to reduce the risk posed by certain defendants and offenders. These include technologies to detect alcohol use remotely, to use automated telephone systems to verify an offender's location, and to employ global positioning satellite technologies to provide real-time continuous tracking of high risk offenders. Remote supervision technologies automate certain routine supervision tasks which free officer time for other supervision activities and allow probation and pretrial services offices to manage their growing workload.

CONCLUSION

Chairman Gregg, Senator Hollings and members of the subcommittee, I hope I have met my goal of impressing upon you the integral role the AO plays in the administration of justice as well as the effective and efficient management of the resources this subcommittee provides the Third Branch. I am proud of the achievements of the AO and am committed to continue to improve the level of service the AO provides the courts and the public. I ask for your support in achieving this goal by providing the AO with the modest funding increase requested for fiscal year 2002. Thank you for giving me the opportunity to be here today, and I am available to answer any questions.

PREPARED STATEMENT OF HON. FERN M. SMITH, DIRECTOR, FEDERAL JUDICIAL CENTER

Mr. Chairman, members of the subcommittee: My name is Fern Smith. I have been a U.S. district judge since 1988 and director of the Federal Judicial Center since 1999.

The Center is grateful for the 4.5 percent increase in our 2001 appropriation, our first current services appropriation since 1992. This statement summarizes our 2002 request and, to put that request in context, describes Center activities that serve our statutory mission: "to further the development and adoption of improved judicial administration" through education and research. I have grouped those activities under some major challenges facing the federal judicial system: fair and efficient disposition of litigation; alternative methods of resolving disputes; sentencing, offender supervision, and prisoner litigation; science in the courtroom; responsibilities under the codes of conduct; court management; implementing technological change; and globalization of commerce and crime; rule of law assistance to emerging democracies.

2002 REQUEST

The requested 2002 appropriation of $20,323,000 is based on our recurring assessment of judge and staff educational needs as revealed by our advisory committees and surveys, and by actions of Congress, the Judicial Conference, and the Sentencing Commission. Our research program is structured primarily by requests from committees of the Judicial Conference. Research projects often provide the bases for our educational programs.

Basically, we seek in 2002 to increase our non-travel educational services to meet the growing demand for them while maintaining our education seminars, albeit at the reduced levels required by our appropriations. In all cases, our objective is to

provide federal courts practical, job-related education that reflects competing, legitimate approaches to particular problems.

The Center's statutory Board, which the Chief Justice chairs, unanimously approved the request before you today. It represents an 8.5 percent increase, providing adjustments to base and ten automation and video positions. The request is consistent with the Center's long-term trend toward greater use of distance—education education that does not require travel. Over 90 percent of those who used the Center's educational services last year did so through distance education, or "e-learning" as some now say.

Last year, at the request of the Chairman of the House Commerce, Justice, State and the Judiciary Appropriations Subcommittee the Center and the Administrative Office provided a paper documenting the judicial branch's use of technology.

Participants in FJC Seminars, and in Programs Using Distance Education, by Year

As explained in that paper, educational technologies include:

—The Federal Judicial Television Network (FJTN) created in 1998 to transmit education and information by satellite to over 300 federal court sites where the Administrative Office has installed downlinks. The first results of a statistical method we created to measure FJTN viewership suggest that viewership of FJC broadcasts may be as much as 80 percent larger than informal estimates that were based on 1999 data.

—Two-way videoconferencing for training that involves only a few locations.

—Web-based education—our internal judicial branch Web-site provides interactive tutorials, online seminars and workshops, and exchanges where court-training specialists throughout the country can pose questions to trainers who have dealt with particular problems, view other courts' training databases, and obtain electronic copies of resource materials.

—Curriculum packages for in-court use—the Center has prepared over 50 specialized training packages for court managers to adapt for their own training needs for example, teaching probation officers to conduct financial investigations. These packages have instructional guides, outlines, overhead transparencies, and in some cases, video supplements.

In calendar 2000, excluding FJTN viewership, the 632 educational programs sponsored by the Center or using Center materials had 23,419 participants. Of those programs, 590 programs, with 20,351 participants, were distance education programs. In addition, we estimate that our FJTN programs had almost 30,000 viewers.

Since 1992, the Center's FTEs have declined by 16. The Center's appropriation was $18,895,000 in 1992 and is $18,736,000 in 2001, a decrease in current services dollars of more than $7,000,000. Meanwhile, the number of judges and court employees has grown, and the range and complexity of issues they deal with have expanded. A greater variety of educational technologies has helped us deal with increased educational requirements with a smaller staff and appropriation, but these technologies require skilled employees to support them. The requested program increase for 2002 is for ten additional positions to support our video and Web-based education.

Five of the additional positions are for our video staff, to allow us to update our educational programs on videocassettes and to meet demands for additional videos, while continuing to manage the FJTN as well as expand it to provide a full day's broadcast schedule for courts in the western time zones. The FJTN's creation has significantly expanded our workload, but we have been able to add only one-and-a-half positions to our video staff by internal reallocations. The current staff manages the network for Center broadcasts (including those we produce with the Sentencing Commission) and for Administrative Office broadcasts. This entails producing live studio programs, operating the technology to transmit over 1,880 hours of annual programming to the satellite uplink, and producing the monthly broadcast schedule for use by federal courts across the country. Our video staff also designs, films, and edits educational videos that are used in some FJTN broadcasts, in our judicial orientation programs, and by courts around the country in local education programs. We have a growing backlog of needs. Many of the educational videos we use need to be replaced—some are over ten years old.

The other five positions will let us expand the online computer conferences we provide the courts, place more interactive training and reference tools on our Web site, convert onto the Web our training tutorials now on CD–ROM and computer disc, and develop online inventory, ordering, and distribution services for Center educational publications and videocassettes. We also want to use our Web site to facilitate collaborative research, such as a site we have been asked to set up to facilitate collaboration by expert witnesses in analyzing proposed rule changes to accommodate electronic discovery. Additional technological personnel will not only

help increase service to the courts over our Web site on the judicial branch intranet, but will increase service to the public over our Internet site by making our research products and appropriate educational programs available to wider audiences.

CENTER SERVICES AND ACTIVITIES

We use a variety of methods and technologies to deliver education and information to the judicial branch. These include, in addition to the e-learning methods described above, in-person seminars and both electronic and print publications. Our curriculum packages, as well as our publications and satellite broadcasts, enable the courts to tailor educational programs developed at the national level to meet local needs.

Fair and efficient disposition of litigation

Center education programs stress the judge's responsibility to dispose of cases fairly, quickly, and inexpensively. This is the major theme of the initial orientation seminars for newly appointed judges, although the videos we use in these programs are increasingly dated.

We also stress case management in our continuing education seminars, which provide vehicles for judges from different courts to compare effective techniques and procedures. We also use distance learning tools when they can be effective. For example, we have in place contingency plans to use the FJTN and our cycle of continuing education seminars to explain to bankruptcy judges and clerks new responsibilities created by the bankruptcy legislation now under consideration.

Other Center products provide judges with ready sources of advice on particular aspects of case management and legal trends. Examples include the following manuals and desk references:

—*Manual on Recurring Problems in Criminal Trials* (4th ed., in revision);
—*Benchbook for U.S. District Court Judges* (4th ed., rev. 2000);
—*Manual for Litigation Management and Cost and Delay Reduction* (1992)—the basis for the revised manual approved this year by the Judicial Conference in compliance with the Civil Litigation Reform Act;
—*Manual for Complex Litigation, Fourth* (in production);
—*Case Studies of Mass Tort Limited Fund Class Action Settlements & Bankruptcy Reorganizations* (2000) and a forthcoming guide—both deal with alternative approaches to the management of complex mass tort litigation;
—*The Use of Visiting Judges in the Federal District Courts: A Guide for Judges & Court Personnel* (2001)—to assist the process of providing courts temporary assistance in managing their dockets; and
—*Case Management Procedures in the Federal Courts of Appeals* (2000)—to describe procedures and practices that courts of appeals have used effectively.

FJTN broadcasts include the following:

—"New Amendments to the Federal Rules of Civil Procedure and Federal Rules of Evidence" (in cooperation with the American Law Institute-American Bar Association);
—"The Supreme Court Term in Review"—an annual broadcast to inform judges and their law clerks of decisions that will affect the litigation before them;
—"Bankruptcy Law Updates" (released periodically); and
—numerous broadcasts for clerks' office staff.

The Center this year has begun a multiyear research project to update the case weights used by the Judicial Conference for determining judgeship needs.

Alternative methods of resolving disputes

The Alternative Dispute Resolution Act of 1998 directed district courts to offer litigants alternatives to traditional litigation. Center activities to implement the statute include:

—an FJTN broadcast soon after passage to inform the courts of the statute's requirements, and a national seminar for ADR administrators from all districts with specific instructions on how administrators can meet their responsibilities under the Act;
—recurring seminars to teach mediation skills to magistrate judges and appellate conference attorneys; and
—*Judicial Guide to Managing Cases in ADR* (2001, in production) and previous publications on federal court ADR, to advise the courts on how to implement sound ADR programs and use them effectively.

Sentencing, offender supervision, and prisoner litigation

Federal sentencing and offender supervision policies are shaped by statutes, the sentencing guidelines, and case law. Center activities in these areas include:

—periodic sentencing policy institutes, in cooperation with the Judicial Conference Committee on Criminal Law, the Sentencing Commission, and the Bureau of Prisons;

—FJTN programs, including "Charging and Sentencing after Apprendi," about the case law applying the Supreme Court's decision last June on permissible sentence enhancements; our "Special Needs Offender" series (monographs and FJTN broadcasts about offenders whose supervision presents special problems, including gang members, cyber-criminals, and white-collar criminals); "Recurring Issues in Federal Death Penalty Cases," for judges assigned capital cases; and a series of programs on application of the guidelines, produced in cooperation with the Sentencing Commission;

—print and electronic publications, including *Resource Guide on Federal Capital Cases* (2001), an online resource based on experiences of judges in cases in which the Justice Department sought the death penalty; *Guideline Sentencing Update*, summarizing recent decisions interpreting the legislation and guidelines; and *Financial Investigation Desk Reference for Probation and Pretrial Services Officers* (Dec. 2000 ed.); and

—"Risk Prediction Index," a statistical instrument to help probation officers predict an offender's risk of recidivism; the Center has recently adapted it for pretrial uses.

We are presently unable to meet the need for biannual video and Web-based scenarios to sharpen probation and pretrial services officers' responses to defendant and offender incidents; safety skills should be routinely honed so reactions are automatic. With additional media staff we could develop federal court specific foreign language video and audiotapes for officers and front-office staff.

Prisoner litigation challenging sentences and conditions of confinement also make up substantial portions of some dockets and are treated in Center seminars on § 1983 litigation.

Science and statistics in the courtroom

The Chief Justice said in January, "Federal judges today face cases involving complicated statutes and factual assertions, many of which straddle the intersections of law, technology, and the physical, biological, and social sciences. FJC education programs and reference guides help judges sort out relevant facts and applicable law from the panoply of information with which the adversary system bombards them. The FJC thus contributes to the independent decision making that is the judge's fundamental duty."

Center products to help federal judges exercise the responsibility assigned them by the Supreme Court in assessing the suitability of scientific and technical evidence include the following:

—*Reference Manual on Scientific Evidence* (2d ed. 2000), which has been widely reprinted by private publishers;

—"Science in the Courtroom," a six-part FJTN series on such topics as microbiology, DNA, and toxicology, analyzed in the context of evidentiary hearings; and

—Center educational seminars for small groups of judges on basic issues of science in litigation, the impact of new technologies on intellectual property law, environmental law, and law and the Internet.

A prime reason for which we seek to increase our automation staff is to provide judges with online, interactive instructional tools to help deal with complex evidence.

Responsibilities under the codes of conduct

Judges and court employees operate under a mix of statutory and administrative rules to avoid conflicts of interest or their appearance. The Center has stepped up its education in this area to help ensure that all judges and employees understand these rules.

—Judicial ethics is a major topic at the Center's initial orientation seminars. Only this year will we be able to replace the instructional videos we have been using since 1991. Judicial ethics has also been the subject of at least one session at each of our general continuing judicial education programs for the last three years.

—A curriculum program for in-court programs, now used by over 7,000 employees, that explains the code of conduct for federal court employees.

—A one-hour segment of the Center's annual FJTN orientation for new judicial law clerks uses a series of hypothetical cases to alert clerks to their ethical obligations. Those hypotheticals were produced in 1998 and will soon need updating.

Court management

Effective use of public resources is a challenge in all three branches of government. The Center uses various means to help judges (especially chief judges) and court managers apply sound management principles and provide effective leadership. They include:

—*Deskbook for Chief Judges of U.S. District Courts* (2d ed., in revision), which explains chief judges' formal and informal obligations and lessons from private sector management experience. Additional automation staff would help us place the new edition online with links to relevant sources.

—We hope also to produce a video for new chief judges in which experienced chief judges describe the challenges new ones are likely to face.

Teaching management skills requires some personal interaction. The Center provides:

—conferences for chief judges (annual for district chiefs, and biennial for bankruptcy chiefs);

—seminars to help teams of chief judges and managers devise strategies and implement strategic plans for effective operations;

—biennial conferences for senior court managers;

—multiyear leadership development programs to develop mid-level managers' leadership skills for current and senior management positions; and

—management education modules for local training on such topics as performance management and employee relations.

Implementing technological change

Projects to help manage the impact of technology on the judicial process include:

—*Effective Use of Courtroom Technology: A Judges Guide to Pretrial and Trial* (spring 2001, print and CD–ROM)—developed with the nonpartisan National Institute of Trial Advocacy, it provides guidance on the procedural, evidentiary, and substantive issues that arise when a court is equipped with evidence display, videoconferencing, and other technologies, or when lawyers bring that equipment to the courtroom for a particular case. It describes what the lawyers hope to accomplish with the technology and analyzes the evidentiary objections opponents are likely to raise and the considerations of fairness that attend the various uses of technology.

—Electronic case-filing tutorials for the bar—the Center has developed two prototype computer-based training courses for use in district and bankruptcy courts that permit lawyers to file cases electronically. Courts that are now using electronic filing have adapted our tutorial as the teaching tool for showing lawyers how to use the electronic filing system in their courts.

—The cost of pretrial discovery is increasingly affected by discoverable materials being stored in electronic formats, including outmoded formats. The Center, anticipating the growing impact of this problem on civil case management, began studying it several years ago and now responds to bench and bar groups' requests for advice on electronic discovery management, cost reduction, and the appropriate use of computer experts; sample discovery orders and protocols; and plain-English explanations of the relevant technology.

Globalization of commerce and crime; rule of law assistance to emerging democracies

About a third of federal judges at least occasionally face problems in transnational litigation, such as service of process, discovery in foreign countries, and disputes over choice of law or jurisdiction. This type of litigation will increase. Services to help judges include:

—a monograph to be published this year on international insolvency, and

—development of additional monographs on international law and transnational legal topics, in cooperation with the American Society for International Law.

Globalization has also led foreign judges and officials to turn to the United States to learn about the effective administration of justice. The Center, pursuant to a statutory mandate, provides assistance to foreign visitors through briefings at its Washington offices (last year for over 300 judges and officials from 40 countries). Center staff also provide occasional technical assistance when consistent with our primary domestic obligations. For example:

—in cooperation with Puerto Rico's Interamerican Center for the Administration of Justice, assisting Latin American judges, prosecutors, and defenders to understand common-law criminal procedures, which hemispheric countries are implementing to increase accountability and reduce corruption;

—assisting India, Namibia, and Zambia to implement case-management programs and alternatives to traditional procedures in order to improve the resolution of legal disputes; and

—assisting the Russian Academy of Justice to develop as a counterpart institution to the Federal Judicial Center.

Center education for federal court personnel on transnational issues uses its appropriated funds. Its assistance to foreign judiciaries, however, is funded by other government agencies and private organizations.

Mr. Chairman, I appreciate this opportunity to describe the Center's work and explain our budgetary needs for the next fiscal year. We are proud of our ability to adapt technology to education and avoid, for the last five years, requests for increased funds for travel. In candor, I must tell you that we have probably reached the limits of our ability to meet the growing needs of the courts without some additional support for traditional educational methods. This year, however, we again seek only to enhance our technological personnel.

I will be pleased to answer any questions you may have.

PREPARED STATEMENT OF DIANA E. MURPHY, CHAIR, UNITED STATES SENTENCING COMMISSION

INTRODUCTION

Mr. Chairman, members of the Committee, thank you for the opportunity to submit a statement on behalf of the United States Sentencing Commission's appropriation request for fiscal year 2002. The Sentencing Commission was reborn when a full complement of seven voting commissioners finally was appointed on November 15, 1999, and I am pleased to serve as Chair of this important agency.

The Sentencing Commission is a small independent agency within the judicial branch. Because of a very long period when there were no commissioners, the agency's budget was dramatically cut and staff levels dropped by approximately 20 percent. The effect of the substantial cut in staff was not immediately felt because when there were no commissioners to set an agenda or to vote on amendments, the staff had uninterrupted time to work on background materials in response to new criminal statutes and legislative directives to prepare for the day when a Commission was again appointed. This work product was then ready for the new Commission, and it included legislative history reviews, sophisticated data analysis, extensive case law research, and various policy options with intricate draft guideline options for consideration. This background work enabled the new Commission to accomplish much during its first amendment cycle ending May 1, 2000.

Once the Commission embarked upon new work, however, it fully experienced the inadequacy of the staffing level which had been cut by one-fifth. We are simply unable to do the job Congress gave us in the Sentencing Reform Act unless our staff is replenished towards its earlier level. The Commission requests an appropriation of $12,400,000 for fiscal year 2002 to enable us to begin to restore staffing levels necessary to carry out our statutory duties.

We look forward to strengthening our good working relationship with Congress and others in the federal criminal justice community, and hope that Congress will reaffirm its belief in the mission of the Commission and its confidence in us by fully funding our request for fiscal year 2002. The Commission has begun to rebuild its policymaking function envisioned by Congress under the Sentencing Reform Act of 1984.

During our tenure at the Commission, the agency has devoted most of our resources toward clearing the backlog of legislative directives. We have worked hard to make substantial progress, promulgating amendments covering sexual offenses against children, intellectual property infringement, identity theft, counterfeiting, money laundering, illegal firearm sales and possession, immigration offenses, and methamphetamine offenses, to name a few. We also have been updating several guidelines and creating new guidelines to incorporate new federal criminal offenses into the guidelines and to respond to the continuing flow of new congressional directives on important matters such as human trafficking, methamphetamine and amphetamine manufacturing, and ecstasy trafficking.

Many of our varied constituents, including Congress, the executive branch, and the Judicial Conference of the United States, have sought our technical expertise and judgment about perceived guideline problems. Areas of concern include the need to ensure that federal prisons are being used to incapacitate adequately offenders with extensive criminal histories and high recidivism rates rather than first time, non-violent offenders; an examination of perceived difficulties with totally quantity driven drug sentencings rather than greater reliance on penalties based upon an offender's culpability and role in the offense; a review of the sentencing guidelines in light of the holding in *New Jersey* v. *Apprendi*, 120 S. Ct. 2348 (2000) (holding that,

other than the fact of a prior conviction, any fact that increases a penalty for a crime above the statutory maximum must be submitted to a jury and proved beyond a reasonable doubt); and an analysis of mandatory minimum penalties in the federal system.

The agency has also experienced a surge in demand for sentencing data, expert testimony, and training on guideline application. We cannot meet the demands expressed here with current staff levels. Therefore, the Commission's human resource needs necessarily have increased.

RESOURCES REQUESTED

The Commission's budget request for fiscal year 2002 is $12,400,000. We understand budget increases are generally hard to justify, but the Commission continues to struggle from the budget reductions made in the absence of voting commissioners that occurred through fiscal year 2000. The agency's fiscal year 2000 funding was lower than the average funding level over the last ten years, yet demands on staff resources, including case filings, the number of proposed guideline amendments, and training requests, have all increased with the appointment of a full and active slate of commissioners.

JUSTIFICATION

Sentencing Reform Act Requirements

The Commission was created under the Sentencing Reform Act of 1984 as a permanent, independent agency within the judicial branch. Congress gave the Commission a dual mission: (a) to establish a national guideline system for federal sentencing policies and practices; and (b) to serve as an expert agency and leading authority on federal sentencing matters.

In fulfilling these basic requirements, the Commission annually issues a sentencing guidelines manual that delineates penalty levels for all federal offenses. In addition to encompassing all federal offenses, the guideline manual incorporates amendments approved by the Commission for newly enacted crime legislation passed by Congress. The guideline manual is used by prosecutors, defense counsel, and probation officers in making sentencing recommendations to the court. Federal district judges must use the guideline manual when imposing a sentence, and it must also be relied upon by all federal appellate judges and the justices of the United States Supreme Court when reviewing the imposed penalties. Since the first manual went into effect on November 1, 1987, over half a million defendants have been sentenced under the guideline system.

In fulfilling the second component of its ongoing mission, i.e., to serve as an expert agency and leading authority on federal sentencing matters, the Commission was given continuing statutory responsibility and authority in many areas, including—

—ensuring that sentencing policies and practices provide certainty and fairness, that they avoid unwarranted sentencing disparities while maintaining enough flexibility for individualized sentences when those are warranted, and that they reflect advancements in our knowledge of human behavior as it relates to the criminal justice process;

—developing means to measure the effectiveness of sentencing, penal, and correctional practices in meeting the purposes of sentencing;

—monitoring the performance of probation officers regarding sentencing recommendations, including application of the guidelines;

—issuing instructions to probation officers concerning the application of the guidelines;

—establishing a research and development program within the Commission to serve as a clearinghouse and information center for information on Federal sentencing practices;

—consulting with federal courts, departments, and agencies in developing, maintaining, and coordinating sound sentencing practices;

—systematically collecting data from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

—publishing data concerning the sentencing process;

—systematically collecting and disseminating information concerning sentences actually imposed on more than 61,000 cases sentenced in the Federal district courts each year (and on about 1,000 appellate decisions on sentencing) and the relationship of those sentences to the factors judges are required to consider under 18 U.S.C. § 3553(a);

—systematically collecting and disseminating information regarding the effectiveness of sentences imposed;

—conducting seminars and workshops around the country to provide continuing studies for people engaged in the sentencing field;
—conducting periodic training programs for judicial and probation personnel and other persons connected with the sentencing process;
—making recommendations to Congress on changes that might be made to statutes relating to sentencing, penal, and correctional matters that would help to carry out effective, humane, and rational sentencing policy;
—holding hearings and calling witnesses to assist the Commission in the exercise of its powers and duties;
—recommending any changes in prison facilities that may be necessary because of the sentencing guidelines; and
—performing any other functions necessary to permit federal courts and others in the federal criminal justice system to meet their responsibilities in the sentencing area.

Commissioners Face Critical Backlog of Legislation

The work of the Commission is generally determined by three sources: (1) legislative directives by Congress contained in crime legislation; (2) resolution of conflicting interpretations of sentencing guidelines among the circuit courts of appeals; and (3) internal priorities that are set by the commissioners following an annual solicitation published in the Federal Register. Due to the extended absence of voting commissioners, the current Commission faces an ambitious policy agenda addressing the significant backlog of legislation. These legislative matters cover a wide range of criminal conduct of great concern to Congress and members of the federal criminal justice system:

—*Intellectual Property Offenses*.—In response to a directive contained in the No Electronic Theft ("NET") Act of 1997, in April 2000, the Commission promulgated a temporary emergency amendment that was subsequently made permanent which made comprehensive changes to the copyright and trademark infringement guideline.
—*Telemarketing Fraud*.—In response to a directive contained in the Telemarketing Fraud Prevention Act of 1998, in April 2000, the Commission promulgated a permanent amendment that provides for three separate sentencing enhancements for fraud offenses that involve mass marketing, a large number of vulnerable victims, and the use of sophisticated means to carry out the offense. The action made a temporary emergency amendment a permanent amendment to the guidelines.
—*Telephone Cloning*.—In response to a directive contained in the Wireless Telephone Protection Act of 1998, in April 2000, the Commission promulgated an amendment to the fraud guideline that provides an appropriate sentencing enhancement for these offenses.
—*Identity Theft*.—In response to a directive contained in the Identity Theft and Assumption Deterrence Act of 1998, in April 2000, the Commission promulgated an amendment to the fraud guideline that provides an appropriate sentencing enhancement for violations of 18 U.S.C. § 1028 (relating to fraud in connection with identification documents).
—*Methamphetamine and Amphetamine Trafficking*.—In response to the Methamphetamine Trafficking Penalty Enhancement Act of 1998, which reduced by one-half the quantity of methamphetamine required to trigger various mandatory minimum sentences in the drug statutes, in April 2000, the Commission promulgated an amendment to the guidelines' drug quantity table that accounts for these increased mandatory minimum penalties. In response to an emergency directive in the Methamphetamine Anti-Proliferation Act of 2000, in December 2000, the Commission amended the drug guidelines to provide significant sentencing enhancements for methamphetamine and amphetamine manufacturing that creates a substantial risk of harm to human life, the environment, minors, and incompetents. In February 2001, in response to another emergency directive in the Act, the Commission voted to increase the penalties for amphetamine offenses such that they are identical to the penalties for methamphetamine offenses. Also in response to an emergency directive contained in the Act, the Commission is considering options for increasing the penalties for offenses involving certain precursors of methamphetamine.
—*Human Trafficking*.—In response to an emergency directive contained in the Victims of Trafficking and Violence Protection Act of 2000, in February 2001, the Commission voted to amend the guidelines applicable to peonage, involuntary servitude, slave trade offenses, and possession, transfer, and sale of false immigration documents in furtherance of such trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection

Act to reflect the heinous nature of these offenses. The amendment accounts for new offenses and increased statutory maxima created by the Act.

—*Protection of Children*.—In response to a directive contained in the Protection of Children from Sexual Predators Act of 1998, in April 2000, the Commission amended the guidelines pertaining to certain sexual abuse offenses and distribution of child pornography that, among other things, provides enhancements for use of a computer in connection with a sexual abuse offense against a minor and misrepresentation of an offender's identity in connection with such an offense. The Commission currently is considering additional changes to these guidelines to provide increased penalties for violations of chapter 117 of title 18 and for sexual offenses against children that involve a pattern of activity.

—*Firearms Offenses*.—In response to Public Law 105–386, which amended 18 U.S.C. § 924(c) to create a tiered system of mandatory minimums and presumed maxima in cases in which a firearm is involved in a crime of violence or drug trafficking offense, in April 2000, the Commission promulgated an amendment which incorporated the new tiered sentencing scheme into the guideline pertaining to violations of section 924(c). In addition, the Commission currently is considering options for addressing a recommendation by the Bureau of Alcohol, Tobacco and Firearms to provide increased penalties for offenses involving more than 100 firearms.

—*Ecstasy*.—In response to an emergency directive contained in the Ecstasy Anti-Proliferation Act of 2000, the Commission currently is considering options for increasing the penalties for the manufacture, importation, or trafficking of ecstasy and other "club drugs" so that they are comparable to penalties for other drugs of abuse.

—*Stalking*.—In response to a directive contained in the Victims of Trafficking and Violence Act of 2000, the Commission currently is considering options for increasing penalties for certain stalking and domestic violence offenses.

—*College Scholarship Fraud*.—In response to a directive contained in the College Scholarship Fraud Prevention Act of 2000, the Commission is considering options for providing enhanced penalties for offenses involving fraud or misrepresentation in connection with the obtaining or providing of information to consumers regarding college scholarships, loans, and grants.

—*Nuclear, Biological, and Chemical Weapons*.—In response to the Chemical Weapons Implementation Act of 1998, and a sense of Congress expressed in the National Defense Authorization Act for Fiscal Year 1997, the Commission currently is considering options to provide increased penalties for offenses involving the importing and exporting of nuclear, biological, and chemical weapons.

Commissioners Face Large Number of Circuit Conflicts

In addition to sentencing related legislation and other policy initiatives, the Commission has identified a large number of conflicts—over 40—among the United States Circuit Courts of Appeal regarding interpretation of the guidelines accrued during the absence of voting commissioners. In *Braxton* v. *United States*, 500 U.S. 344 (1991), the United States Supreme Court unanimously acknowledged that the Commission has the initial and primary task of eliminating conflicts among the circuit courts with respect to statutory interpretation of the guidelines.

Of course, the Commission cannot resolve all of these conflicts in one or two years, but the Commission has made substantial progress in reducing the number of outstanding circuit conflicts. In April 2000, the Commission promulgated amendments that resolved five circuit conflicts regarding (i) the circumstances for which a court may downward depart from the sentencing guideline range for aberrant behavior; (ii) whether the enhanced penalties in § 2D1.2 (Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals) apply only when the defendant is convicted of an offense referenced in that guideline or, alternatively, whenever a defendant's relevant conduct included drug sales in a protected location or involving a protected individual; (iii) whether the enhancement in the fraud guideline for violation of a judicial or administrative order, injunction, decree, or process applies to falsely completing bankruptcy schedules and forms; (iv) whether sentencing courts may consider post-conviction rehabilitation while in prison or on probation as a basis for downward departure at resentencing following an appeal; and (v) whether a court can base an upward departure on conduct that was dismissed or uncharged as part of a plea agreement.

Several of the proposed amendments discussed above, if enacted, will resolve a number of additional circuit conflicts. Apart from those amendments, the Commission also is considering options for resolving circuit conflicts relating to: (i) whether admissions made by the defendant during his guilty plea hearing, without more, can be considered "stipulations" for purposes of § 1B1.2(a); (ii) whether the four-level en-

hancement in the aggravated assault guideline for use of a dangerous weapon during an aggravated assault is impermissible double counting in a case in which the weapon that was used was a non-inherently dangerous weapon; (iii) whether the enhancement in the fraud guideline for misrepresentation that the defendant was acting on behalf of a charitable, educational, religious, or political organization, or a governmental agency applies to a defendant who does work on behalf of such an entity, but illegally diverts all or part of the benefits; and (iv) whether a reduction for mitigating role is precluded in the case of a single defendant drug courier if the defendant's base offense level is properly determined solely by the quantity personally handled by the defendant.

Commissioners Address Long-Standing Policy Issues

The Commission also has worked hard to address certain policy initiatives that at different points in time have been supported by various constituents, including the Department of Justice and the Committee on Criminal Law of the United States Judicial Conference. However, because of the absence of voting commissioners and subsequent lack of resources, these initiatives could not be completed.

—*Economic Crime Guidelines*.—The Commission currently is considering a comprehensive reassessment of the guidelines pertaining to economic crimes. Economic offenses account for more than a quarter of all the cases sentenced in the United States federal district courts. The Commission has received from the Federal Judiciary and the Department of Justice testimony and survey results that indicate that the sentences for these offenses are inadequate to punish appropriately defendants in cases in which the monetary loss was substantial. After a number of years of data collection, analyses, public comment, and public hearings, the Commission developed a comprehensive "economic crime package" designed to revise the loss tables for fraud, theft, and tax offenses in order to impose higher sentences for offenses involving moderate and large monetary losses. Related amendments would consolidate the theft, fraud, and property destruction guidelines and clarify the definition of loss for selected economic crimes. Our work in this area has been extensive. Working in conjunction with the Criminal Law Committee of the Judicial Conference, the Commission conducted a field test of the proposed loss definition by surveying federal judges and probation officers and applying the new definition to actual cases. The results generally were favorable, with more than 80 percent of the judges preferring the results obtained with the proposed loss definition over the current definition. In addition, in October 2000, the Commission sponsored a two-day National Symposium on Federal Sentencing Policy for Economic Crimes and New Technology Offenses at the George Mason University School of Law. The symposium was attended by approximately 150 judges, prosecutors, defense attorneys, and academicians and provided valuable input on the proposed package that the Commission currently is considering as it deliberates on the package.

—*Money Laundering*.—Closely related to the economic crimes package, the Commission has been working with the Department of Justice to develop a revision to the money laundering guidelines that would more accurately capture the seriousness of the money laundering offense conduct. The Commission is considering a guideline structure that would tie more closely the penalties for money laundering to the penalties for the underlying offense that generated the criminally derived proceeds and would provide appropriate sentencing enhancements for aggravating money laundering conduct.

—*Counterfeiting*.—In response to recommendations from the Department of Treasury, in February 2000, the Commission voted to provide increased penalties for (1) manufacturers of large amounts of counterfeit currency and (2) offenders who possess counterfeiting paper similar to the distinctive paper used by the United States, or a feature or devise essentially identical to a distinctive counterfeit deterrent used by the United States. This amendment to the counterfeiting guideline addresses recent changes in how counterfeit currency is produced. Previously, defendants operated expensive printing presses and manufactured large amounts of counterfeit currency at one time. Consequently, when these offenders were arrested they typically were caught with large inventories of counterfeit currency, which would result in increased penalties. Because of the advent of new and inexpensive technology, such as laser printers, and the availability of illegal copies of currency on the Internet, offenders now generally print counterfeit currency on an "as needed" basis, with no substantial accumulation of inventory. Thus, an alternative mechanism to achieve increased sentences was needed for this class of offenders.

—*Safety Valve*.—In order to ensure that federal prison space is used to punish serious offenders, the Commission is considering an amendment that would ex-

pand the applicability of the two-level reduction for non-violent, first time drug offenders who meet the safety valve criteria set forth at 18 U.S.C. § 3553(f)(1)–(5) to defendants who currently receive a sentence below five years.

Restoration of Personnel Needed to Meet Other Statutory Duties

While the commissioners continue to work to reduce the backlog of unimplemented crime legislation, the human resource needs of the agency will increase as the routine annual amendment cycle is reestablished, new policy initiatives are identified by the reconstituted Commission, and new crime legislation is enacted by Congress. In order to become a fully functional agency that performs all of its statutory functions in an exemplary manner, a restoration of personnel is necessary, particularly in the following areas:

Commission Contending with Sharp Increase in Caseload

The Commission maintains a comprehensive, computerized data collection system which forms the basis for its clearinghouse of federal sentencing information. This comprehensive database is the basis for the Commission's monitoring and evaluation of guidelines application, for many of its research projects, and for responding to the hundreds of data requests received from Congress and other criminal justice entities each year.

In fiscal year 2000, the Commission received court documents for more than 61,000 cases sentenced under the Sentencing Reform Act between October 1, 1999, and September 30, 2000. However, the number of data entry employees are only one-third the number when there were far fewer cases. The organizational structure and physical facilities were set in place for 40,000 cases per year.

For each case received, the Commission extracts and enters into its comprehensive database more than 260 pieces of information, including case identifiers, sentence imposed, demographic information, statutory information, the complete range of court guideline application decisions, and departure information. This data is vital to the Commission's deliberations when modifying the guidelines to timely adjust federal sentencing policy. For example, the Commission was able to detect a surge in activity regarding the new designer drug, MDMA (a/k/a Ecstacy) and are now re-calibrating the guidelines to deter use of this illegal substance. By having the source documents on sentencing, and relying on expert testimony gathered in briefing sessions, public hearings and meetings, we were able to capture the harms associated with this new drug and increase penalties to reflect the seriousness of this offense. Yet due to staff vacancies, the Commission has a backlog of 20,000 cases that must be processed. Unless additional staff are hired, the Commission will be unable to code data on each case sentenced under the guidelines and will be forced to rely on less reliable statistical sampling to guide its sentencing policy development and to advise Congress on crime policy.

Research and Information Dissemination

The Commission continues to advance its statutorily directed research and information dissemination through presentations of analyses at numerous sentencing policy symposia, including the annual meeting of the American Society of Criminology and the annual National White Collar Crime Summit. In fiscal year 2001, Commission staff made presentations on sentencing policy for sex offenders, important factors to consider when conducting disparity research, sentencing increases for alien smuggling, sentencing white collar crime offenses, and sentencing organizations.

As noted above, the Commission also held a two-day National Symposium on Federal Sentencing Policy for Economic Crimes and New Technology Offenses. As ease and availability of new technology changes how traditional crimes are committed and gives rise to new crimes, the Commission has found that greater sophistication in sentencing policy is required. In order to more fully inform the Commission in this area, the agency gathered the country's leading experts to discuss sentencing issues, including computer hacking and planting of program viruses, intellectual property and copyright infringement, consumer fraud via the Internet, securities fraud, and day trading fraud.

The agency annually publishes an updated Guidelines Manual and an Annual Report and accompanying Sourcebook of Federal Sentencing Statistics, which contains in-depth statistical charts, tables, and analyses on sentencing pattern and practices gathered from the agency's extensive database. The Commission also publishes an annual Guide to Publications and Resources and continues to add a variety of publications and sentencing data to its award winning Internet web site.

An important part of the Commission's research agenda for fiscal year 2002 is to conduct a focused review of the guidelines and a study of recidivism. By fiscal year 2002, the guidelines will have been in place for 15 years and have been used to sen-

tence over a half a million defendants. Following its statutory directive to monitor the guidelines to insure that they are meeting the purposes of sentencing required by Congress, the Commission is undertaking this valuable endeavor that will require the agency to devote significant staff resources to it—resources that currently we do not have.

The 15 year review, as well as other important research at the Commission, is imperiled by a depletion of its research staff. During this recent period of attrition, a significant portion of the intermediate tier of researchers and all of the lower tier research associates left the agency. Thus, the Commission requests funding to rebuild its research staff so that we may continue to critically analyze sentencing patterns and practices, respond to inquiries about the effectiveness of sentencing policies, and thoroughly assess the impact of proposed guideline amendments and new sentencing related legislation.

Increased Training Needs for Larger Federal Criminal Justice System

Over the last several years, as Congress has devoted increased resources to law enforcement, the number of federal judges, prosecutors, probation officers, and defense attorneys who require training and assistance on how to use the guidelines has increased accordingly. The Sentencing Reform Act requires the Commission to provide guideline training, in part because training promotes uniformity in guideline application and thereby reduces sentencing disparity, both goals of the Act.

Commission staff provided training on the sentencing guidelines to more than 2,500 individuals at approximately 50 training programs across the country in 2000, including ongoing programs sponsored by the Commission, the Federal Judicial Center, the Department of Justice, the American Bar Association, and other criminal justice agencies. The Commission also maintains a telephone HelpLine service to answer case-specific guideline application inquiries from federal judges, probation officers, prosecuting and defense attorneys, and law clerks. To further expand the availability and cost efficiency of training and information sharing, the Commission has joined the Federal Judicial Center and the Administrative Office of the U.S. Courts in launching a satellite television network to provide cutting-edge programming on sentencing-related issues. The Commission makes a regular contribution to a news series for probation and pretrial services designed to update officers on important information regarding the Commission and its activities. However, if the Commission is not provided sufficient funding to restore personnel in other areas of the agency, its quality of training will suffer because its training staff may have to be utilized for more pressing projects as they arise.

The organizational guidelines' approach to sentencing, which mitigates fines when effective compliance programs lead to prompt self-reporting and disclosure to the authorities, has spawned complementary efforts by a number of regulatory and law enforcement authorities. Executive agencies such as the Environmental Protection Agency, the Department of Health and Human Services, and the Department of Justice's Antitrust Division have developed, or are developing model compliance programs, programs for self-reporting, and programs for amnesty—all of which are modeled after some aspect of the organizational sentencing guidelines. Industry and peer organizations are forming to share ideas on "best practices" for compliance training and ethics awareness.

As a result of its leadership in this area, Commissioners and staff are regularly invited to share their expertise. For example, the Commission and the Ethics Officer Association (EOA) in 2000 jointly sponsored a series of day-long regional forums about implementing these guidelines. The EOA is a non-profit peer organization comprising ethics and compliance officer representatives of for-profit and non-profit organizations. Its primary objective is to share "best practices" for ethics and compliance programs among members through peer-to-peer networking, library services, and educational efforts. In addition to this, Commissioners and senior staff members have addressed national and regional compliance organizations and responded to numerous inquiries on the organizational sentencing guidelines and compliance issues. Interest and inquiries come from governmental agencies, corporations, industry coalitions, non-governmental organizations, and academic institutions, both within the United States and overseas.

Increased Inquiries from Congress

With the appointment of a full complement of commissioners, Congress once again is turning to the Commission for advice on sentencing policy, a development that the Commission enthusiastically welcomes. In the past few months alone, the Commission provided testimony before the:

—House Governmental Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources about drug sentencing trends, mandatory minimums,

and how these statutory penalties interact with the federal sentencing guidelines. The testimony included a great deal of data that we collected from our comprehensive database and updated many statistics from an earlier special report to Congress by the Commission on mandatory minimums. The Subcommittee expressed an interest in hearing more from the Commission about mandatory minimums.

—Senate Criminal Justice Oversight Subcommittee about the Commission's overall agenda, pending amendments, particularly our efforts on economic crimes, and extensive data involving eight years of departure trends from the guideline system.

—Senate Caucus on International Drug Control about trends and responses in Ecstasy availability and use.

In addition to these welcome hearings, each year the Commission also informs Congress's legislative deliberations by responding to hundreds of congressional requests for assistance. These inquiries, both written and oral, include requests for federal sentencing and criminal justice data, analyses of proposed legislation, explanations of guideline operation, technical assistance in drafting legislation, and Commission publications and resource materials.

With a full complement of new commissioners in place, the agency expects its overall activity will intensify, and requests from Congress and the public will greatly increase. As a result, the Commission needs to improve its congressional liaison activities and seeks to obtain additional staff for this effort.

SUMMATION

In sum, the Commission has worked very hard with limited resources to address the significant backlog of crime legislation that await implementation, long standing policy initiatives that need completion, and circuit conflicts that require resolution. With the necessary resources, the Commission expects to be well positioned by fiscal year 2002 to begin identifying important sentencing issues and embarking on its own policy agenda. However, the Commissioners unanimously agree that we cannot undertake a policy agenda of any real significance without restoring our staff to appropriate levels. We are not requesting a revision to the Commission's full time equivalency ceiling of 108 employees. Rather, the Commission merely seeks the restoration of funds so that we can fill some of the currently existing but vacant positions. We simply cannot continue to operate at current capacity and perform our many statutory obligations and fulfill our important role in combating crime by maintaining an effective, certain, and fair sentencing system.

PREPARED STATEMENT OF GREGORY W. CARMAN, CHIEF JUDGE, UNITED STATES COURT OF INTERNATIONAL TRADE

Mr. Chairman, Members of the Committee: Thank you for allowing me this opportunity to submit this statement on behalf of the United States Court of International Trade, which is a national trial-level federal court established under Article III of the Constitution with exclusive nationwide jurisdiction over civil actions pertaining to matters arising out of the administration and enforcement of the customs and international trade laws of the United States.

The Court's budget request for fiscal year 2002 is $13,112,000, which is $637,000 or approximately 5.1 percent more than the available appropriation of $12,475,000 for fiscal year 2001. The request will enable the Court to maintain current services and provide funds for an architectural analysis of the Court's interior and exterior environment. I would like to specifically point out that almost 88 percent of the Court's overall requested increase is comprised of pay and other standard inflationary adjustments to base.

The United States Court of International Trade Courthouse was built over 35 years ago and is in need of repair and upgrades. To this end, the Court is requesting, for the first time since fiscal year 1989, a program increase of $75,000 for an architectural study of the Courthouse that will address the shortcomings of the building in the areas of security, health and overall operations of the Court and recommend a course of corrective action, if necessary.

The Court's fiscal year 2002 request includes funds for maintaining, supporting and continuing the implementation of its new Case Management and Electronic Case Files System (CM/ECF) and the related file tracking and scanning and indexing solutions. Additionally, there are funds for maintaining and supporting several ongoing projects, specifically: (1) a networked records management and tracking system for all case records; (2) an online library automation system that enables the Judges and Court staff to search electronically for books and materials in the

Court's Library collection; (3) the replacement of the Court's obsolete phone system with one that enables the Court to address its current and future telecommunication needs; and (4) the replacement of certain furniture with new ergonomic designs that will help to minimize the risk of injury to Court personnel. The Court's fiscal year 2002 request also will support the Court's continuing effort in education and training for the Judges and Court staff that will enable the Court to better fulfill its mission. Lastly, the fiscal year 2002 request also includes funds for the support and maintenance of security system upgrades implemented by the Court in fiscal years 1999 through 2001.

During fiscal year 2000, the Court, in accordance with its five-year plan adopted in 1996, continued to design and implement projects that support the Court's future needs and utilize technology to enhance services to the Court family, the bar and the public. Several projects in support of that plan are expected to be implemented and continued in fiscal year 2002: (1) the replacement of older category 3 wire with enhanced category 5 wire and the installation of additional data tap runs for public access terminals; (2) the planning, design and development of an Intranet that will enhance the sharing of information among the Judges and staff and expand in-house training by utilizing automation and technology; (3) the establishment of an interactive training environment including new equipment and an additional satellite downlink that will enable Judges and staff to view and participate in training programs broadcast through the Federal Judicial Training Network; and (4) the installation of a raised platform floor in the Court's data center that will enable the Court to adequately wire the center for data and electrical connections, thereby providing greater flexibility and improved connectivity. The Court anticipates that these projects will be completed and operational by the end of fiscal year 2004. The continuation of fiscal year 2001 projects and the implementation of new initiatives will enable the Court to continue to build and update its infrastructure and operate more efficiently and effectively.

I would like to reaffirm that the Court always has been modest in its appropriation requests and will continue, as it has in the past, to conserve its financial resources through sound and prudent personnel and fiscal management practices.

The Court's "General Statement and Information" and "Justification of Changes," which provide more detailed descriptions of each line item adjustment, were submitted previously. If the Committee requires any additional information, we will be pleased to submit it.

PREPARED STATEMENT OF HALDANE ROBERT MAYER, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Mr. Chairman, I am pleased to submit my statement to the Committee for this court's fiscal year 2002 budget request.

Our 2002 budget request totals $20,446,000. This is an increase of $2,492,000 over the 2001 approved appropriation of $17,954,000. Thirty-four percent of the requested increase, $843,000, is for mandatory, uncontrollable increases in costs. The remaining increase of $1,649,000 is for funding of additional positions and renovation of our courtrooms.

Request for Program Increases

$1,649,000 of our fiscal year 2002 request will cover in part the costs of four statutorily authorized positions for technical assistants for the court's legal staff and one additional position for the court's staff. The remainder of the requested increase is for courtroom renovations and installation of technology in one courtroom.

Funding for Four Technical Assistants ($456,000).—The court is requesting four technical assistants in addition to the eight now approved for the court. Under the provisions of 28 U.S.C. § 715(d) the court may appoint technical assistants equal to the number of judges in regular active service. The four technical assistants requested here, plus those currently on board, will give the court one technical assistant for each of the twelve active judge positions.

The technical assistants do research and assist the court and all its judges in addressing technical aspects of appeals, maintaining consistency in precedential opinions, and otherwise fulfilling the court's mission. Technical assistants not only must have a law degree but also must have a background in science or engineering because of the significant number of highly technical intellectual property appeals handled by the court. This court has exclusive jurisdiction over patent appeals from 94 district courts and the Patent and Trademark Office. These appeals often are difficult and time consuming, and involve complex issues at the forefront of bio-

technology, computer engineering, pharmacology, and other areas of science and engineering.

The need to hire four technical assistants is critical to the efficient and effective operation of the court. Intellectual property litigation is a rapidly expanding area of the law. This is evident from the growing number of intellectual property cases filed with the court; the increasing complexity of patent issues submitted in each case; and the size of appendices accompanying each filing. Patent cases make up thirty-three percent of the court's docket.

Funding for One Position on the Permanent Court Staff ($78,000).—The court requests funding to hire a full-time permanent position entitled Information Technology Specialist. Upon completion of a formal security review and assessment of the court's electronic information system, the National Security Agency (NSA) concluded that the court should hire an Information Technology Specialist. This person would monitor and protect the security of the court's information system. The Information Technology Specialist would insure that all electronic communications and information in judges' chambers and staff offices are protected and secure from compromise or unlawful release.

Technology in the Courtroom ($215,000).—At the March 1999 session of the Judicial Conference of the United States, the Judicial Conference recognized that courtroom technologies are a necessary and integral part of courtrooms. Based on the Judicial Conference's findings and the fact that the Administrative Office of the U.S. Courts (AO) currently is implementing this program in courts across the country, the court is requesting funding to upgrade the courtroom technology in one of our courtrooms. The figure of $215,000 was provided to the court by the AO based on its experience to date with upgrading courtrooms.

Funding for Courtroom Renovations ($900,000).—The court is requesting $900,000 for use to begin modernizing and updating the Federal Circuit courtrooms. The National Courts Building opened in 1967. With the exception of replacement carpet, there have been no renovations or upgrades performed in the courtrooms.

The funding will be used to renovate the courtrooms, upgrade the security of the Judges' benches, purchase furniture, improve counsel rooms, modernize the lighting, and upgrade the sound system. The courtrooms need to be rewired for computer use, recording equipment, and improved technology. This is a one-time cost and would be reflected as a nonrecurring expense in our 2003 budget request.

It was recommended that the court request this funding from GSA. We have done so with no success. We are once again in the process of discussing the possibility of funding by GSA. Should we be successful in obtaining funding from that agency we would notify Congress and cancel this request.

I would be pleased, Mr. Chairman, to answer any questions the Committee may have or to meet with Committee members or staff about our budget requests.

NONDEPARTMENTAL WITNESSES

DEPARTMENT OF COMMERCE

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY COALITION

Mr. Chairman and Members of the Subcommittee: On behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2002 funding request of $250,000 from the National Oceanic and Atmospheric Administration (NOAA) for CCOS as part of a Federal match for the $8.7 million already contributed by California State and local agencies and the private sector. NOAA is currently under contract for approximately $700,000 to use state-of-science instrumentation to measure surface and aloft winds and temperatures in the CCOS study area. This request will partially replace funding already spent for NOAA's participation in CCOS.

Ozone and particulate matter standards in most of central California are frequently exceeded. In 2003, the U.S. Environmental Protection Agency (U.S. EPA) will require that California submit SIPs for the recently promulgated, national, 8-hour ozone standard. It is expected that such SIPs will be required for the San Francisco Bay Area, the Sacramento Valley, the San Joaquin Valley, and the Mountain Counties Air Basins. Photochemical air quality modeling will be necessary to prepare SIPs that are acceptable to the U.S. EPA.

Central California Ozone Study is designed to enable central California to meet Clean Air Act requirements for ozone State Implementation Plans (SIPs) as well as advance fundamental science for use nationwide. The CCOS field measurement program was conducted during the summer of 2000 in conjunction with the California Regional PM10/PM2.5 Air Quality Study (CRPAQS), a major study of the origin, nature, and extent of excessive levels of fine particles in central California. CCOS includes an ozone field study, a deposition study, data analysis, modeling performance evaluations, and a retrospective look at previous SIP modeling. The CCOS study area extends over central and most of northern California. The goal of the CCOS is to better understand the nature of the ozone problem across the region, providing a strong scientific foundation for preparing the next round of State and Federal attainment plans. The study includes six main components:

—Developed the design of the field study
—Conducted an intensive field monitoring study from June 1 to September 30, 2000
—Developing an emission inventory to support modeling
—Developing and evaluating a photochemical model for the region
—Designing and conducting a deposition field study
—Evaluating emission control strategies for the next ozone attainment plans

CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional Particulate Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS. The sponsors of CCOS, representing state, local government and industry, have contributed approximately $8.7 million for the field study. The federal government has contributed $500,000 some data analysis. In addition, CCOS sponsors are providing $2 million of in-kind support. The Policy Committee is seeking federal co-funding of $8.5 million to complete the data analysis and modeling portions of the study and for a future deposition study. California is an ideal natural laboratory for studies that address these issues, given the scale and diversity of the various ground surfaces in the region (crops, woodlands, forests, urban and suburban areas).

There is a national need to address national data gaps and California should not bear the entire cost of the addressing these gaps. National data gaps include issues relating to the integration of particulate matter and ozone control strategies. The

CCOS field study took place concurrently with the California Regional Particulate Matter Study—previously jointly funded through Federal, State, local and private sector funds. CCOS was timed to enable leveraging of the efforts for the particulate matter study. Some equipment and personnel served dual functions to reduce the net cost of the CCOS field study. From a technical standpoint, carrying out both studies concurrently was a unique opportunity to address the integration of particulate matter and ozone control efforts. To effectively address these issues requires federal assistance, and CCOS provides a mechanism by which California pays half the cost of work that the federal government should pursue.

For fiscal year 2002, our Coalition is seeking funding of $250,000 from the National Oceanic and Atmospheric Administration (NOAA).—Meteorological data were continuously collected during the CCOS field program. Extensive meteorological data collected as part of the field study can be used by NOAA to strengthen its ongoing research activities such as improving meteorological forecasting and providing information on the evaluation of the U.S. weather western boundary conditions. More importantly, CCOS provides data for research in the areas of air flow over complex terrain. Improved results obtained from this research has national applicability.

Thank you very much for your consideration of our request.

PREPARED STATEMENT OF THE AMERICAN RIVERS

Many individual programs funded by the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee have substantial impacts on America's rivers. We urge that you bear these impacts in mind in determining levels of funding for these important government programs. We appreciate your committee's past commitment to important programs such as the Pacific Coastal Salmon Recovery Fund. We would like to highlight this program again for fiscal year 2002, along with the need for adequate funding of participation by the National Marine Fisheries Service in hydropower relicensing.

PACIFIC SALMON COASTAL RECOVERY FUND

Pacific salmon are a national treasure with enormous economic, cultural, and environmental significance in the Pacific Northwest including Washington, Oregon, California, Idaho, and Alaska. A century ago, salmon were an anchor of the region's economy, and the United States was the world's largest salmon producer. But populations of salmon have declined dramatically over the past century, and 26 runs of Pacific salmon and steelhead are now listed under the Endangered Species Act.

One important program aimed at restoring endangered and threatened runs of wild chinook, steelhead, coho, sockeye, and chum salmon is the Pacific Salmon Coastal Recovery Fund, funded through the National Marine Fisheries Service. For the past two years, this program has provided much-needed assistance to state, local, and tribal governments in Washington, Oregon, California, and Alaska for salmon recovery projects. This year we ask that the state of Idaho be made eligible to benefit from this program as well. In fiscal year 2002, we urge the Subcommittee to provide $200 million to provide the assistance the Pacific Northwest states need to restore threatened and endangered salmon and their habitat.

Increased funding for this program is a key element of funding the new, multi-agency salmon recovery plan for the Columbia and Snake river basin. The salmon recovery plan embraces an "aggressive non-breach" approach, setting forth a recovery plan that relies on non-dam breaching actions, including improving salmon spawning and rearing habitat, water quality and flows, better screening of irrigation diversions, hatchery and harvest management, and improvements to dam structures and operations. If this non-breach recovery package is not funded and implemented, or if the salmon recovery plan does not yield the expected biological benefit for Snake River salmon, the plan calls for the federal agencies to seek congressional authorization—as soon as 2003—to remove the four lower Snake River dams.

In addition to helping to fund salmon recovery in the Columbia and Snake river basin, the Pacific Coastal Salmon Recovery Fund will provide equally needed assistance for salmon recovery efforts up and down the Pacific coast, including, but not limited to, Puget Sound, Oregon's Willamette River, and California's coast and Central Valley.

By increasing funding for the Pacific Coastal Salmon Recovery Fund to $200 million for fiscal year 2002, you can help preserve this economically, culturally, and ecologically valuable resource and help the Northwest states and local communities to adopt and embrace the measures needed to restore Pacific salmon and steelhead.

Restoring salmon also will allow the United States to meet treaty obligations with Northwest Indian tribes and Canada.

NMFS PARTICIPATION IN HYDROPOWER RELICENSING

The National Marine Fisheries Service (NMFS) plays an important role in hydropower relicensing when a hydropower project impacts species that migrate between fresh water and the ocean during their life cycles. Congress should appropriate adequate resources for NMFS to address fisheries management issues in the increasing number of hydropower dams seeking renewal of their operating licenses from the Federal Energy Regulatory Commission on the West Coast and in the Southeast. A $2 million increase in the Habitat Conservation Program: Operations, Research, and Facilities' "Sustain Healthy Coasts Strategic Goal" will help to ensure a more efficient licensing process, benefiting the hydropower industry and furthering efforts to protect and restore fisheries resources.

PREPARED STATEMENT OF THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations submits this testimony to the Appropriations Subcommittee on Commerce, State, Justice and the Judiciary. APTS, on behalf of the nation's 354 local public television stations, urges the committee to support funding for the Public Telecommunications Facilities Program (PTFP) in the National Telecommunications Information Agency at the U.S. Department of Commerce.

This year APTS is asking Congress to fund the PTFP in fiscal year 2002 at $110 million. This increase in funding is essential to fund part of public television's equipment needs in the mandated conversion of digital broadcast. For over 30 years the federal government has helped public broadcasting build an infrastructure that reaches virtually every American television household. The Federal Communications Commission has mandated that public television stations must be on the air with a digital broadcast by May of 2003. Public television appreciates the increase in funding that the committee provided last year and the recognition it provided to the cost of converting. We respectfully ask the subcommittee to increase PTFP funding to help stations convert to digital transmission.

COMMITMENT IN THE DIGITAL AGE

Public broadcasting has estimated the costs of its conversion to digital at $1.8 billion, and is seeking federal financial assistance in the amount of $699 million over five years. Public broadcasters historically have been the leaders in using new technologies for education and public service. The nation's public television stations stand ready to make an historic commitment to all Americans to provide near universal access to wireless, high-speed data for education. Specifically, public television stations will commit the equivalent of one multicast digital channel—a daily average of 4.5 megabits per second (Mbps), among the highest data rates available—for formal early childhood, K–12, and post-secondary education, as well as workforce training and professional development. This digital capacity would provide the equivalent of three T–1 lines to every school in America and is conservatively valued at $2.4 billion per year.

The congressionally appointed bi-partisan Web-based Education Commission called for broadband access to be made widely and equitably available, and affordable for all learners. E-rate funding cannot meet this need. Applications for E-rate discounts total $5.8 billion, but only $2.25 is available. Public television stations can fill the gap.

HARNESSING DIGITAL TECHNOLOGY TO SERVE THE PUBLIC

With roots going back to the earliest days of radio and television, America's public broadcasters have played a unique role in a media industry that is otherwise built on consumer advertising and mass market entertainment. Since the 1960s, publicly funded noncommercial television has provided a clear alternative to commercial television, focusing on education and culture, public affairs and the performing arts.

While the proliferation of television channels has been driven by market demands, public television's core mission has not and will not change in a digital world. We will build on our track record of providing the best programming and services to educate and enlighten audiences. We also will continue to be leaders in using new technology for the public interest. From satellite delivery of broadcast signals, to the development of stereo broadcasting; from closed captioning and descriptive video

services, to video streaming and cutting edge interactive television trials, public broadcasters have been inventors, innovators and blenders of technologies to serve the public.

Public television is committed to use digital technologies to transform the way we learn—by providing the American public with educational services anytime anywhere. That means how they want them, when they want them and where they want them—in homes, schools, childcare facilities, and workplaces across America.

MULTICAST DIGITAL SERVICES—UNLOCKING PUBLIC TELEVISION'S PUBLIC SERVICE MISSION

Since receiving their digital channels, public television stations have been engaged in systemwide and station level planning. In 1997, public broadcasting put forward a comprehensive plan for its digital conversion to the Administration and Congress. We set four broad systemwide goals for the use of digital technology—goals that are founded on fully utilizing the multicasting capability of the digital technology to expand and enhance services.

—To make the full complement of Ready to Learn services available to every child, parent and caregiver in America. The PBS Ready to Learn Service is currently meeting two national education goals: it teaches basic reading skills and it helps prepare more children for school success. Its 133 participating stations cover over 94 percent of the country. In the past three years, RTL public television stations have trained 370,000 parents and 250,000 teachers and caregivers, affecting approximately 6 million children.

—To expand the reach of public television's K–12 educational programs and services by making them universally available to all schools and home schoolers. Seventy percent of public television licensees provide K–12 programming in math, science, arts and humanities. These services are enhanced by:

—*PBS TeacherSource*.—An online K–12 teacher resource with line lesson plans, teacher guides and activities, correlated to more than 90 national and state standards; and,

—*PBS Teacherline*.—Online modules to enhance the learning and teaching of K–12 mathematics and other core subjects.

—To increase the reach of post secondary telecourses so that they are universally available to all adult learners. Collectively, public television stations are the largest source of post secondary telecourses in the nation. PBS Adult Learning Service (ALS) supports station-college partnerships that offer distance learning credit-bearing telecourses, enrolling more than 500,000 students in 1999–2000. GED on TV has enabled more than two million adults in five years to earn their high school equivalency from home. The estimated positive economic impact of these programs, workers that are more productive exceeds $12 billion.

—To expand our commitment to serving the un-served and under-served populations in our country, those who because of economic, geographic, physical, cultural or language barriers have been left behind by the commercial marketplace. Public Broadcasting has pioneered the development of open and closed captioning for the deaf and descriptive video services and reading services for the blind or visually impaired. Stations like WYBE, Philadelphia and WNVC, Fairfax provide programming in multiple languages serving a variety of different ethnic cultures.

Local public television stations throughout the country have turned those systemwide goals into concrete and very bold and exciting service plans tailored to their local communities. APTS maintains an interactive digital transition clearinghouse of stations' plans for digital services. Our data shows that virtually every public television station in the country has developed digital service plans to meet these and other goals. The centerpiece of virtually every plan is the delivery of multicast services with a strong focus on education.

—In exchange for federal financial support and favorable cable must carry regulations, the nation's public television stations stand ready to commit an average daily rate of 4.5 megabits per second (approximately one channel) of their digital spectrum to education. The value of this capacity is conservatively estimated at $2.4 billion per year

—Three out of every four PTV stations plan to carry at least two formal education multicast services.

—Approximately 85 percent of PTV stations plan to multicast a children's channel; 78 percent intend to broadcast university-level or post-secondary telecourses; and 66 percent plan to multicast an instructional programming channel for students in grades K–12.

—Others plan to multicast channels that focus on local public affairs, teacher training, foreign language programming, and programming aimed at minority and under-served audiences.

PTV DIGITAL SERVICE PLANS—CREATING LOCAL SOLUTIONS FOR NATIONAL PRIORITIES, REALIZING NATIONAL EDUCATIONAL GOALS ON A LOCAL LEVEL

While public television stations plan to deliver one or more formal educational multicast channels, the specific educational services are tailored to meet local community needs.

Florida public television stations have promised the state legislature that they will collectively devote a multicasting stream to the Florida Knowledge Network in return for digital funding. This statewide educational network will serve as a teacher training resource, linking Florida's classrooms with direct access to the highest quality programming, electronic field trips, and distance learning.

PROVIDING UNSERVED AND UNDERSERVED WITH ACCESS TO DIGITAL

Today, public television stations, through their nationwide system of transmitters and translators, serve 99 percent of American households with an over-the-air analog signal. Public television stations that serve rural communities with a network of analog translators are ideally positioned to bring the benefits of broadband digital services to the most rural and remote areas of this country.

KNME in Albuquerque is considering leasing part of its digital spectrum to the New Mexico Department of Education to facilitate the delivery of educational materials to the state's K–12 schools. The station will position itself as the state's virtual classroom, providing curricular support and teacher training opportunities for viewers separated by hundreds of miles.

Public television stations also plan to use the multicast capability to serve populations under-served because of cultural, language or economic barriers.

KBDI in Denver plans to launch a Latino Initiative Channel. This channel would feature programming for Denver's Spanish-speaking and bilingual community and will emphasize news, public affairs, and social and cultural events.

The Kentucky Network intends to work with art and cultural organizations to produce more arts education programming for the state's children. KET plans to create a statewide task force on arts education and early childhood. Ultimately, the network hopes to produce a dance series and musical programming for elementary students.

The federal government must play its historic leadership role in underwriting a portion of public broadcasting's digital transition. The government's failure to make this investment will have direct consequences. Millions of Americans may be deprived of the enormous educational promise of digital television. Many of the smaller and rural stations may be unable to make the transition at all without some federal support.

CONCLUSION

For more than 30 years, Congress has invested wisely in public broadcasting. We now have a strong system of public television stations that reaches 99 percent of American households, giving viewers tools to improve and enrich their lives. The public service promise of new digital technology is enormous:

—for children to provide a dedicated stream of nonviolent, educational and entertaining programs, commercial-free and free-of-charge;
—for parents and schools to better educate children;
—for colleges and universities to reach out beyond their campus walls;
—for students of all ages to have access to lifelong learning;
—for under-served audiences whose income, geography, culture or disability threatens to cut them off from the digital promise;
—for citizens who feel alienated from their local, state or federal governments; and
—for public service organizations seeking to build a sense of civic connection and commitment.

Realizing this potential and remaining a viable service provider in the digital age is fully dependent on a federal investment to ensure access to all digital services. Public television stands ready with service plans, matching state and local grants, and community-based content partners to fully utilize this technology for public service.

PREPARED STATEMENT OF THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

Mr. Chairman, on behalf of the Columbia River Inter-Tribal Fish Commission (CRITFC), thank you for the opportunity to present the Commission's views on the fiscal year 2002 budget for the National Marine Fisheries Service (NMFS). The tribes support funding the Columbia River (Mitchell Act) hatchery program at $36 million, in order to implement reforms called for in the "Conservation of Columbia Basin Fish" (Federal Caucus "All H" Paper). Of that amount, $9 million (or 25 percent of the actual enacted amount) should be contracted to the tribes for new or expanded supplementation programs. Savings can be realized by ensuring that no funds are expended under the Mitchell Act program for the so-called "conservation marking" program, an unproven mass marking and selective fisheries program when applied to chinook and a proven failure as applied to steelhead stocks, without an agreement of the co-managers. For the Columbia River (Mitchell Act) screening program, the tribes support funding of $20.6 million for screens and passage programs as identified in the Federal Caucus Plan. The tribes support increasing the level of funding for the Pacific Coastal Salmon Recovery Program to $165 million to provide sufficient funding for salmon restoration activities within the Columbia River basin and the rest of the Pacific Coast. Of that amount, $10 million should be provided to the Columbia River tribes in the form of a direct grant, and $25 million each to the states of Alaska, California, Oregon, Idaho, and Washington, and $20 million for Implementation of the 1999 Pacific Salmon Treaty Agreement. Finally, the tribes support funding the base Pacific Salmon Treaty Program at $7,456,000.

The tribes note that the NMFS receives tens of millions of dollars in funding directly from the Bonneville Power Administration (BPA) or from BPA under the Northwest Power Planning Council's (NWPPC) Fish and Wildlife Program. Before the ESA listings, such funding to NMFS was subject to coordination with the regional co-managers, the states and tribes. Now, NMFS identifies "ESA" funding needs and sidesteps the normal regional coordination process. While some of NMFS's initiatives would receive regional support, others would not as they serve to undermine cooperative and proactive tribal, state, or stakeholder programs geared to restoring salmon and reducing burdens on private landowners. The tribes encourage you review Congressional and BPA funding for NMFS's salmon recovery activities.

MISSION STATEMENT

Formed by resolution of the Nez Perce, Umatilla, Warm Springs and Yakama Tribes, CRITFC provides coordination and technical assistance to the member tribes to ensure that outstanding treaty fishing rights issues are resolved in a way that guarantees the continuation and restoration of our tribal fisheries into perpetuity. Since 1979, CRITFC has contracted with the BIA under the Indian Self-Determination Act (Public Law 93–638) to provide this technical support. The tribes' and CRITFC's technical experts have identified where federal and state resource managers have fallen short in protecting and restoring the habitat and production of all salmon stocks. Our goal is to restore a sustainable resource for the benefit of all peoples in the Pacific Northwest. Wy-Kan-Ush-Mi Wa-Kish-Wit, the tribes' restoration plan, identifies hypotheses based upon adaptive management principles to address those threats, and provides specific recommendations and practices that must be adopted by natural resource managers. See www.critfc.org for a copy of the plan.

WY-KAN-USH-MI WA-KISH-WIT

Issues that are addressed in Wy-Kan-Ush-Mi Wa-Kish-Wit include policy direction and/or conservation actions that must be made or taken in these areas: Allocation of the conservation burden; Harvest; Hatchery reform; Hydropower system operation; and, Habitat restoration and protection.

Our testimony focuses on the need for hatchery reform. The tribes have, for over two decades, identified state and federal hatchery practices at the ninety-eight production facilities within the Columbia River basin as a significant factor in the loss of naturally spawning salmon stocks. NMFS agrees, citing these practices for the loss of naturally spawning coho. The past operation of these hatcheries has contributed to the decline of naturally spawning stocks throughout the basin. Only about 7 percent of Columbia River (Mitchell Act) hatchery production is released above The Dalles Dam. Yet, that is where the most damage to salmon has been and continues to be caused by the dams.

About 1 percent of Mitchell Act production is used to assist the rebuilding and restoration of naturally spawning salmon, the stocks which have been constraining

both Indian and non-Indian fisheries on the West Coast. Prior to the transition from hatchery-based fisheries to weak-stock management, mixed-stock fisheries were regulated on the basis of hatchery abundance and had a devastating effect on naturally spawning runs of the Columbia Basin. The tribes believe that the salmon mitigation and enhancement programs authorized under the Mitchell Act have discriminated against treaty protected fisheries and have failed to mitigate the salmon resource damage caused by the dams.

Used correctly though, hatcheries can and should play an extremely important role in salmon recovery. We have proposed a biologically credible integrated plan to modify hatchery management practices throughout the basin in order to supplement rather than supplant natural spawning salmon populations. Within the last ten years, the Commission has developed substantial scientific justification supporting the use of Mitchell Act facilities for natural run enhancement. A supplementation protocol was agreed upon by the fish and wildlife agencies and tribes of the Columbia Basin Fish and Wildlife Authority and was peer reviewed and published in the text, Genetic Conservation of Fishes. Using this approach, the Confederated Tribes of the Umatilla Indian Reservation successfully restored chinook and coho stocks to the Umatilla River Basin. Salmon had been eliminated from the basin for over a half-century by irrigation practices. The Commission believes these practices need to be implemented immediately as an alternative to current Mitchell Act hatchery practices. If the Mitchell Act facilities continue to be operated as they are now, continued funding of those facilities will do nothing to restore ESA-listed fish or natural stock protection. CRITFC staff is currently preparing Hatchery Reform Begins with a Review of Current Hatchery Practices for publication, a draft can be made available for your use and review.

NMFS's interpretation of the Endangered Species Act further limits the ability of the federally funded hatcheries to comply with congressional mitigation mandates. Some of these hatcheries can make a substantial contribution to the recovery of populations protected under the Endangered Species Act. Unless the National Marine Fisheries Service interprets the ESA to permit the use of these hatchery-reared populations for artificial propagation purposes as required under Section 3(15) of the Act, these facilities will not be used in an effective manner to hasten salmon recovery. CRITFC staff is evaluating the ESU and its applicability to salmon management, a paper titled The "Evolutionarily Significant Unit (ESU)" definition of a Distinct Population Segment: Evaluation of Scientific Evidence and Continuing Research. A draft of this paper can be available for your use and review, with the completed paper available in June.

Columbia River (Mitchell Act) hatchery program.—Restoring Pacific salmon and providing for sustainable fisheries requires using the Columbia River (Mitchell Act) hatchery program to supplement naturally spawning stocks and populations. To accomplish this goal, provide $36 million for the tribes and states, as co-managers, to jointly reform the Mitchell Act hatchery program using only jointly agreed upon marking programs. Of this amount, $9 million, or 25 percent of enacted funding, will be contracted to the tribes for new or expanded supplementation projects. In addition, to carry out necessary activities identified in the Federal Caucus All-H Paper, $20.6 million is for screens and fish passage programs. We ask that you direct NMFS, in coordination with tribal and state fishery mangers, allow the use of supplementation in restoring declining salmon populations and fisheries under recovery programs developed under the ESA. Of the hatchery facilities funded under this program, the management and funding for the following Mitchell Act hatchery should be transferred from the state or federal agency identified, via NOAA/NMFS, to the tribe specified: Klickitat Hatchery facility from Washington Department of Fish and Wildlife (WDFW) to the Yakama Nation.

Of the other hatchery facilities funded under this program, the management and funding for the following hatcheries should be studied for transfer by NOAA/NMFS within 3 to 5 years from the state or federal agency identified to the tribe specified: Bonneville Hatchery from Oregon Department of Fish and Wildlife (ODFW) to the Yakama Nation); Carson Hatchery (from USFWS to the Yakama Nation); Little White Springs Complex (from USFWS to the Yakama Nation); Spring Creek Hatchery (from USFWS to the Yakama Nation); Cascade Hatchery (from ODFW to the Umatilla Tribe); Oxbow Hatchery Complex (from ODFW to the Umatilla Tribe); and Ringold Hatchery (from WDFW to the Umatilla Tribe).

Pacific Coastal Salmon Recovery Program/Watershed Restoration.—Beginning in 1996, with the Sitka Salmon Summit hosted by Governor Knowles of Alaska, additional funding has been sought by the State of Alaska, the Pacific Northwest states, and the treaty tribes to serve critical unmet needs for the conservation and restoration of salmon stocks shared in these tribal, state, and international fisheries (See Record of Discussion, May 20,1996). The funds provided by Congress under the Pro-

gram mark an important beginning in accomplishing the goals of this shared effort. For fiscal year 2002, provide the Columbia River treaty tribes with funding of $10 million through the Pacific Coastal Salmon Recovery Program. These program funds will continue to ensure that tribally sponsored watershed projects are based on the best science, are competently implemented and adequately monitored, and address the limiting factors affecting salmon restoration. This will include the use of monitoring protocols to systematically track current and future projects basin-wide. Projects undertaken by the tribes last year are consistent with the Wy-Kan-Ush-Mi Wa-Kish-Wit and the following programmatic areas identified by Congress and are outlined in the report provided with this testimony. The tribes support expanding this program to include the State of Idaho.

PACIFIC SALMON TREATY PROGRAM

The tribes support the U.S. Section recommendation at the funding level of 7,456,000, with $5,612,000 for the Pacific Salmon Treaty base program, with Alaska, Oregon, Idaho, Washington, and the NMFS to share those funds as described in the U.S. Section of the Pacific Salmon Commission's Budget Justification. We continue to support additional funding to for additional chinook research and management activities at $1,884,000; these funds are annually allocated to new state, tribal and federal projects through a technical review process.

In summary, Mr. Chairman, the Commission is an excellent working model of leaders from four tribes working together to protect their treaty fishing rights. This Commission has demonstrated that, with a staff of scientists, biologists, hydrologists, law enforcement personnel, and other experts advising tribal policy-makers, tribes can take the lead on natural resource issues, provided that adequate resources are available. This is a time when increased effort and participation are demanded of the Commission and the tribes, we ask for your continued support of our efforts, and we will be pleased to provide any additional information that this committee may require.

PREPARED STATEMENT OF THE MARINE FISH CONSERVATION NETWORK

The Marine Fish Conservation Network is pleased to share its views regarding National Marine Fisheries Service (NMFS) programs in the National Oceanic and Atmospheric Administration's (NOAA) budget request. We ask that this statement be included in the hearing record for the fiscal year 2002 Commerce, Justice, State and the Judiciary Appropriations Bill.

The Marine Fish Conservation Network is a national coalition of more than 100 environmental, commercial and recreational fishing associations, and marine science groups dedicated to conserving marine fish and promoting their long-term sustainability. We greatly appreciate the funding this Subcommittee has provided for the marine fish conservation programs within NMFS over the last several years and we look forward to working with the Subcommittee to enact responsible levels of funding in the coming fiscal year.

There are four areas in the NMFS budget where we believe the requested spending levels need to be increased to help the agency fulfill its obligations as the federal government's fisheries management agency.

ANNUAL STOCK ASSESSMENTS

Request.—Increase $26.6 million from 2001 funding levels

The status of more than three quarters of all species managed under the Magnuson-Stevens Fishery Conservation and Management Act is unknown largely due to a lack of funding for basic research and stock assessments. Fishery managers need better information on all stocks to fulfill their responsibilities to rebuild overfished stocks, prevent overfishing of stocks approaching an overfished condition, and to set appropriate catch levels for those fish that are not overfished. The National Marine Fisheries Service, with the President's requested increase of $13.3 million for stock assessments, would still have a deficit of 1,700 research days at sea to fulfill their stock assessment duties. Increasing the stock assessment line item by $26.6 million from 2001 levels would cut that number in half so that the deficit could be erased in 2003 or 2004.

OBSERVER PROGRAMS

Request.—Increase $16.4 million above fiscal year 2001 funding levels

By increasing the annual appropriations for fisheries observers by $16.4 million to $25 million, the National Marine Fisheries Service would be able to establish and

implement an effective National Observer Program. This increase includes an extra $5 million over fiscal year 2001 funding levels for West Coast observers. The information from these observers, together with the information that is expected to be generated through the National Fisheries Information System, would give us a better idea on exactly how much fish is caught directly and as bycatch, thereby improving management of our fish populations.

ESSENTIAL FISH HABITAT (EFH)

Request.—An increase of $12.5 million over fiscal year 2001 funding levels

Essential fish habitats (EFH) are those waters and substrate on which fish depend. These habitats are currently being damaged from both land-based activities and destructive fishing practices. While the Sustainable Fisheries Act of 1996 gave NMFS a clear mandate to identify and conserve essential fish habitat too little has been done to protect these habitats. This increase in funding would allow NMFS to gain the information necessary to further refine designations of EFH and take action to conserve EFH, including measures to minimize the adverse impacts of fishing gear on EFH.

ENFORCEMENT AND SURVEILLANCE

Request.—An increase of $10.3 million over fiscal year 2001 funding levels for enforcement An increase of $11.1 million over fiscal year 2001 funding levels for the Vessel Monitoring System (VMS) Program

Enforcement of our fishery management laws has been woefully underfunded for years. According to NMFS, there are currently around 150 enforcement agents that are each responsible for 1200 miles of coastline. We request increasing funding for enforcement by $7 million over the President's request to allow for the hiring of 30 more officers to begin to address this chronic shortfall. The increase would also allow for a strengthening of alternative enforcement programs and enhancement of state and local partnerships.

Increasing funding for VMS by $11.1 million over fiscal year 2001 levels would allow for the establishment and implementation of VMS systems and the placing of VMS transponders on a vast majority of the estimated 10,000 boats in the U.S. commercial fishing fleet. VMS programs enhance data collection and safety at sea, and can be beneficial to fisherman by allowing them to fish right up until a quota is reached rather than leave the fishing site before the season closes. VMS is beneficial to regulators because it will allow officials to know when a fishing vessel is violating closed areas, or is fishing beyond the end of a regulated fishing period.

Thank you for consideration of our requested increases for these important fish management programs.

PREPARED STATEMENT OF THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

Mr. Chairman and Members of the Subcommittee, on behalf of this nation's 32 American Indian Tribal Colleges and Universities, which comprise the American Indian Higher Education Consortium (AIHEC), we thank you for the opportunity to share our fiscal year 2002 (fiscal year 2002) funding requests regarding the United States Department of Commerce and the Small Business Administration.

This statement will cover two areas: (a) background information on Tribal Colleges and Universities, and (b) funding requests and justifications. The following is a summary of our fiscal year 2002 requests.

SUMMARY OF REQUESTS

Under the Department of Commerce programs, we will address three specific areas:

—We urge the Subcommittee to support the continuation of the $15 million National Oceanic and Atmospheric Administration (NOAA) program: Educational Partnership Program with Minority Serving Institutions, included in the President's fiscal year 2002 budget request. This program will increase the number of minorities trained in the natural and physical sciences and establish Collaborative Science Centers at several Minority Serving Institutions. We request report language eliminating the requirement that the MSI, even if applying in partnership with graduate degree awarding mainstream institutions, must have an accredited graduate program in oceanic, earth and atmospheric sciences. This requirement eliminates all of the tribal colleges and most other MSIs from participating in what is designed to be an MSI focused program.

—We urge the Subcommittee to support the Economic Development Administration's efforts to address chronic unemployment and poverty in reservation communities and to include report language that would foster partnerships between the EDA and tribal colleges.

—We request support and expansion of the Internal Trade Administration (ITA) initiative to help Native Americans enter new markets and increase cultural heritage tourism as part of their communities' economic development plans. Tribal colleges often serve as the tribal archive and community centers and are a logical catalyst for attaining the economic development goals of both the ITA and tribal communities.

Under the Small Business Administration, we urge the Subcommittee to support the existing Tribal Business Information Centers (TBICs) and the creation of a new Native American Business Development Center program within SBA. We request $5 million to fund these two programs.

BACKGROUND ON TRIBAL COLLEGES

The Tribal College Movement was launched in 1968 with the establishment of Navajo Community College, now Diné College, in Tsaile, Arizona. A succession of tribal colleges soon followed, primarily in the Northern Plains region. In 1972, the first six tribally controlled colleges established the American Indian Higher Education Consortium (AIHEC) to provide a support network for member institutions. Today, AIHEC represents 32 Tribal Colleges and Universities located in 12 states, begun specifically to serve the higher education needs of American Indian students. Collectively, they serve 25,000 students from over 250 federally recognized tribes.

Tribal colleges offer primarily 2-year degrees, although in recent years some institutions have begun to offer baccalaureate and graduate-level degrees. The vast majority of the tribal colleges are fully accredited by independent, regional accreditation agencies.[1] In addition to college-level programming, tribal colleges provide high school completion, adult education, job training, and college preparatory courses. Although the central focus is on education, tribal colleges fulfill other roles for their respective communities. Tribal colleges function as community centers, libraries, tribal archives, career centers, economic development centers, public-meeting places, and child care centers. An underlying goal of the tribal colleges is to improve the lives of students through higher education and to move American Indians toward self-sufficiency.

Tribal colleges provide needed access to higher education for American Indians living in mostly rural, economically depressed areas of the country. The colleges are chartered by their respective tribal governments and were established in response to the recognition by tribal leaders that local, culturally based education institutions are best suited to help American Indians succeed in higher education. Tribal colleges combine traditional teachings with conventional postsecondary courses and curricula. The colleges have devised innovative means to address the needs of tribal populations in economically depressed regions and are successful in overcoming long-standing barriers to Indian higher education. They are unparalleled in providing the knowledge and skills students need for successful transfer to 4-year institutions and to gain meaningful employment. Since the first tribal college was established on the Navajo reservation, these vital institutions have come to represent the most significant development in the history of American Indian higher education, providing access to under-represented students and promoting achievement among students who may otherwise never have known post-secondary education success.

Funding for tribal colleges is grossly inadequate. While these institutions have faced and successfully negotiated many challenges in the history of the Tribal College Movement, adequate funding remains the most significant barrier to their ongoing success. Core operational funding for 25 tribal colleges is provided through the Tribally-Controlled College or University Assistance Act (TCCUAA), Public Law 95–471. Funding provided under the Act is less than two-thirds of its authorized level of $6,000 per full-time Indian student. In fiscal year 2001, the Colleges received $3,849 per full-time Indian student. Moreover, this amount is less than two-thirds of the estimated $6,089 per full-time student received by mainstream community colleges. While mainstream institutions have a foundation of stable state support, tribal colleges must rely on the Federal government for operational funding. Be-

[1] The Tribal Colleges and Universities are accredited by regional accreditation agencies and must undergo stringent performance review on a periodic basis. The higher education division of the respective regional accreditation agency accredits twenty-seven of the TCUs. Two new TCUs are at the Pre-candidate stage as they complete work to attain Candidate status; one TCU is at Candidate status. Two TCUs are accredited as "Vocational/Adult Schools by the "schools" division of the respective regional accreditation agency.

cause tribal colleges are located on federal trust territories, states have no obligation to fund them. In fact, most states do not even fund our colleges for the non-Indian state-resident students who account for approximately 20 percent of our enrollments.

Since their inception, tribal colleges have achieved exceptional growth and success, yet they are the most poorly funded higher education institutions in America. Although conditions at some have improved substantially, many tribal colleges still operate in trailers, cast-off buildings, and facilities with crumbling foundations, faulty wiring, and leaking roofs. Sustaining quality instructional programs has been a challenge without a reliable source of funds for facilities maintenance and construction.

Today, one in five American Indians live on reservations. As a result of 200 years of Federal Indian policy—including policies of termination, assimilation and relocation—many reservation residents live in abject poverty comparable to poverty found in Third World nations. Through the efforts of tribal colleges, American Indian communities receive the services they need to reestablish themselves as responsible, productive, and self-reliant citizens. It would be tragic not to expand the modest investment in, and capitalize on, the human resources that will help open new avenues of economic development specifically through enhancing access and use of information technologies.

JUSTIFICATIONS

Given the needs outlined above and the reality of the speed with which technology is advancing, we strongly urge the Subcommittee to support the following programs within the Department of Commerce and the Small Business Administration.

Department of Commerce Programs:

National Oceanic and Atmospheric Administration (NOAA).—Building Math, Science and Technology capacity at tribal colleges and other Minority Serving Institutions: In fiscal year 2001, the National Oceanic and Atmospheric Administration launched a $15 million program designed to increase interest among minority students in fields of science central to the mission of NOAA. Part of this program included the creation of three or four Cooperative Science Centers at MSIs. In April 2000, the National Indian Center for Marine and Environmental Research and Education (NICMERE) was created through a cooperative agreement among Northwest Indian College (NWIC) in Bellingham, WA, NOAA, and the Department of Commerce with NOAA's National Marine Fisheries Service, as the lead agency. The NWIC project is the first in the country aimed at increasing Tribal representation in the ranks of marine and environment science, and technical professionals. Distance learning will play a major role in NICMERE's outreach to other tribal colleges and Indian reservations. The main goal of this collaborative effort is to increase the number of Native students acquiring baccalaureate degrees in marine and environmental science fields and entering graduate degree programs in preparation for scientific careers with the Federal agencies such as NOAA and NMFS or in their respective tribal government. The NOAA–MSI Initiative could potentially lead to the establishment of graduate level programs on a cooperative basis utilizing scientific personnel from NWIC, Northwest Fisheries Science Center, and faculty from interested universities in the Northwest. We urge the Subcommittee to maintain the $15 million for NOAA–EPPMSI Initiative, included in the President's fiscal year 2002 budget, and to include report language eliminating the current requirement that an MSI must have an accredited graduate program in oceanic, earth, and atmospheric sciences even if applying in partnership with graduate degree awarding mainstream institutions. This requirement eliminates all of the tribal colleges and most other MSIs from participating in what is designed to be an MSI program.

Economic Development Administration (EDA).—The EDA is charged with providing assistance to economically distressed areas and regions to alleviate conditions of ongoing unemployment and underemployment. Contributing to the economic development of American Indian reservations is an essential goal of Tribal Colleges and Universities. We support the commitment of the EDA to strengthen its efforts to assist American Indian tribes by providing capacity building and developing finance and infrastructure projects needed to enable our communities to be more effective and competitive in their economic development efforts. We request report language that will foster EDA partnerships with tribal colleges to enable our institutions to further address the chronic unemployment and poverty that plague reservation communities.

International Trade Administration (ITA).—The tribal colleges are currently pursuing partnerships with USDA, US–AID, Interior, and the private sector to bolster international programs, tourism, trade, and outreach to other indigenous peoples

worldwide. For example, Haskell Indian Nations University in Lawrence, Kansas, recently received a partnership grant from US–AID to work in the Altai (Siberia) region of Russia. The Native American economic development program of ITA could partner with the tribal colleges to enhance their on-going and future efforts, to use cultural heritage tourism as part of the economic and community development programs at the tribal colleges. We request report language to encourage ITA to specifically include the tribal colleges as partners in the Native American economic development program.

Small Business Administration (SBA)

Tribal Business Information Center (TBICs).—To address the unique conditions encountered by reservation-based American Indians in their efforts to create, develop and expand small businesses, SBA has funded the TBICs project. This program is designed to provide culturally tailored business development assistance to potential and current small business owners. TBICs are a partnership arrangement between a tribe or tribal college and the SBA that offers access to a wide variety of resources and practical guidance at accessible reservation locations. We support the creation of a Native American Business Development that would offer one-stop assistance to tribal small businesses by providing a wide variety of information and guidance, employing current and future TBICs as branch offices. We urge Congress appropriate $5 million to support a Native American Business Development Center and the reservation-based business information centers that are so important to local economic development.

CONCLUSION

In light of the justifications presented in this statement, we urge the Subcommittee to increase funding and eliminate barriers for tribal colleges to help bring economic self-sufficiency to Indian Country. Fulfillment of AIHEC's fiscal year 2002 requests will strengthen the mission of our colleges and the enormous, positive impact they have on our communities and will help ensure that we are able to properly educate and prepare thousands of American Indians for the workforce of the 21st Century. Without tribal colleges as a catalyst to move individuals from welfare to work, much of the reform accomplished by Congress will fail throughout Indian Country.

Tribal colleges are working hard to make every dollar count. They have been extremely responsible with the federal support they have received over the last 20 years. Our institutions have proven themselves as a sound federal investment. Thank you again for this opportunity to present our requests before this Subcommittee. We respectfully request your continued support and full consideration of our fiscal year 2002 appropriations requests.

PREPARED STATEMENT OF COLUMBIA UNIVERSITY

Mr. Chairman, thank you for this opportunity to submit testimony for the Subcommittee's consideration concerning the fiscal year 2002 Appropriations Bill for the Office of Global Programs within NOAA/Department of Commerce.

Columbia University's Earth Institute houses the International Research Institute for Climate Prediction, (IRI), located at the Lamont-Doherty Campus of Columbia University. The IRI was selected through an intense, competitive process in 1994 by NOAA (1) to produce long range, seasonal to interannual forecasts based on major climate events such as El Niño, and (2) to develop experimental climate models for improvement of climate forecasting and predictions on a global and regional scale. NOAA recently extended the original 5-year agreement to include additional long-range goals and research targets.

The requests in this statement represent the generic need for the maintenance of ongoing programs and additional resources for NOAA and its extramural research collaborators to advance the science and accuracy of climate and weather forecasting.

SUMMARY

The components of this statement are:

—Maximum support for the Office of Global Programs, funded at a minimum at the fiscal year 2001 level of $68.095 million;

—Funding of $20 million for a Supercomputer to be shared by universities/institutions for high end climate modeling and research;

—Funding of $20 million for a Supercomputer for NOAA to be used as a backup for National Weather Service and other NOAA forecasting purposes, including research.

Maximum support for OGP Budget

This Committee has supported full funding of the budget request of the OGP through the past several appropriations acts. Built in to the OGP budget request are the ongoing research initiatives of several multiyear efforts, such as the IRI. To maintain continuity and the essential research core of NOAA's multi-tiered agenda, assurance of continuity and a stable base of funding are paramount. All of NOAA's intramural and extramural research initiatives have been determined and planned by nonpartisan, scientific experts whose goals have been to improve the science, accuracy and lead-time of long range climate forecasts, and to improve regional warning systems through down-scale modeling from IRI global forecasts. The importance of maintaining and sustaining this comprehensive, integrated and balanced approach to understanding our climate system will permit improved and longer lead time forecasting. This in turn will allow better planning for the effects of climate forced events, resulting in saved lives, minimized property losses, and improved planning in resource allocation and crop planting.

This request is for maximum funding for NOAA's OGP activities. At a minimum, the level for consideration should begin with the fiscal year 2001 level of $68.095 million.

High end Supercomputing

Current climate modeling in the United States is limited by computer capacity. The House Science Committee held a hearing recently on Climate Forecasting: The State of the Science. When queried by Committee Members, the independent scientific experts who appeared as witnesses stated unanimously that the greatest need for U.S. advancement in the climate modeling and research fields is the need for Supercomputing capacity among universities and institutions for high-end use.

The Japanese and European advances in climate modeling and forecasting have been enabled through the availability of government funded and provided Supercomputers. U.S. climatologists have now reached the capacity of currently utilized computer systems in the high-end tasks associated with water and atmospheric modeling. The ability to process massive amounts of data can be only achieved through the acquisition of vector analysis Supercomputers.

Vector analysis computers were not available to U.S. Government-funded institutions until recently, when Cray gained the U.S. marketing rights for NEC vector analysis Supercomputers. The current U.S. approach, using MPP technology, cannot process the whole of computer modeling tasks associated with water and atmospheric data on a global scale. The inherent limitations of the MPP computer architecture cannot embrace the data as one complex set of variables and adequately process the multiple paths and variables associated with global modeling.

Generically, scientists acknowledge that the facility must be located apart and distinctly separate from NOAA's ongoing computer functions, due to the need for a dedicated Supercomputer specifically configured for high-end climate and modeling and research. A shared computer with NOAA for NOAA's use, whether part-time or back up, does not provide the capability and sustained processing power needed for the demands associated with high-end climate modeling. This request for $20 million in fiscal year 2002 is for a computer to be competitively bid and awarded, and for institutions, like the IRI, to have access for sharing the use of Supercomputing capacity.

National Weather Service Supercomputer

There is widespread recognition among the extramural research community for the necessity of improved capacity and backup among computers for the National Weather Service. There is also a recognized and documented need in NOAA for a backup computer for the NWS. Last year's shutdown of NOAA's main computer, and subsequent loss of forecasting ability, left the NWS unable to provide the services upon which U.S. citizens, state and local governments, and private industry have come to rely. The necessity of a backup is clear, and in times of non-use as a backup, NOAA's internal research demands for this capacity exist. This statement concerning NOAA's needs represents consensus among the extramural community for additional resources and Supercomputer capacity for NOAA and the NWS.

Thank you for this opportunity to present and articulate the needs and request for climate modeling and research in the United States.

PREPARED STATEMENT OF THE NATIONAL FEDERATION OF COMMUNITY BROADCASTERS

Thank you for the opportunity to submit testimony to this Subcommittee regarding the appropriation for the Public Telecommunications Facilities Program (PTFP). As the President and CEO of the National Federation of Community Broadcasters I speak on behalf of 150 community radio stations across the country. NFCB is the sole national organization representing this group of stations which provide service in the smallest communities of this country as well as the largest metropolitan areas. Nearly half of our members are rural stations and half are minority controlled stations.

In summary, the points we wish to make to this Subcommittee are that NFCB:

—Supports funding for PTFP that will cover the on-going needs of public radio and television stations.

—Supports funding for conversion of public radio and television to digital broadcasting.

—Requests report language to ensure that PTFP utilizes any digital funds it receives for radio as well as television needs.

Community radio supports $110 million in funding for the Public Telecommunications Facilities Program in fiscal year 2002.—Federal support distributed through the PTFP is essential to continuing and expanding the public broadcasting service throughout the United States. It is particularly critical for rural stations and for those stations serving minority communities. PTFP funds new stations, expanding the reach of public broadcasting to rural areas and to audiences that are not presently served by existing stations. In addition, it replaces obsolete and worn out equipment so that the current stations can continue to broadcast high quality programming. Finally, with the advent of digital broadcasting, PTFP funding will help with the conversion to this new technology.

We support $110 million in funding to ensure that both the on-going program, currently funded in fiscal year 2001 at $43.5 million, will be continued and the increase to $110 million will be available to help cover the cost of radio and television converting to digital transmission.

Federal funding is particularly critical to stations serving rural and underserved audiences which have limited potential for fundraising because of sparse populations, limited number of local businesses, and low income levels. Even so, PTFP funding is a matching program so that the federal money is leveraged with a local commitment of funds. This program is a strong motivating factor in raising the significant money necessary to replace, upgrade and purchase expensive broadcast equipment.

Community radio supports funding for conversion to digital broadcasting for public radio and television.—While public television's digital conversion needs are more immediate, the Federal Communications Commission is now in the process of identifying a standard for digital radio transmission. We expect that there will be funds available for radio conversion as well as television conversion. More immediately, the television conversion process is already having an impact on public radio stations. As television stations increase the space they need on their towers to accommodate both analog and digital signals, radio stations that rent space on TV towers are losing their leases and being forced to move to other towers—sometimes with very short notice. This situation will only get worse over the next year as we approach the FCC deadline for television conversion. We would like enough money in the PTFP to help public radio stations who lose their tower space do the necessary engineering studies and move to new tower locations.

We appreciate Congress' direction to the Corporation for Public Broadcasting that it utilize its digital conversion fund for both radio and television and ask that you ensure that the PTFP funds are used for both media. Congress stated, with regard to the fiscal year 2001 digital conversion funds:

> The required (digital) conversion will impose enormous costs on both individual stations and the public broadcasting system as a whole. Because television and radio infrastructures are closely linked, the conversion of television to digital will create immediate costs not only for television, but also for public radio stations (emphasis added). Therefore, the Committee has included $15,000,000 to assist radio stations and television stations in the conversion to digitization . . (S. Rpt. 105–300)

NFCB requests that the funding for digital conversion be committed in advance to facilitate the orderly transition of a very individualized process—a process that will be different at each station. Advanced funding will give the system time to raise the substantial matching funds that will be necessary and to know what additional funds will be needed to complete the process.

Finally, we are also concerned that independent producers' conversion needs be addressed in some way so that this important source of programming is not locked out of the public broadcasting system.

Thank you for your consideration of our testimony.

PREPARED STATEMENT OF NATIONAL PUBLIC RADIO

INTRODUCTION

Thank you for the opportunity to submit a statement for the hearing record on behalf of National Public Radio (NPR) and the hundreds of public radio stations that air NPR programming across the country. Public radio looks forward to working with Chairman Judd Gregg and his staff as well as the other distinguished Subcommittee members and staff.

Public broadcasting seeks a $110 million appropriation for the Public Telecommunications Facilities Program (PTFP) to be included in the fiscal year 2002 Commerce-Justice-State bill. This funding will help public radio and television stations accomplish the following:

Maintain and Expand Service

Digital Broadcasting Conversion.—The estimated cost for digital radio transmission conversion is $116 million.

The National Telecommunications and Information Administration (NTIA), part of the U.S. Department of Commerce, manages PTFP. PTFP is a matching grants program primarily for public radio and television stations' capital projects as well as for other non-profit telecommunications entities' capital projects. It helps stations purchase equipment to extend their signals to unserved areas, replace outdated hardware such as transmitter antennas and upgrade equipment and convert to digital technologies. It is the only capital grants program available to public broadcasters.

MAINTAIN AND EXPAND SERVICE

Public-Private Partnership

The PTFP program is a successful public—private partnership because each grant requires a local match—typically 50 percent—leveraged from a station's community. These facilities are usually established as a result of the community's desire to receive first or additional public radio service, and are funded through state grants or through capital campaigns funded by the listeners. For fiscal year 2000, NTIA awarded $4.5 million to 56 public radio projects. The awards ranged from $4,054 to $414,334. Local stations matched these grants by raising over $3 million in funds from communities that recognize the enormous contribution made by public radio.

This partnership helps stations that have relatively small budgets afford expensive capital items such as a transmission system which can cost a Class A station $264,000 and a Class C station $900, according to NTIA estimates. These figures do not include production equipment. In 1999, the average total revenue for public radio stations was $1.3 million. Thus, without the federal matching grant, most public radio stations could not afford a piece of equipment that is a quarter or more of their operating budgets.

It is noteworthy that public radio stations are often constrained in their ability to finance major capital expenditures. Stations are unable to pass along costs to listeners and most stations cannot take out loans for capital projects. This is particularly true in rural and urban areas where small businesses typically experience greater difficulty obtaining financing. PTFP assists stations with the high cost of these capital projects through matching grants.

Maintaining Service

PTFP has helped build and maintain the infrastructure necessary to deliver quality programming to millions of listeners and viewers nationwide. For instance, PTFP is awarding WEPR–FM in Greenville, SC $34,100 to replace its aging 27-year-old transmitter.

In addition, West Virginia Public Radio is receiving a $168,530 grant to expand its coverage and provide first public radio service to about 50,000 residents of central West Virginia. The project will replace a 23-year-old transmitter and construct a new tower at WVPN–FM in Charleston. In addition, the West Virginia Public Radio Network will replace a 31-year-old transmitter, the antenna and the line at WVPW–FM in Buckhannon.

Expanding Service

For more than 35 years, PTFP has played a major role in the development of America's public broadcasting stations. With the program's assistance, public radio reaches approximately 90 percent of the U.S. population. In fact, grants for bringing first service to a region are given the highest priority.

In fiscal year 2000, a total of 19 grant awards will provide new public radio services to 434,000 people. The 19 communities benefiting from these awards are located in 15 states. One of the projects includes expanding the facilities of KENW–FM in Portales, NM by constructing new translators at Fort Sumner and Conchas Lake. The new translators will add first public radio service to about 2,500 people. Another project receiving a fiscal year 2000 grant includes the construction of public radio facilities to serve the Blackfeet Indian Reservation in Browing, MT.

In addition, New Hampshire Public Radio was awarded $49,500 to expand its service area by constructing a repeater station in Jackson. The station will provide public radio programming to about 135,000 residents of Grafton, Carroll and Coos counties and first service to over 5,000 Mount Washington Valley residents.

One of the hallmarks of the program is its dedication to rural service. PTFP is especially valuable for public radio stations in rural states like Alaska, Kentucky, Vermont and Hawaii where topography or sheer size makes it difficult for all residents to receive a public radio signal. For example, PTFP is awarding a grant to KTNA–FM in Talkeetna, AK to improve its studio production, on-air, and satellite interconnection capabilities. Talkeetna is located approximately 120 miles north of Anchorage and it provides the sole public radio service to the 5,300 residents of the northern half of the Matanuska-Susitna Borough, an extremely rural area that encompasses 12,250 square miles.

DIGITAL BROADCASTING CONVERSION

Like our friends in public television, NPR and its member stations are excited about the possibilities of digital service and "new media". PTFP will greatly enhance the ability of local stations to attract state and private funding necessary to convert radio and television stations to a digital standard. The estimated cost for digital radio is $116 million for transmission only, excluding production equipment.

Digital radio transmission technology is poised to deliver near compact-disc-quality sound free of interference to listeners. Digital production and transmission conversion will enable public radio stations to produce and deliver programming using a far more efficient process than currently exists. It may allow listeners and users to experience a variety of new services such as the ability to search program formats, scan selective programs as well as read music lyrics and song titles.

U.S. broadcasters are developing a digital technology that works in the existing AM and FM radio bands named In-Band, On-Channel or "IBOC." The Federal Communications Commission (FCC) initiated a digital audio broadcasting, or "DAB," rulemaking in November 1999, placing a high priority on preserving spectrum. IBOC DAB achieves spectrum preservation by combining digital and analog signals within the same AM or FM radio channel, thereby avoiding the need for additional spectrum.

IBOC DAB will be independently tested by the National Radio Systems Committee (NRSC) in the summer 2001. At some point after evaluation of the additional testing, the NRSC is expected to make a recommendation to the FCC on the selection of a standard. The FCC is awaiting this industry recommendation before it endorses a digital radio transmission standard.

CONCLUSION

It is fitting that PTFP resides with the agency charged with spectrum management and thus has the technical expertise to make informed engineering decisions, especially as public broadcasters expand service and make the transition from analog to digital broadcasting. That assistance is more important now than ever before. Please support a $110 million appropriation for the PTFP program for fiscal year 2002. Thank you for the Subcommittee's consideration and long-standing support for public broadcasting.

NPR is a private, nonprofit corporation that produces and distributes award-winning programming such as Morning Edition, All Things Considered, Performance Today, and Car Talk. NPR is also a membership organization. NPR Member stations are independent entities, licensed to a variety of non-profit organizations, local communities, colleges, universities and other institutions. Public radio stations independently select and produce community-appropriate programming that best serve their listening areas.

PREPARED STATEMENT OF THE NATURE CONSERVANCY

Mr. Chairman, I appreciate the opportunity to submit testimony on the fiscal year 2002 budget for the National Oceanic and Atmospheric Administration (NOAA).

The Nature Conservancy is an international, non-profit organization dedicated to conserving biological diversity. Our mission is to preserve the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. We have more than a million individual members, over 1,500 corporate members, and programs in every state and in 20 nations. We have protected more than 11 million acres within the United States and Canada, and have helped local partner organizations preserve millions more overseas. Additionally, we own the largest private system of nature preserves in the world.

Since 1950, The Nature Conservancy has maintained a strong focus on land-based habitats. However, in the past decade, we have recognized that to accomplish our mission we must also focus on critically important and productive freshwater, coastal, and marine habitats—particularly habitats such as estuaries, coral reefs, mangroves, and seagrass beds that are heavily affected by human activities. We are aware that coastal areas and oceans contain biodiversity rivaling tropical rain forests. Yet as a nation we have focused little attention on their conservation.

As a result, The Nature Conservancy is escalating its focus on freshwater, coastal, and marine conservation areas using the sound science, strong partnerships, ecosystem approach, and site-based conservation that has proven effective throughout our 50-year history. We are working with public and private partners to develop a "conservation blueprint" that will identify the terrestrial, freshwater, coastal, and marine sites at several scales, that together if conserved will protect the nation's unique array of plants, animals, and natural communities for the long-term.

Several NOAA programs have proven especially successful at combining effective management, good science, and community involvement to achieve tangible and lasting conservation results. These programs will also facilitate the process of conserving many conservation areas identified by the Conservancy's conservation blueprint. These programs include:

—National Estuarine Research Reserve System
—National Marine Sanctuaries
—Habitat Restoration
—Salmon Recovery
—Marine Protected Areas
—Coral Reef Conservation

NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

These twenty-five "living laboratories" have historically made the most of a modest annual budget. However, last year the National Estuarine Research Reserve System (NERRS) received a funding boost that should be built upon in fiscal year 2002, as appropriate to the importance of estuaries to critical habitat and coastal economies.

Adequate funding for the NERRS ($18 million for operations; $7 million for CZM Administration; $15 million for procurement, acquisition, and construction) will permit individual reserves to better implement strong management, research, education, and stewardship activities within surrounding communities, build necessary facilities, and acquire key tracts of land and conservation easements in order to buffer reserves from development impacts. Additional funding would also facilitate implementation of system-wide monitoring and coastal training programs, and eventually the expansion of the system, permitting it to officially represent the suite of biogeographic regions that together comprise our nation's coastlines.

As manager of more than 1,300 preserves, we appreciate increased funding for the NERRS. Estuaries serve as "nature's water treatment system," providing flood control, storm damage protection, recreation, and habitat for species to spawn, nurse, and live. The Conservancy works in several reserves including New Hampshire's Great Bay, Florida's Apalachicola Bay, Alaska's Kachemak Bay, South Carolina's ACE Basin, and Mississippi's Grand Bay. We know first hand that the NERRS has implemented solid science to inform communities about how coastal ecosystems function, how humans affect them, and methods for improving their condition.

NATIONAL MARINE SANCTUARIES

The Nature Conservancy supports the President's request for $36 million to fund the National Marine Sanctuary Program. This funding would extend volunteer programs, provide for additional monitoring, and enable all sanctuaries to meet critical,

long-term needs. It would also fulfill a national plan for visitor interpretive centers and public outreach activities. Additionally, new investments in science are needed to fully understand the complex issues that will lead to better sanctuary management. Finally, as revised and more detailed management plans are developed for individual sanctuaries, additional funding will be needed for their implementation.

National Marine Sanctuaries embody some of the world's most diverse ecosystems. The thirteen sanctuaries established since 1972 protect 18,000 square miles of ocean waters. They aid in the recovery of endangered marine animals, lessen the threat of oil spills, increase knowledge of the ocean through research, and enlarge a stewardship ethic among citizens. Where appropriate, uses such as recreation, commercial fishing, and shipping are also permitted.

The Conservancy's most extensive experience with this program has been in the Florida Keys where a sanctuary was established to stem threats to the ecological health of the coral reef ecosystem. In cooperation with the state of Florida and an Advisory Council (representatives from commercial and recreational fishing, the dive and boating industries, public interest organizations, scientific and educational organizations, and the public) the Sanctuary developed and is implementing a comprehensive management plan. The plan focuses on issues and activities including education and outreach, enforcement, research and monitoring, and zoning. It also concentrates on solutions for water quality problems related to stormwater runoff, sewage treatment, live-aboards, hazardous spills, and pesticides. It is showing promising results.

HABITAT RESTORATION

Coastal ecosystems are powerful drivers of the United States economy, with more than 180 million people visiting the coasts annually. By 2010, 75 percent of the United States population is expected to live within fifty miles of the coast. Tourism, recreation, fishing, and other industries require healthy coastal habitats and clean waters. Yet, harmful algal blooms, polluted beaches and waters, contaminated shellfish beds, and diseased coral reefs are signs that human activities are degrading valuable habitat coastal resources.

The Nature Conservancy strongly supports NOAA's coastal habitat restoration efforts, and recommends sustaining funding levels of $18 million for Fishery Habitat Restoration. Most of this funding would ensure the continued success of NOAA's Community-Based Restoration Program that together with national partners, has inspired local efforts to conduct meaningful, on-the-ground restoration of freshwater, coastal, and marine habitat. This funding level would bring more seed money to local communities across the country for the restoration of vital coastal habitats including wetlands, seagrass beds, mangroves, anadromous fish spawning areas, and coastal rivers. Additionally, it would increase this successful program's geographic scope and rate at which it can encourage community ownership and restoration of critical and rapidly dwindling habitat. This program has not only leveraged $4–$10 for every federal dollar invested at more than 177 projects, but has also leveraged a conservation ethic across the nation.

SALMON RECOVERY

Salmon travel hundreds of fresh and saltwater miles past cities, dams, farms, and forests during their life cycle. As a result, it is necessary to focus at a landscape-scale to determine what salmon need to survive. Such an approach benefits other species dependent upon cool, clear water and quality habitat. This includes humans, who desire flood prevention, improved water quantity and quality, reduced erosion, and recreational opportunities.

Habitat destruction, reduced streamflows, pollution, passage impediments or blockage from hydropower and other developments, and over-harvest have all played a role in the decline of Pacific salmon stocks. Adequate funding to conserve and recover salmon ($200 million for the Pacific Coastal Salmon Recovery Fund; $55 million for NMFS Agency Funding for Pacific Salmon Recovery) is critically needed. The Pacific Coastal Salmon Recovery Fund enables states and tribes to fund local efforts that evaluate, protect, and restore key habitat. NMFS Agency funding would further critical scientific research and monitoring, spur new partnerships and cooperative efforts, and implement protections under the Endangered Species Act.

History has demonstrated that a good portion of money spent on habitat restoration and recovery could been used more effectively and at less cost to the taxpayer if applied before systems were altered and degraded. It is time to make tough choices about how to conserve functioning systems with healthy habitats and salmon populations for the long-term.

MARINE PROTECTED AREAS

Marine protected areas (MPAs) are proven tools for rebuilding and sustaining fisheries, recovering threatened and endangered species, and providing recreational opportunities. The Conservancy has learned this first hand through work with scientists, community members, international governments, and federal agencies to establish MPAs and identify and protect biodiversity within them in places such as the Florida Keys, the Exuma Cays Land and Sea Park in the Bahamas, and Kimbe Bay in Papua New Guinea. It is time to reserve more of these places for future generations, just as the nation has done on land with national parks and refuges, national forests, and other specially managed areas.

The Conservancy recommends that $5 million be appropriated so that NOAA can work with federal and state agencies and other partners to assess the use of MPAs as management tools for the nation's valuable marine resources, while permitting recreation and protecting biodiversity. Funding would enable completion of the first nation-wide inventory of MPAs, which would be applied towards assessing the system's effectiveness in meeting partners' goals and the use of MPAs as management tools. Funding would support needed research on MPA design and implementation to meet different goals, and would also support training and technical assistance for communities, users, management agencies, and others. Finally, funding would be used to share lessons and information, and to increase public involvement through the MPA web site.

CORAL REEF CONSERVATION

Coral reef ecosystem health has declined severely all over the world in recent decades. The combined effects of global climate changes and human activities have put coral reefs at great risk. It is now critical to take action before the tragedy becomes irreversible. As a result, the Conservancy has been working throughout the world with governmental and non-governmental partners to protect these fragile systems.

The Nature Conservancy supports the President's budget for activities that benefit coral reefs ($16 million for NOS; $11 million for NMFS; $700,000 for NESDIS; $500,000 for OAR). Also supported by the United States Coral Reef Task Force, these activities include comprehensive mapping and monitoring of coral reefs, research into ecological processes upon which reefs depend, enhanced international activities, integration of human activities, and public education. With such funding, this scientifically-based effort will protect and restore coral reefs in the United States and its territories. It will also serve as a model in intergovernmental coordination, and in coral reef protection for similar initiatives in the rest of the world.

CONCLUSION

Thank you for the opportunity to submit these remarks. Conservation of coastal waters is challenging since many marine habitats cannot be purchased and set aside for conservation. Instead, we must employ a variety of strategies at every level to conserve and restore these valuable places. The Nature Conservancy looks forward to working with NOAA, other federal agencies, state and local governments, nongovernmental organizations, and the private sector to ensure the long-term protection and sustainable use of our productive and diverse coastal waters.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, State and the Judiciary. My testimony pertains to the fiscal year 2002 budget request for the National Oceanic and Atmospheric Administration (NOAA).

UCAR is a university membership consortium composed of 63 North American institutions that grant the Ph.D. in atmospheric, oceanic, and related sciences. The UCAR mission is to support, enhance, and extend the capabilities of the university community, nationally and internationally; to understand the behavior of the atmosphere and related systems and the global environment; and to foster the transfer of knowledge and technology for the betterment of life on earth. UCAR is a nonprofit, Colorado-based corporation that manages and operates the National Center for Atmospheric Research (NCAR) and the UCAR Office of Programs (UOP). It is supported by the National Science Foundation (NSF) and other federal agencies in-

cluding NOAA. In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions and 38 international universities and laboratories.

On behalf of this country's atmospheric sciences community, I urge the Committee to support at the highest level possible the research, training, and observations activities of the National Oceanic and Atmospheric Administration. NOAA provides a comprehensive approach to understanding the atmospheric and oceanic systems of the earth and to implementation of programs that save American lives, energy, money and property. The weather and climate data collected by NOAA satellites, ships, ocean buoys, aircraft, and other instrumentation provide the foundation on which atmospheric sciences research is based. Support for NOAA should be maintained at the highest possible levels given the rate at which the world's climate is changing and during this era of rapid scientific discovery and intense, global economic competition.

Within NOAA, I would like to comment on the following offices and programs:

NATIONAL WEATHER SERVICE (NWS)

I urge the Committee to support the NWS request of $727.6 million, a net increase of $34.8 million above the fiscal year 2001 enacted level. The National Weather Service will put this increase to excellent use in making available critical weather and climate-related data, improving weather prediction accuracy and warning lead times, and working to decrease weather related fatalities. There are few agency programs that impact our daily lives and the health of our economy as profoundly as does the NWS. Within NWS, I would like to comment on the following programs:

Forecaster Training and Related Research Programs

Support for NWS forecaster training has declined over the past three years from a high of about $20 million to the current figure of approximately $12 million. Rapidly expanding new technologies and dramatic advancements in the field of meteorology, combined with impacts of increased weather and climate variability, have created a pressing demand for professional development of the NWS workforce and collaborative research activities with universities and laboratories. This is the time, not to cut back on this activity, but to expand it. I urge the Committee to support, mainly in the NWS travel budget, an amount of $15 million (without harming any other programs within NWS) to make adequate training of NWS forecasters possible through proven and highly successful programs such as the UCAR-based Cooperative Program for Operational Meteorology, Education and Training (COMET).

Radiosonde Replacement Network

The antiquated upper air radiosonde network is in dire need of replacement. There is little doubt that the obsolete infrastructure for this principle data source on upper air for all weather forecasts and models will fail by 2005 if it does not receive adequate modernization funding now. When the network falls apart, this nation, the richest on earth, will suffer widespread loss of data that are essential for accurate forecasting across the country. Funding should be appropriated now that will allow the NWS to replace antiquated computers, continue software development, and procure critical surface instruments. The requested amount of $5 million is not adequate. I urge the Committee to increase the recommended funding for the Radiosonde Replacement Network from $5 million in the Procurement, Acquisition and Construction (PAC) account, to the critically needed amount of $7 million without harming any other programs within NWS.

Advanced Hydrologic Prediction System (AHPS)

The need to implement AHPS nationwide is being demonstrated right now as the Mississippi and Red Rivers rise to dangerous levels. This real time modeling and data analysis system will significantly improve flood forecasting, water management, and risk-based decision making in flood-prone areas such as the Mississippi and Ohio River Basins. It will save lives and property by providing river stage forecasts one-to-two months in advance, a great improvement on the several days advance notice now available. The proposed $1 million for fiscal year 2002 simply will not provide the coverage that is needed. Within the NWS ORF account, I urge the Committee to support $3.5 million for national implementation of AHPS without harming any other NWS programs.

Co-Operative Observer Network

I urge the Committee to support the request of $2.3 million in the Operations, Research, and Facilities (ORF) account to sustain the volunteer operated Cooperative Observer Network. The network's 11,000 weather observation sites are used to maintain the country's climate record and to provide data to NWS local field offices and to university laboratories. The National Research Council has recommended taking immediate steps to modernize this ailing, critical network. This achievement of modernizing, as opposed to just sustaining, will necessitate enhanced future funding. This year's recommended funding will rescue the network from collapse, but increased funding for modernization should begin in fiscal year 2003. Any investment in this infrastructure will reap immediate dividends in energy savings realized from improved weather data.

National Centers for Environmental Prediction (NCEP)

NCEP is comprised of nine centers within the NWS, all working together toward the common goal of using data for weather predictions and seasonal forecasts in order to save lives, protect property, and create economic opportunity. Weather Service field offices, other government agencies, research universities, the U.S. Weather Research Program, and private meteorological services rely on NCEP's products. Forecasts that reach the public via media outlets originate at NCEP. In recent years, the centers have been supported inadequately to process weather data and transfer it into operations. In order to help fix this problem, I urge the Committee to support the recommended $1.7 million to sustain current operations of the NCEP Environmental Modeling Center, and the recommended $3.0 million for NCEP Data Assimilation and Modeling.

Advanced Weather Interactive Processing System (AWIPS)

Under NWS Public Warning and Forecast Systems in the Operations, Research and Facilities (ORF) account, I urge the Committee to support the fiscal year 2002 proposed amount of $38.4 million for AWIPS Operations and Maintenance. This interactive computer system, the cornerstone of the recently completed NWS modernization and restructuring, integrates for the first time all meteorological and hydrological data, and all satellite and radar data. AWIPS is a critical source of data for the research community and enables the NWS to issue far more effective weather warnings and forecasts in a very efficient manner. Under NWS Systems Acquisition in the Procurement, Acquisition and Construction (PAC) account, we urge the Committee to support the proposed fiscal year 2002 amount of $16.3 million for AWIPS to continue development of AWIPS software. When integrated with NEXRAD Product Improvement technology, this new software will allow NWS forecasters to significantly improve tornado warning lead times and improve the accuracy of severe storm forecasts.

OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH (OAR)

OAR functions are critical to the process of conducting research and linking the results to operations. The office supports a world-class network of scientists and environmental research laboratories as well as partnerships with academia and the private sector in order to provide the sound science upon which decision makers can frame effective regulations to solve environmental problems. Society's demand and economic need for the OAR labs' information services have increased dramatically in such areas as predictions of El Niño/La Niña events, tropical storm intensity, flooding and drought. To realize the full benefit to society, I urge the Committee to enhance support for the extremely critical services provided by OAR. OAR's most important research efforts conducted with universities include the following:

U.S. Weather Research Program (USWRP)

This interagency program, authorized by Congress in 1992, was first mentioned in NOAA's budget in fiscal year 2000. I am encouraged that this program is receiving an additional $2.2 million this year, but even the recommended amount of $3.7 million falls far short of the annual $12.5 million recommended in the Congressionally mandated implementation plan. The USWRP research community is poised to make significant gains in prediction capabilities regarding heavy precipitation (that can result in the kind of flooding we see now on the Mississippi and Red Rivers) and hurricane landfall location and intensity. The disaster relief savings of such gains would be many times the initial research cost investment, not to mention the value of lives saved. I urge the Committee to provide the USWRP with at least $10 million for fiscal year 2002. This relatively small increment in funding would have a major impact on the increased accuracy of weather forecasts.

Since the USWRP is an interagency program the goals of which advance the NOAA mission, we would suggest that NOAA take the lead in collaborating with the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), and the Department of Defense (DOD) to ensure appropriate support from these agencies.

Climate and Global Change Program

The Climate and Global Change program is an integral part of the interagency U.S. Global Change Research Program (USGCRP) that addresses our understanding of the global climate system including knowledge and prediction of climate variability patterns and the occurrence of severe weather events. The research funded by this competitive grants program improves the regional specificity and detail of climate forecasts, which is essential progress to advancing our understanding of the Earth's climate. In fiscal year 2001, funding for this program was $68.35 million; fiscal year 2002 funding is recommended at only $68.71 million, an increase that is far below the rate of inflation. I urge the committee to support, without harming other NOAA programs, at least a 4 percent increase for the Climate and Global Change Program for a fiscal year 2002 funding level of $71.0 million.

Climate Observations and Services Program

This initiative, begun in fiscal year 2001, meets the growing demand for timely data and information about climate variability, climate change and trends in severe weather events. The work of the program will support new ocean observations and infrastructure that will provide essential data to understanding aspects of climate change. I urge the Committee to support the fiscal year 2002 request of $24.0 million for the Climate Observations and Services Program, a $13.0 million increase over fiscal year 2001 levels.

Boulder Facilities Operations

In addition to supporting the research programs above, I urge the Committee to support the request of $5 million for Boulder Facilities Operations. Six of the 12 laboratories that make up NOAA's Office of Oceanic and Atmospheric Research (OAR) Laboratories are housed in Boulder at the David Skaggs Research Center. The Center is also the home of two NESDIS Data Centers, one of OAR's 11 Joint Institutes, and the Denver Forecast Office of the National Weather Service (NWS). The $5 million in requested funding will meet operating costs for space, utilities, maintenance and security at this facility.

National Environmental Satellite, Data and Information Service (NESDIS)

For several years we have been concerned about the proposed level of funding in the NESDIS Operations, Research and Facilities (ORF) account. We are pleased to see that overall support demonstrated in last year's increase for this account is being continued, but we still have grave concerns about critical programs within NESDIS that are actually recommended for significant cuts. This account is divided into support for the Satellite Observing Systems and the Environmental Data Management Systems. The Satellite Observing Systems provide services in designing, developing, and operating civilian satellite systems for the purpose of observing ocean, and atmospheric conditions and the sun. These are observational tools critical to improving our knowledge of the complex environmental systems in which we live. I urge the Committee to support the request of $75.9 million for NESDIS Satellite Observing Systems, an increase of $15.7 million over the fiscal year 2001 enacted level.

The rich data collected by the NESDIS satellite systems are acquired, processed, analyzed, archived and disseminated through the Environmental Data Management Systems to commerce, industry, agriculture, science and engineering, the general public, and government at all levels. While the Satellite Systems function collects data, the Data Management Systems function makes those data useful and available. Both sides of the equation are of equal importance, and we are disturbed to see that the data management function is recommended for a $9.0 million decrease. An increase in funding for the observing systems that collect data obviously should be coupled with an increase in funding for the management systems that make the collected data useful and accessible. The budget language within the Data and Information Services section itself makes the argument for an increase stating that, "Requirements have expanded due to growing customer demands for data and products, and increases data management as the volume of new data continues to grow." I urge the Committee to restore the NESDIS Environmental Data Management Systems to the fiscal year 2001 enacted level of $64.8 million without harming base funding for any of the other worthy programs of NESDIS.

Minority Serving Institutions

While the recommended increase will not cover the cost of inflation, we are pleased to see the continuing commitment to Minority Serving Institutions (MSIs), a program begun in fiscal year 2001. In order to have a productive scientific workforce now and in future years, the pool of qualified applicants must be as diverse as the population at large. Under-representation of minorities in earth science disciplines in this country is a serious issue that must be addressed by multiple programs across multiple agencies and institutions. I urge the Committee to support the $15.0 million request for NOAA's Minority Serving Institutions initiative and to increase that amount, if possible, without harming other NOAA programs.

On behalf of UCAR, I want to thank the Committee for the important work you do for U.S. scientific research, education, and training. We appreciate your attention to the recommendations of our community concerning the fiscal year 2002 budget.

PREPARED STATEMENT OF THE AMERICAN MUSEUM OF NATURAL HISTORY

ABOUT THE AMERICAN MUSEUM OF NATURAL HISTORY

The American Museum of Natural History [AMNH] is one of the nation's preeminent institutions for scientific research and public education. Since its founding in 1869, the Museum has pursued its mission to "discover, interpret, and disseminate—through scientific research and education—knowledge about human cultures, the natural world, and the universe." It is renowned for its exhibitions and collections of more than 32 million specimens and cultural artifacts. With nearly five million annual visitors—approximately half of them children—its audience is one of the largest, fastest growing, and most diverse of any museum in the country. More than 200 Museum scientists conduct groundbreaking research in fields ranging from all branches of zoology and paleontology to earth, space, and environmental sciences and biodiversity conservation. Their work forms the basis for all the Museum's activities that seek to explain complex issues and help people to understand the events and processes that created and continue to shape the Earth, life and civilization on this planet, and the universe beyond.

In its exhibition halls AMNH scientific knowledge and discovery are translated into three dimensions. One of the most exciting chapters in the Museum's history culminated just over one year ago with the opening of the Rose Center for Earth and Space in February 2000. Greeted with critical and popular acclaim and record-setting attendance surpassing all projections, the Rose Center includes a rebuilt Hayden Planetarium, Hall of the Universe, and Hall of Planet Earth. It leads to the Hall of Biodiversity, which reveals the variety of Earth's living things and expands the Museum's efforts to alert the public to the critical role biodiversity plays in sustaining life as we know it and to the ecological crisis we now face. Together, the new planetarium and halls provide visitors a seamless educational journey from the universe's beginnings to the formation and processes of Earth to the extraordinary diversity of life on our planet.

COMMON GOALS OF NOAA AND THE AMERICAN MUSEUM

Today, as throughout its history, the National Oceanographic and Atmospheric Administration [NOAA] is committed to describing and predicting changes in Earth's environment and to conservation and wise management of the Nation's coastal and marine resources. It dedicates itself to forecasting environmental changes, providing decision makers with reliable scientific information, and fostering global environmental stewardship.

The American Museum shares NOAA's commitment to these environmental goals and to the scientific research and public education that underlie them. Indeed, informed environmental stewardship and preservation of our planet's biodiversity and resources—in the marine, coastal, and other natural environments and habitats—are integral to the Museum's most fundamental purposes. The Museum is now poised to launch the following initiatives in which it seeks to partner with NOAA to advance our shared environmental research, stewardship, and public information goals.

PUBLIC EDUCATION IN MARINE AND OCEAN SCIENCES

Public understanding of the natural world has taken on new urgency in an era of dramatic discoveries affecting our understanding of the oceans, widespread species and habitat loss, and weather shifts around the globe. To meet this vital need for understanding of the complex natural phenomena affecting people and the plan-

et, the Museum is planning a major initiative about our planet's last frontier—the oceans.

In the year ahead the Museum will embark upon an ambitious renovation of one of its flagship halls, the Hall of Ocean Life. The new hall will provide a rich context for the latest marine research and will help to bring the marine realm into public focus, educating the public about current research into the oceans' vital role in the life of our planet. The renovation will bring new technologies and media together with living creatures, restored classic dioramas, and treasured icons like the 94-ft. model Blue Whale to educate audiences of all ages about earth as a marine habitat, a water planet, and about the diversity of life in and near the water.

The Hall of Ocean Life is one of the Museum's grand exhibition spaces. First constructed in 1924 and last renovated in 1969, the 29,000 square foot hall is comprised of two levels, the main floor and the mezzanine. The main floor, at 16,000 square feet, features 15 historic dioramas and a two-story Andros Coral Reef diorama. These dioramas are widely recognized as treasures of a distinctive art form used as a method of environmental education by natural history museums, primarily in the United States, Canada, and Scandinavia, in the first half of the twentieth century. The mezzanine level currently features an exhibition on the phylogeny of fishes, which includes more than 400 models. Renovation plans will transform the Hall into a fully immersive simulated marine environment with video projection screens, interactive computer kiosks, and an aquarium. The most important concepts to be conveyed to Ocean Life visitors are that the oceans support a highly diverse and complex web of life—and that there is a critical connection between the ocean and our own survival. Earth's oceans make life possible, and together, the oceans represent the largest habitat on Earth, supporting the greatest diversity of life on the planet. Themes of biodiversity and interconnectedness will recur throughout the exhibition's narratives, complementing and expanding upon the adjoining Biodiversity Hall.

The new design plan includes not only extensive restoration of existing elements, such as the dioramas, but also a complete renovation of the mezzanine level to incorporate more integrated depictions of ocean life through models, specimens, and new multimedia elements. Invertebrates, including elements from the recently closed Hall of Mollusks as well as marine plants, will appear in the hall as integral components of the various habitats on display.

Highlights of planned exhibition elements include the following:

—*Habitat stories.*—A different marine habitat will be featured in each of eight niches that line the North and South walls of the mezzanine. The habitats will serve as windows onto the ocean world, organizing the scientific information into eight self-contained, ecological stories. Each niche will feature a vivid depiction of the particular habitat using models and specimens along with various forms of signage, and a series of plasma screens above the glass-enclosed displays will create a "video necklace" around the mezzanine. The videos will feature high definition images of each habitat, showcasing marine ecosystems from around the world.

—*Additional Mezzanine Elements.*—Other niches on the mezzanine level will focus on subjects such as the evolutionary history and the morphology of fish and aquatic invertebrates. There will also be a niche devoted to the evolutionary development of the oceans and ocean life, featuring dioramas depicting life in the ancient oceans and authentic seafloor fossilized slabs that visitors can touch. Flanking the mezzanine-level entrance to the Hall will be two small theatres presenting videos on basic oceanography and impacts of human activity on the marine world.

—*Walls of Species.*—On the main floor, a "Wall of Fishes" will display an array of 75–100 models of freshwater and marine fish and traces the evolutionary relationships among all fish species alive today. An adjacent "Wall of Marine Invertebrates" exhibit will spotlight the more than 30 phyla of marine invertebrates. Both walls will echo a Spectrum of Life Wall in the adjoining Hall of Biodiversity, reinforcing the intricate evolutionary connections among all living creatures.

—*The Blue Whale.*—The renovated hall will still feature the monumental Blue Whale, but the Museum will provide more extensive and up-to-date information about aspects of cetacean biology and conservation and relevant research developments around the globe.

—*Aquarium.*—A planned state-of-the-art aquarium, with a 40-foot tank that holds 16,000 gallons of sea water, will depict an Indo-Pacific "patch reef" (the edge of a coral formation emerging from the sandy sea floor), featuring a brilliant display of fish and invertebrates swimming through a forest of indigenous corals and gorgonians.

—*Marine research.*—The renovated Hall of Ocean Life will also educate the public about current marine research, including analyses from the proposed GIS facility described below. This information will expand on themes developed in the Museum's Halls of Biodiversity and Planet Earth, such as the oceans' impact on shaping weather patterns and climate, threats to the health of oceans and coasts, and other topics pertinent to the Museum's and NOAA's core concerns.

We seek to partner with NOAA in this undertaking to create new educational exhibits to introduce 21st century museum visitors to the abundance and the wonder of ocean life as well as the architecture of its currently endangered ecosystems. We do not seek funds for capital costs but for exhibition display.

GEOGRAPHIC INFORMATION SYSTEMS FOR ENVIRONMENTAL RESEARCH

Tied to our public education initiative, our second proposed initiative concerns cutting-edge technologies for basic and applied environmental research. New technologies in Geographical Information Systems [GIS] and remote sensing are revolutionizing the way environmental research can be conducted and data analyzed. At the same time, they are revolutionizing the ways museum collections can be used and accessed by scientists, educators, policy makers, and the general public. The American Museum of Natural History has long been at the forefront of developing new modes and methods of scientific research. The explosion of technology in GIS creates a window of opportunity for the Museum to develop new ways to integrate this state-of-the-art analytical tool into our leading-edge research and present results to the public in our exhibition halls.

Wise environmental stewardship and conservation policy require effective knowledge of the distribution of species and ecological communities at local, regional, and global scales. Without this information, it is difficult to decide where to allocate scarce conservation resources. While remote sensing provides a tool for calculating and visualizing changes in the distribution of natural communities and human-dominated landscapes at all these different scales, GIS enables researchers to compare more detailed information (such as distribution of species, streams, habitat features) from different sources at the same scale. Throughout its zoology, paleontology, earth and space science and anthropology divisions and its Center for Biodiversity and Conservation, AMNH investigators are exploring GIS applications to advance research pertinent to conservation, protecting threatened species, and safeguarding marine habitats. These applications include the following:

—*Conservation research.*—GIS is becoming an indispensable component in environmental data analysis, providing the database backbone that can connect field work to analysis. It unites satellite and legacy data with raw standardized samples and ground truthing, and is revolutionizing work in conservation. AMNH researchers studying endangered ecosystems, marine species, and marine reserves, for example, can use GIS to develop finer, tighter, more precise datasets, while GIS analysis enables researches to ask more sophisticated and flexible questions, and to discover patterns, series, and gradations.

—*Collections data and access.*—GIS can bring the Museum collections of more than 32 million specimens and artifacts alive and increase exponentially the analyses that researchers can carry out for conservation research and decision making. By coupling GIS with the Museum's increasingly strong AMNH web presence to provide easy access, researchers worldwide will be able to pose more sophisticated questions and uncover new connections and relationships among our collections data. For example, by using georeferenced data, researchers can compare current maps with legacy data to trace environmental changes over time.

—*Public education.*—To present current science news the Museum has created the Science Bulletins. These high definition video reports feature breaking science developments and discovery in high definition wall displays in the Halls of Biodiversity, Planet Earth, and the Universe. With access to GIS applications and datasets, they can be adapted for the Hall of Ocean Life content as well; and present the public with global earth science-related datasets, maps, marine biodiversity reports, ocean life discoveries, and more.

—The Museum's Center for Biodiversity and Conservation [CBC] has had noted success with their piloted Remote Sensing and Geographical Information System (GIS) laboratory since the fall of 1998. It has been using GIS in biodiversity and marine reserve research; for example, to identify sites suitable for biological inventory; provide supplementary quantitative and qualitative data in and around study sites (e.g. extent of habitat fragmentation); and development of persuasive visual depictions and digital presentations for reports, publications, and meetings.

These successes and uses for GIS demonstrate the Museum's enormous potential for using GIS to help advance environmental forecasting, provide decision makers with reliable scientific information, and foster global environmental stewardship. We therefore seek to partner with NOAA in establishing a Museum-wide GIS resource center to facilitate integrated research, education, and access in these areas so crucial to sound environmental stewardship. We seek support not for bricks and mortar but for GIS research and education applications.

The Museum brings to the proposed NOAA partnership a public platform of tremendous power and reach. Since the Rose Center opened, the American Museum's annual onsite audience has increased 45 percent, to nearly five million annual visitors. In addition, the Museum's website enjoys an average of more than 16,000 unique online visitors each day. The Hall of Ocean Life will increase this audience even more. Our joint efforts, therefore, are positioned in the years ahead to reach a combined onsite and online audience that could reasonably approach 10 million. We also plan to carry out these proposed strategic initiatives with funds from nonfederal as well as federal sources. The Museum has a highly successful track record in private fundraising, and we are confident that we will be able to leverage any federal investment favorably.

In sum, we request $1 million to join in partnership with NOAA in developing these research and public education initiatives. By generating critical scientific knowledge through GIS applications and public education about the vital role of ocean and marine environments, we can advance our shared commitment to environmental stewardship for the generations to come.

PREPARED STATEMENT OF THE UNIVERSITY OF MIAMI, CORAL GABLES, FLORIDA

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present a statement for the Record on behalf of my colleagues at the University of Miami and its Rosenstiel School of Marine and Atmospheric Science, the schools of Medicine and Law, and the Dante B. Fascell North-South Center. We respectfully seek your support in fiscal year 2002 for three projects at the University of Miami. First, a new project dedicated to improving our understand of wild fish populations and to developing a sound scientific basis for fisheries management through the National Oceanographic and Atmospheric Administration; a timely and new initiative, the Healthcare and Elder Law Policy (HELP) Center through the Department of Justice and its National Institute on Justice and/or its Bureau of Justice Assistance; and continuing support for a unique national resource, the Dante B. Fascell North-South Center through the United States Information Agency.

Founded in 1925, the University of Miami is the largest private research university in the Southeastern United States and the youngest of 23 private research universities in the nation that operate both law and medical schools. Through its 14 colleges and schools, more than 2,300 faculty instruct almost 14,000 undergraduate, graduate, and professional students in facilities located on four major campuses.

THE CENTER FOR SUSTAINABLE FISHERIES

The Rosenstiel School is recognized as one of the premier academic oceanographic research facilities in the world and ranked among the top six nationally (by number of faculty, funded research volume, and graduate program size). Located on a 16-acre tract on Virginia Key in Miami's Biscayne Bay, the Rosenstiel School provides the only subtropical marine research facility in the continental United States, and is adjacent to and coordinates daily with the national NOAA lab and research facility.

The Rosenstiel School because of its unique location—the Gulf Stream is immediately offshore; just to the south lies a vast of expanse of the only living coral reef off the shores of the continental United States; and just to the east the Florida-Bahamas Carbonate Platform—is a unique resource for the nation, as well as for Florida and the southeast region.

There are close to 100 recognized scientists, researchers, and educators at the Rosenstiel School who collaborate closely with other Florida institutions and whose distinct expertise is vital in addressing critical national, regional, and Florida natural, environmental, and climatic challenges.

First, Mr. Chairman, I salute your and the Committee your continuing leadership and commitment to programs especially helpful to Florida. Everyone in Florida applauds your continuing interest and support for the South Florida ecosystem project, for NOAA's investment in ocean observation and coastal zone monitoring, and for NOAA's improved forecast capability for severe storm and hurricane landfall. Respectively, these projects seem to be leading to a new understanding of the Ever-

glades-Florida Bay relationship and health, improving the health and safety of Florida's coastal communities, and improving NOAA's general forecasting capability.

We respectfully seek $5 million through NOAA for instrumentation and equipment costs to develop a state-of-the-art molecular biology laboratory ($1.5 million); a computer-based modeling and visualization center ($1 million); a flowing sea water source and disposal system ($1 million); and finally public access, interactive and educational facilities and displays ($1.5 million).

The Center for Sustainable Fisheries will focus on improving assessment tools for traditional fisheries data; developing innovative approaches for assessment and management; developing habitats to study life cycles and histories of selected species, improving population dynamic models; and linking science and management with policy implications. The Center for Sustainable Fisheries will house strong multi-disciplinary teams working on these five major areas of investigation, utilizing flowing sea water facilities, high technology laboratories, and public educational/interactive areas. The construction costs for the facility will be provided through a private-pubic partnership, private gifts, support from the University of Miami, and other interests.

THE HEALTHCARE AND ELDER LAW POLICY CENTER (HELP CENTER)

The HELP Center is a project dedicated to the development of interdisciplinary collaboration in the area of elder healthcare law and policy. The Center will provide training and research through the Schools of Medicine, Law, Business, and Nursing in healthcare law, policy-making and planning for the elderly. The mission of education will expand to the Florida healthcare, legal, education, civic and business communities. The significant rise in reported incidences of elder abuse is a major rationale for this effort. For fiscal year 2002, we seek $1 million through the Department of Justice National Institute of Justice and/or the Bureau of Justice Assistance.

The unique demographics of Florida and the special diversity of the south Florida populations make the University of Miami a strategically important locale for this activity and the HELP Center will serve as a national resource. The partnership between the Medical and Law schools will be unique and afford significant opportunities for interdisciplinary educational research, university and community service, and attract unique fundraising opportunities through foundations, grants and giving. Placing the University as an expert resource at the crossroads of what are emerging as complex healthcare, legal, and social issues for a significant number and growing percentage of the population should enhance media coverage of legal and health issues and enlarge external outreach to the private and public sectors. The HELP Center will serve as the conduit to develop faculty, administrative, student, and community collaboration and will be a place to build university-wide interdisciplinary programs of great import.

The Center will be devoted to five specific missions:

Education.—The Center will provide undergraduate and graduate curricula (medical, law, and postgraduate MD/JD training), continuing education symposia (CME, CLE, CEU) and training for the bench, law enforcement and other agencies that provide services to the elderly and their families.

Interdisciplinary Ventures.—The Center will be dedicated to the development of interdisciplinary programs beyond the core Medical and Law Schools. Currently, program development includes three Departments within the School of Medicine, (Psychiatry, Medicine and Family Medicine) and the UM Center for Adult Development and Aging (CADA). Partnerships with other Centers (Center for Women and Children and the Center for Family Studies) and Schools (Nursing, Business) and departments in the College of Arts and Sciences (Social Sciences, Political Science, Psychology) will be sought. Additionally, the Center will to develop liaisons with community and national organizations (business, civic, education, and legal, allied health professionals) who serve the elderly.

Research.—The Center will develop and implement funded projects that address specific issues of importance for the aging population. Target research agenda will include: abuse and neglect of the elderly (development of criteria for assessment and prosecution; management models for unique care requirements of elderly victims prevention and treatment for perpetrators); role of families and caregivers of the elderly (cultural diversity and needs assessments, funding and models of care); end-of-life care (advance care planning and palliative care outcomes and financing); mental capacity (decisionmaking assessment and guardianship process; and research ethics (protection of vulnerable research subjects). Information generated from the research will be documented through national scientific and professional media to

the public as well as employed in the development of new programs of action which are evidence based for maximal success.

Expert Practice.—The Center will develop a group of experts who will serve in collaboration with other University, Medical and Law school groups for interdisciplinary teaching and service. The Center's faculty will also serve as expert witnesses, and assist in Pro Bono work the Law School and Medical, School students provide. Additionally, the Center will provide workshops for the public and train appropriate groups in self-help advocacy and serve as a referral source (advance care planning, last will and testament, health care and other public benefit program eligibility applications and appeals protocols).

National/International Symposia.—The Center will sponsor national symposia to address interdisciplinary issues pertaining to the elderly, among them on the medical-legal issues of elder abuse and neglect. The intent of such symposia is to bring together leaders and diverse stakeholders in this area (health care providers, law enforcement, judiciary, legislative and policy makers, public groups) who will represent their particular concerns and work to develop a consensus white paper(s) to begin to address collective solutions.

THE DANTE B. FASCELL NORTH-SOUTH CENTER

Finally, we seek your continued support for the Dante B. Fascell North-South Center. As you know, the Center has long enjoyed bicameral and bipartisan support and in fiscal year 2002 as in past years, from the Administration. The Fascell Center's mission is to promote better relations and to serve as a catalyst for change among the United States, Canada, and the nations of Latin America and the Caribbean. My colleagues there conduct programs of research, public outreach, education, training, and cooperative study. It publishes and disseminates policy-relevant information on the Americas. The programs and activities also foster linkages among academic and research institutions, NGOs, governmental institutions both civilian and military, and philanthropic and private sectors throughout the Americas.

The Center was authorized originally under the "Center for Cultural and Technical Exchange Between North and South Act of 1990." (Public Law 101–513.) Its mission, as prescribed in the Act, is "to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada." The Center conducts programs of research, public outreach, education, training, and cooperative study. It publishes and disseminates policy-relevant information on the Americas. Acting as a catalyst for change, the Center also fosters linkages among academic and research institutions, NGOs, governmental institutions both civilian and military, and philanthropic and private sectors throughout the Americas.

The only institution of its kind in the nation, the Center's mission makes it a valuable asset to our national interest. Informed and balanced analysis and improved understanding of our neighbors in the Western Hemisphere provide us great opportunities to enhance our economy, expand our jobs, and learn of risks before they reach threatening proportions. Throughout 2000, the Center worked extensively with the U.S. Department of State and other government agencies, the World Bank, the Organization of American States, private business corporations, academic and research institutions, and Latin American and Caribbean governments in a series of projects, both new and ongoing, aimed at:

—Creating information technology opportunities in developing areas.
—Bringing marginalized communities, including women, into the global marketplace.
—Training entrepreneurs and educating businesses and policy makers in Latin America and the Caribbean on the challenges and opportunities of globalization.
—Contributing to the study and debate on economic integration in the Americas through a Free Trade Area of the Americas (FTAA).
—Continuing studies concerning weaknesses in political representation, failures in the rule of law, and unresolved issues in civil-military relations.
—Collaboration with civil, governmental and academic entities in the areas of environmental security and environmental protection in the Americas.
—Studies and collaborative efforts aimed at enhancing the role of civil society.
—Seminars on fiscal and management reform for senior federal and state-level officials, to improve efficiency, root out corruption and improve measurable results.

The Center has developed new working partnerships with the Wharton School of Business of the University of Pennsylvania, the Croft Institute at the University of Mississippi, the Instituto Tecnológico de Monterrey (Mexico), and the Universidade Estácio de Sá (Brazil) and has strengthened existing relationships with the University of the West Indies and the American Assembly of Columbia University. The

Center is the primary partner in Florida for the Council on Foreign Relations. The Center will continue its series of Roundtables in Washington, which provide a forum for frank discussion of emerging and high-priority policy issues among private sector and NGO representatives, United States and foreign government officials, and Congressional staff members.

Following the 2000 election, the Center issued a public memorandum to the president-elect, with bipartisan and academic authorship, which articulated a forward-looking, coherent Western Hemisphere policy agenda. It has been widely read at the State Department and by some of the incoming senior officials of the Bush Administration.

The Center has worked with the U.S. Army War College this year to organize a major conference and a subsequent research initiative on Colombia and the solutions available to U.S. policy for the most serious security dilemma in the Western Hemisphere. The Colombian crisis, involving drug trafficking, insurgency and political instability threatens the region and U.S. interest.

The Center is poised once again to play an important role in the forthcoming Summit of the Americas III in Quebec City in April 2001. In January, the Leadership Council for Inter-American Summitry, organized by the Center and consisting of notables from around the Hemisphere, met in Miami to draft a report offering recommendations to the heads of state who will meet in Quebec. That meeting will be President Bush's first multilateral engagement.

In the last year, the Center has received over $700,000 in program support grants from federal agencies, international organizations and private donors. These include the John D. and Catherine T. MacArthur Foundation, the Tinker Foundation, the Organization of American States, the U.S. Agency for International Development, the World Bank, the governments of Japan and the Dominican Republic, the DCI Environmental Center, Microsoft, AT&T, VISA International, and Heineken. The core funding from the Congress has enabled the Center to attract such support from private sources.

Mr. Chairman, by performing its Congressionally mandated mission, the Dante B. Fascell North-South Center contributes to our capacity to understand and surmount these challenges. At the same time, by identifying further opportunities for economic growth and democratic deepening, the Center serves as a multiplier for advancing U.S. interests in the Western Hemisphere and an inter-American resource for dealing with issues of crucial importance to U.S. citizens. For fiscal year 2002, we seek $2 million in continuation funding.

Mr. Chairman, we recognize that this will be another difficult year. However, we hope that you and your colleagues on the Subcommittee will find it possible to support these three important initiatives that deal with issues of crucial national importance. The results of the work at the Center for Sustainable Fisheries will make important contributions to the national effort to improving our understanding of wild fish populations and to developing a sound basis for fisheries management. Similarly, our proposal for the Healthcare and Elder Law Policy (HELP) Center will address the most critical needs of the elderly, and the Dante B. Fascell North-South Center will continue the vital international work you have supported through the years.

Thank you for considering these requests.

PREPARED STATEMENT OF THE ALACHUA COUNTY, FLORIDA BOARD OF COUNTY COMMISSIONERS

Thank you for allowing the Alachua County Board of County Commissioners to submit this written testimony before your Subcommittee regarding two critical projects. They are the Partners for a Productive Community Enhancement Initiative, and the Comprehensive Management of Drug Involved Offenders Initiative.

PARTNERS FOR A PRODUCTIVE COMMUNITY ENHANCEMENT INITIATIVE ($2.3 MILLION IN FUNDING REQUESTED)

In response to a spiraling crime rate in southwest Alachua County, the Alachua County Sheriff's Office requested help from the Board of County Commissioners in 1993. Specifically, the Sheriff reported that 57 percent of its 911 calls came from an area that had only 3.2 percent of the County's population.

The County Commission responded by providing $38,000 in funding for a Program Manager to staff the Partners for a Productive Community (PPC) Program in fiscal year 1994. The PPC was launched as a strategic planning effort with three goals: the establishment of neighborhood-based services, the development of public/private partnerships and a focus on crime prevention. This Program has enjoyed great suc-

cess due to the coordinated efforts of the Sheriff's Office, the Courts and the Alachua County Department of Community Support Services. Furthermore, since the inception of this Program, the County has budgeted over $1.6 million to support the Program through the Community Support Services Department and Sheriff's Office. Additionally, over $2.4 million has been leverage from other county departments, local social service providers and the Sheriff's Office through a local law enforcement grant.

The goal of the Sheriff's Office was to reduce the number of calls from the area, and to develop a relationship of trust with the area's residents. The goal of the Courts was to help with the swift prosecution of cases, and to increase personnel in key areas. Finally, the goal of the County's Department of Community Support Services was to develop and implement a neighborhood needs assessment, and to determine the social service needs in accordance with the results of the assessment. The Community Support Services Department was also responsible for developing public/private community partnerships, and community based organizations comprised of tenants, property owners and managers. Thus, this project represents a multi-agency strategy to stabilize, revitalize and sustain five specific neighborhoods of Alachua County.

In addition to improving the area's basic infrastructure, federal funding is also being requested to provide community recreational programs for the area's youth. These activities will provide positive alternatives to crime, and allow youth to participate first hand in community improvement programs. In doing so, these programs will build and encourage positive self-esteem, leadership skills and academic achievement. To complement these programs, additional improvements will be made in the community Safe Havens. Finally, the requested funding will also allow the PPC to expand this successful demonstration program into other at risk Alachua County communities such as Archer, Florida. Specifically, the PPC will develop a partnership strategy to address the unmet needs of health care, education, training, employment, youth recreation and transportation for the residents of Archer.

This request for federal funding is justified by the tremendous improvements and accomplishments that have been made in these neighborhoods since 1995. These achievements include: free community day care for 75 children, 30 community day care slots, 24 in-home day care slots, the creation of 30 new jobs by the Early Progress Center, the reduction in 911 calls from 57 percent to 14 percent of total calls in the area, and substantial increases in the property values for four of the five neighborhoods.

Furthermore, the implementation of seasonal recreation programs in the targeted communities by the Y.M.C.A. has been instrumental in providing positive, character building activities for children, teenagers and adults. Day camps are provided during the summer months, and back-yard sports are provided at the end of the school day during the school year. In addition, two 4–H Clubs serving 60 neighborhood children were established along with after school and community teen programs. Adult literacy and GED classes were made available at a nearby school campus. Finally, other programs have been established for the purpose of creating a sustainable neighborhood. These programs include quarterly informational forums concerning small business development, educational opportunities, self-help seminars, budget management and landlord/tenant issues.

With respect to community-wide improvement programs, a total of nine neighborhood cleanups were completed this year. With the active involvement of the residents of the neighborhoods, the Alachua County Office of Codes Enforcement has been able to reduce from twenty to two the number of abandoned and vandalized buildings. Furthermore, a new Waste Collection Ordinance which was supported by the PPC permits the efficient and timely citation of violators.

The sustaining factor within this Program is the formally organized Partners for a Productive Community Council. The Council is the guiding force that deals with issues and determines unmet needs. For example, a block captain organization was started this year with the assistance of the PPC Council, and the Alachua County Sheriff's Office. This group monitors and manages crime prevention programs block by block.

In recognition of the numerous accomplishments described above, the PPC received the National Association of Counties' Achievement Award in 1996 for distinguished and innovative contributions to improving county government. Additionally, the League of Women Voters presented the County with a similar award for outstanding community service.

Furthermore, in December 1999 Alachua County received Official Recognition from the Executive Office of Weed and Seed for two of the neighborhoods being served by the Partners for a Productive Community Program. Pursuant to this recognition, these communities have been awarded a $175,000 Weed and Seed Grant

for prevention and intervention strategies focusing on Cedar Ridge and Linton Oaks neighborhoods. This grant will further strengthen the long-term efforts to improve the quality of life in these neighborhoods.

As noted above, the federal funding requested will also be used to expand the successful Partners Initiative into the rural community of Archer, which is located in the southwestern portion of Alachua County. Archer and the rural areas surrounding it have a population of 6,348, of which 16 percent fall below the poverty level. While the City of Archer has one elementary school, emergency rescue, fire and police services are contracted from Gainesville/Alachua County. There are also two public housing communities, and a small obsolete community center which is used as a congregate meal site for senior citizens. Consequently, many of Archer's residents travel to Gainesville for employment, social services, recreational activities, adult and continuing education and health care.

Recently, the University of Florida, School of Nursing received $200,000 from the Florida Legislature to provide primary health care through a clinic based in Archer. Presently, this clinic is on the State Department of Health's list to be eliminated due to the limited area that it serves. Should this occur, there will be a need for additional funds to meet the health care needs in this area. Thus, a portion of the federal funding in this request could be channeled through the Alachua County Health Department in our continuing effort to develop partnerships, maximize resources and expand services to the citizens of Alachua County through our rural service initiative.

Employment opportunities, recreation for teens and outreach social services continue to be a challenge for the community of Archer. According to the Alachua County Sheriff's Office, Archer's crime rate is disproportionately high for a community its size. In 2000, the Alachua County Sheriff's Office received 2,657 calls for service. Of the dispatched calls, 30 were assaults and batteries, and 5 were for sexual battery. The largest number of dispatched calls (869) concerned burglary and theft.

In conclusion, Alachua County is requesting $2.3 million in federal funding to continue its highly successful and award winning neighborhood revitalization programs; and to expand these successful model programs to other neighborhoods, including the City of Archer, Florida.

COMPREHENSIVE MANAGEMENT OF DRUG INVOLVED OFFENDERS INITIATIVE ($2.7 MILLION IN FUNDING REQUESTED)

Prior to building additional jail space at great expense to the taxpayers of Alachua County, the County would like to fully explore all possible alternatives and programs. A one month "snapshot" of individuals arrested in 1998 dramatically showed that 36 percent of the 231 felony defendants who were not released at first appearance were in custody for drug related charges. Most often, these offenders do not receive treatment, serve three to six months in jail, and are released only to be rearrested for new drug related offenses, becoming "frequent flyers" through a revolving jail door.

A comprehensive plan to manage substance-involved offenders is an innovative approach that could prove to be an effective keystone to alleviate jail overcrowding by reducing recidivism rates and the incidence of drug-related crime. Professionals estimate that 50 percent to 80 percent of offenders have substance abuse problems. In Alachua County, the population of repeat offenders charged with drug possession, sales of small amounts of drugs, or property crimes that support addiction contributes significantly to the jail population. In fiscal year 1999, 407 individuals were sentenced to drug offender probation supervised by the Florida Department of Corrections. Because adequate treatment resources are not available, more than 50 percent of these individuals are expected to fail on probation, with subsequent incarceration in the Alachua County Jail.

Over the past four years, Alachua County has expended an average of $2.9 million each year on alternatives to jail. Almost $1.7 million of this $11.6 million total has been invested in substance abuse treatment programs for offenders. In fiscal year 2002, the annual investment in alternatives will increase to more than $3.7 million, with approximately $700,000 earmarked for substance abuse treatment programs.

While considerable resources have been expended on alternatives, current treatment resources are inadequate to meet the needs of addicted offenders. Additionally, funds are not available to conduct the research required to establish the validity of this paradigm as a model approach. This demonstration project includes a cost-benefit analysis which compares the long-term benefit of a comprehensive treatment model versus an incarceration/incapacitation model. Other benefits of this demonstration project are discussed below.

Alachua County is a medium-sized community of 210,000 residents, containing both rural and urban areas similar to many other communities across the country. The University of Florida is located in the community and has served as a partner in evaluating the success of other programs. The impact for the entire region is considerable since the County serves as the regional center for much of north Florida's medical care and criminal justice services.

Alachua County has many advantages which make it an ideal site for this demonstration program. The County has long served as a model and a resource for criminal justice alternative programs in the State of Florida. Many Florida pretrial release and alternative sentencing program officials consulted with Alachua County's Court Services Department as they developed similar services for their counties. The Alachua County Drug Court was one of the first 25 Drug Courts in the nation and has also served as a model for other Florida Drug Courts. Court Services Department staff are active in statewide organizations that provide a network to exchange information and share innovations. Alachua County was also recognized as a leader by the Florida State Legislature's Advisory Council on Intergovernmental Affairs in its 1993 report, Intergovernmental Relations in Local Jail Finance and Management in Florida—A Comprehensive Report. Further, the community linkages in Alachua County and the array of programs provided under one umbrella in the Alachua County Court Services Department provide a unique opportunity to demonstrate the impact of a comprehensive effort.

Alachua County has supported innovative alternative methods of managing offenders for more than 25 years. Alachua County funds the Court Services Department which comprises a comprehensive array of alternatives including: pretrial services, county probation, community service, day reporting, drug court, a work release facility and a residential treatment program for drug addicts.

In fiscal year 2000, these programs completed 8,028 pre-trial release investigations, monitored 969 defendants on pretrial release, supervised 1,020 probationers and coordinated more than 4,400 cases where community service work was required by the Court. This year, in addition to the above services, the Drug Court Program will treat and monitor up to 120 addicted offenders per day and the Work Release Program will house 60 sentenced or pretrial residents per day. Metamorphosis, the County's residential treatment program, will serve 17 addicted clients each day in a therapeutic community with referrals coming from both the community and the criminal justice system. The County's newest program, Day Reporting, will offer each day intensive supervision and a variety of rehabilitative services for up to 60 multi-problem pretrial defendants and sentenced offenders.

A coordinated continuum of services targeting substance abusing offenders across the criminal justice spectrum would further reduce the incidence of drug-related crime throughout the County and allow costly, high-security jail beds to be reserved for dangerous and high-risk offenders.

The program will include continuing judicial supervision of nonviolent offenders with substance abuse problems and administration of sanctions and services including: (1) mandatory drug testing during any period of supervised release or probation; (2) substance abuse treatment; (3) probation or supervised release which could include prosecution, confinement or incarceration for noncompliance with the program's requirements; and (4) offender management and aftercare services to prevent relapses, such as vocational job training, job placement and housing placement.

The County has an existing array of programs which would serve as the framework of a comprehensive system. There is strong support for alternative programs within the judiciary and from other local criminal justice officials. The County also has a long-standing history of cooperation among agencies. The expected benefits are national, and could hopefully be replicated at reasonable cost.

CONCLUDING COMMENTS FOR WRITTEN TESTIMONY

The two initiatives described above represent well-conceived programs that address the social, physical and economic needs of the citizens of Alachua County. Furthermore, these programs demonstrate the County's continuing commitment to projects and initiatives that emphasize a balance between environmental protection, economic development and social equity for all of the residents of the County. Therefore, we hope that the Subcommittee will find these two critically important projects worthy of your support. Thank you for your consideration.

PREPARED STATEMENT OF THE CENTER FOR MARINE CONSERVATION

The Center for Marine Conservation (CMC) is pleased to share its views regarding the programs in the Department of State's and the National Oceanic and Atmos-

pheric Administration's (NOAA) budget that affect marine resources, and requests that this statement be included in the hearing record for the fiscal year 2002 Commerce, Justice, State, and the Judiciary appropriations bill.

Through science-based advocacy, research, and public education, CMC informs, inspires, and empowers people to protect ocean ecosystems and conserve the global abundance and diversity of marine wildlife. CMC is the largest and oldest nonprofit conservation organization dedicated solely to protecting the marine environment. Headquartered in Washington DC, CMC has regional offices in Alaska, California, Florida, and Maine.

We greatly appreciate the funding this Committee has provided for marine conservation over the last several years. We are particularly grateful for last year's significant increases for ocean and coastal resource protection.

DEPARTMENT OF STATE

Implementation of the Inter-American Convention for the Protection of Sea Turtles (IAC).—The IAC is the first international treaty dedicated to sea turtle protection and was ratified by the United States on October 10, 2000. The treaty has also been signed by Brazil, Costa Rica, Ecuador, Honduras, Mexico, the Netherlands and goes into effect on May 2, 2001. CMC respectfully request $100,000 (within the International Fisheries Commission program account) in fiscal year 2002 for the State Department to assist in the establishment of an independent Secretariat and in hosting the first meeting, thereby preserving the leadership of the United States on this treaty.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Commission on Ocean Policy.—The Oceans Act of 2000 was passed unanimously by both chambers of Congress and became Public Law 106–256 on August 7, 2000. The act establishes a 16 member Commission on Ocean Policy to assess and make recommendations for a national ocean policy to Congress and the Administration. With the many threats facing our oceans, such as overfishing, pollution, and the loss of habitat, CMC respectfully requests $1.5 million in fiscal year 2002 so that this commission will have the resources necessary to help shape future ocean policy.

Coral Reef Activities.—CMC thanks the Committee for its support of $27 million for coral reef conservation in fiscal year 2001 and respectfully requests that the committee support the Administration's $27.7 million request in fiscal year 2002. This funding will allow NOAA to continue implementing the priorities of the U.S. Coral Reef Task Force, a successful cross-cutting interagency partnership, and to work with state, territorial, and local partners to conduct important coral reef research and monitoring.

NATIONAL OCEAN SERVICE

National Marine Sanctuary Program.—We respectfully request the Committee to provide the $52 million requested by the Administration, ($36 million for operations, $16 for construction) for this important program. Often referred to as America's "ocean parks", the 13 sanctuaries around the country encompass almost 18,000 square miles of the nation's most significant marine resources. This funding is critical to provide: core staffing for individual sanctuaries, visitor and interpretive facilities for public education and enjoyment, basic conservation, research, and education programs, and review and updating of sanctuary management plans as required by law.

Marine Protected Areas Centers.—We respectfully request $5 million in fiscal year 2002 for marine protected areas (MPAs), $2 million above the Administration's request. This will allow NOAA to work with federal and state agencies as well as other partners to assess how to best use marine protected areas to better manage the nation's valuable marine resources (e.g., fish), provide recreational opportunities, and protect marine habitats and biodiversity. This funding would be used to complete the first ever comprehensive inventory of the nation's MPAs and to support critically needed new research on how to design and implement more effective MPAs.

Nonpoint Source Pollution.—Nonpoint source pollution, or polluted runoff, is the nation's largest source of water pollution. Last year there were over 6,000 beach closings and advisories at U.S. beaches, six million square acres of shellfish beds were closed or restricted, and a 7,000 square mile "Dead Zone" formed in the Gulf of Mexico. We applaud the Committee for providing $10 million in fiscal year 2001 to help states implement approved portions of their Coastal Nonpoint Pollution Control Programs. We respectfully request $31 million in fiscal year 2002, $6 million for coastal states and territories to complete their programs and an additional $25

million for states and territories with approved or "conditionally approved" programs to begin implementation. This represents a $21 million increase above the President's request.

NATIONAL MARINE FISHERIES SERVICE

Atlantic Coast Cooperative Statistics Program.—CMC strongly supports the Atlantic Coast Cooperative Statistics Program and greatly appreciates the committee's support of $1.5 million in fiscal year 2001. Created in 1995, this cooperative state and federal fisheries data collection program coordinates marine fisheries statistics. This program is unique in that it encompasses all marine fisheries sectors on the Atlantic Coast including recreational anglers, charter and headboat operators, commercial fishermen and seafood processors/dealers. We respectfully request $2.5 million in fiscal year 2002, $1 million above the Administration's request, so that this program can be expanded and fully implemented along the East Coast, thereby helping to ensure that data collection methods are more consistent and reliable.

Observers.—Reliable, objective information about how many fish are being caught, directly and as bycatch, is crucial to responsible management of our fish populations. Observers are a key means of collecting such information, yet current observer coverage is sorely lacking, and should be dramatically increased. CMC respectfully requests $25 million for a National Observer Program in fiscal year 2002, $12.4 million above the Administration's request, and includes an additional $5 million to expand the West Coast Observer program. This increase would give managers a better sense of exactly how much fish is caught, directly and as bycatch, thereby improving management of our fish populations.

South Florida Ecosystem Restoration.—The South Florida Ecosystem Restoration is an integrated effort among federal, state, tribal and non-governmental partners to halt the degradation of the South Florida Ecosystem and the Everglades. CMC respectfully requests that the Committee fully fund NOAA's portion of this vital initiative in fiscal year 2002, including $1.9 million requested in NMFS's budget for critical fisheries research and monitoring activities.

Stock Assessments.—The status of more than 70 percent of the species managed under the Magnuson-Stevens Act is unknown due in large part to lack of funding for basic research and stock assessment. It is essential that we develop a better understanding of the status of our fish populations. The National Marine Fisheries Service, even with the President's requested increase of $13.3 million, would still have a deficit of 1,700 research days at sea to fulfill their stock assessment duties. CMC respectfully requests a $26.6 million increase above fiscal year 2001 for stock assessments, including the $1.0 million for marine mammal studies requested by the Administration. An additional $3.0 million is needed in fiscal year 2002 to continue shipboard surveys in the Eastern Tropical Pacific tuna-dolphin fishery.

Essential Fish Habitat.—Protecting essential fish habitat is key to ensuring healthy fish populations in the future. Given the need to better understand the impacts of fishing and other activities on these habitats, and the need to more fully comply with the Sustainable Fisheries Act requirement to minimize impacts to those habitats, we believe that increased funding above the President's request of $2.5 million is crucial. In particular, additional monies are needed to analyze and minimize the impacts of fishing activities on these areas. Adequate funding for essential fish habitat is one of CMC's highest funding priorities for NMFS. We respectfully request that the committee appropriate $12.5 million to this effort in fiscal year 2002.

Enforcement and Surveillance.—Enforcement of our fishery management laws has been woefully under funded for years. According to NMFS, there are currently approximately 150 enforcement agents, each responsible for nearly 1200 miles of coastline and 29,000 square miles of our Exclusive Economic Zone. CMC respectfully requests a base of $46.9 million, an additional $7 million above the Administration's request in fiscal year 2002, to hire more officers to address this chronic shortfall. These funds would also allow for strengthening of alternative enforcement programs and enhancement of state and local partnerships.

In addition, CMC respectfully request an additional $12.4 million, $5 million above the Administration's request, for expanding the Vessel Monitoring System (VMS) program in fiscal year 2002. VMS is a satellite-based fishery enforcement system which has the ability to provide real time catch reporting throughout a number of different fisheries. This increase would allow for establishment and implementation of VMS systems as well as the placing of VMS transponders on a vast majority of the estimated 10,000 boats in the U.S. commercial fishing fleet. VMS programs enhance data collection and safety at sea. They also can be beneficial to fisherman by allowing them to fish right up until a quota is reached. Finally, with

VMS systems, officials can tell when a fishing vessel is fishing in closed areas, or is fishing beyond the end of a regulated fishing season.

Regional Fishery Management Councils.—CMC recommends $17.6 million in fiscal year 2002 for regional fishery management councils, $2 million above the Administration's request. This $2 million increase is necessary to help the councils carry out their responsibilities under the Magnuson-Stevens Act, including holding council advisory meetings, some of which have recently been canceled due to lack of funding.

Resource Information.—Hawaiian monk seals are the most endangered pinnipeds in the United States. We must commit the necessary funds to ensure that projects such as health assessments, marine debris assessments and removals, and habitat and foraging studies go forward. We respectfully request that the committee fund this line item at $1.5 million in fiscal year 2002.

Endangered Species Act Recovery Plans.—Right whale—With only 300 North Atlantic Right Whales remaining, and the species' continued existence threatened by entanglement in fishing gear and collisions with vessels, additional funds are needed to continue research to improve our understanding of right whales and for the development of improved fishing technologies to reduce entanglements. We thank the committee for providing $5 million in fiscal year 2001 and urge the committee to support the Administration's request of $7 million in fiscal year 2002 for Right Whales.

Pacific Highly Migratory Species.—We support the Administration's request of $1 million for stock assessments and biological studies for Pacific highly migratory species, including sharks. In addition, we respectfully request adequate funding for collaborative multi-regional biological research for effective management of highly migratory fish, including vulnerable sharks. This effort should include the Center for Shark Research, universities, state agencies, and other qualified nonprofit organizations.

Marine Mammal Protection Act.—The President's request for $8.125 million for Marine Mammal Protection Act (MMPA) implementation is woefully inadequate. Lack of funding has been one of the primary reasons for NMFS's failure to effectively implement the MMPA. We respectfully request an appropriation of $38 million in fiscal year 2002, the amount authorized under the MMPA. This increase is necessary to design and implement effective fishery management plans that will not endanger marine mammals, conduct more and better research on population trends, demographics, health and genetic distinctness, and to carry out education and enforcement programs. These funds would also allow for increased observer coverage and the co-operative development of strategies to reduce entanglements resulting from active or derelict fishing gear and other forms of marine debris. It would also allow health assessment and research into the causes of strandings and die-offs as well as identification of mitigation measures to prevent such deaths in the future.

Marine Mammal Commission.—CMC respectfully requests that the Committee to support the Marine Mammal Commission at its authorized level of $1.75 million in fiscal year 2002.

Oceanic and Atmospheric Research

Ocean Exploration.—CMC appreciates this committee's support of $4 million in fiscal year 2001 for Ocean Exploration and respectfully requests $25 million in fiscal year 2002. This $11 million increase above the President's request would allow the United States to begin implementing the first comprehensive strategy to explore the oceans, as recommended by U.S. panel on Ocean Exploration, and to improve outreach and education activities.

Thank you for your consideration of these programs that are of the utmost importance to the stewardship of the nation's living marine resources. We greatly appreciate your support for these programs in the past and look forward to continued, responsible funding for these programs in fiscal year 2002.

PREPARED STATEMENT OF THE CITY OF MIAMI BEACH, FLORIDA

On behalf of the City of Miami Beach, Florida, I appreciate the opportunity to submit this written testimony to you on an extremely important economic development initiative, the rehabilitation of a large downtown theater to serve as a cultural and community center. The City is seeking $5 million in fiscal year 2002 appropriations for the acquisition and restoration of the Byron Carlyle Theater through the Department of Commerce, Economic Development Administration.

BYRON CARLYLE THEATER RESTORATION

The City of Miami Beach wishes to pursue direct funding for the acquisition and redevelopment of the Byron Carlyle Theater. The Facility will serve as a venue for cultural and non-profit institutions, functionally interacting with the North Shore Youth Center. The two primary objectives of this facility are: (1) to use cultural institutions as a catalyst for the revitalization of the North Beach area, and (2), to provide a facility that can house those organizations that are being priced out the their current locations. The City is seeking $5 million towards this project.

The Byron Carlyle Theater is a 7-screen movie theater that is located in the central business district of Miami Beach's North Beach area of. The theater was closed by Regal Cinemas in 1999, and has been vacant ever since, creating a void in what once was a thriving downtown neighborhood. The City of Miami Beach has begun the implementation of a strategic plan for the revitalization of the North Beach area, which includes approximately $124 million in capital improvement projects that will be implemented during the next 6 years. The redevelopment of vacant buildings such as the theater is crucial to the economic and business development components of the North Beach Strategic Plan. However, due to the unique layout and structural nature of older movie theaters such as the Byron Carlyle Theater, redevelopment options are limited and expensive.

There are two reasons that Miami Beach needs the Byron Carlyle Theater as a multi-purpose cultural facility. First, the redevelopment of this theater is an integral component of the Strategic Plan for the economic revitalization of the North Beach area of Miami Beach. While other areas of Miami Beach have enjoyed tremendous economic success over the last 10 years, the North Beach area has lagged in its growth and continues to evidence a concentration of low income households and a lack of private sector investment. The emergence of cultural institutions during the beginnings of the economic revitalization of South Beach's Art Deco District directly contributed to the area's continued success. Secondly, the success that cultural organizations helped create in South Beach is also a reason for the creation of a cultural facility in North Beach. As South Beach boomed, local cultural institutions became self sufficient and successful, area market trends began to improve and property values appreciated significantly. In 1993, the primary cultural area in South Beach was on Lincoln Road, where rental rates averaged $12 per square foot. In 2000, rental rates reached $75 per square foot, and many small businesses and cultural organizations were forced to either relocate or dissolve. Additionally, many cultural organizations currently housed in City-owned facilities will soon have to relocate as the City expands to meet the ever-increasing service levels expected by the citizens. A central facility that accomplishes both goals is critical to the economic revitalization of the North Beach neighborhoods.

The Acquisition and Renovation of the Byron Carlyle will also help develop the entire City of Miami Beach into a world-renowned center for the creation and consumption of culture. Miami Beach is home to many internationally acclaimed cultural organizations, such as the New World Symphony, the Miami City Ballet, and the Bass Museum. These organizations, however, are located in a small concentrated area of South Beach. The City also has over 75 smaller cultural groups that are the true cultural heart of Miami Beach. Organizations such as the Concert Association of Florida, Ballet Flamenco La Rosa, and the Performing Arts Network continue to struggle for their economic survival. The ability to provide a facility that allows these groups to remain in Miami Beach will provide a venue where many emerging and small organizations can continue to grow and prosper and at the same time provide a catalytic cultural component to the revitalization effort in North Beach.

In 1999, in an economic impact report to the City of Miami Beach's Mayor's Economic Council, Florida International University identified that investment in the cultural arts has the highest economic output multiplier of all local industries. The challenge for cities such as Miami Beach, however, is, providing the level of Cultural Arts investment that is required to generate this "biggest bang for the buck."

The City of Miami Beach estimates that the cost to acquire and rehabilitate the Byron Carlyle is $7.2 million. The City currently has approximately $2.2 million for this project, which will include the $1.7 million purchase price. The City has also identified funding sources that will be committed to the annual operation of the facility once it opens. The City of Miami Beach is requesting $5 million in federal funding for the renovation of this facility.

Federal support is critical to the success of this economic development project. It is our hope that the Subcommittee will give our request every consideration.

PREPARED STATEMENT OF FLORIDA STATE UNIVERSITY

Mr. Chairman, I would like to thank you and the Members of the Subcommittee for this opportunity to present testimony.

I would like to discuss the funding for the maintenance of ongoing programs and additional resources for NOAA and its extramural research collaborators to advance the science and accuracy of climate and weather forecasting.

First, let me stress the importance of allocating maximum support for the Office of Global Programs, funded at a minimum at the fiscal year 2001 level of $68.095 million. This Committee has supported full funding of the budget request of the OGP through the past several appropriations acts. All of NOAA's intramural and extramural research initiatives have been determined and planned by nonpartisan, scientific experts whose goals have been to improve the science, accuracy and lead-time of long range climate forecasts, and to improve regional warning systems through down-scale modeling. The importance of maintaining and sustaining this comprehensive approach to understanding our climate system will permit improved and longer lead-time forecasting. This allows for better planning for the effects of climate forced events, resulting in saved lives, minimized property losses, and improved planning in resource allocation and crop planting.

Next, I request the Committee's consideration of apportioning $20 million for a Supercomputer to be shared by universities and institutions for high-end climate modeling and research. Current climate modeling in the United States is limited by computer capacity. The House Science Committee held a hearing recently on Climate Forecasting: The State of the Science. When queried by Committee Members, the independent scientific experts who appeared as witnesses stated unanimously that the greatest need for United States advancement in the climate modeling and research fields is the need for Supercomputing capacity among universities and institutions for high-end use.

Climatologists in the United States have now reached the capacity of currently utilized computer systems in the high-end tasks associated with water and atmospheric modeling. The ability to process massive amounts of data can be only achieved through the acquisition of vector analysis Supercomputers. Vector analysis computers were not available to U.S. Government-funded institutions until recently. The current U.S. approach, using MPP technology, cannot process the whole of computer modeling tasks associated with water and atmospheric data on a global scale. Scientists acknowledge that the facility must be located apart and distinctly separate from NOAA's ongoing computer functions, due to the need for a dedicated Supercomputer specifically configured for high-end climate and modeling and research. A shared computer with NOAA for NOAA's use, whether part-time or back up, does not provide the capability and sustained processing power needed for the demands associated with high-end climate modeling. This request for $20 million in fiscal year 2002 is for a computer to be competitively bid and awarded, and for institutions, like Florida State University, to have access for sharing the use of Supercomputing capacity.

Finally, I request that consideration be given to an allocation of $20 million for a Supercomputer for NOAA to be used as a backup for National Weather Service and other NOAA forecasting purposes, including research. There is widespread recognition among the extramural research community for the necessity of improved capacity and backup among computers for the National Weather Service. There is also a recognized and documented need in NOAA for a backup computer for the NWS. Last year's shutdown of NOAA's main computer, and subsequent loss of forecasting ability, left the NWS unable to provide the services upon which U.S. citizens, state and local governments, and private industry have come to rely. The necessity of a backup is clear, and in times of non-use as a backup, NOAA's internal research demands for this capacity exist. This statement concerning NOAA's needs represents consensus among the extramural community for additional resources and Supercomputer capacity for NOAA and the NWS.

Thank you for this opportunity to present and articulate the needs and request for climate modeling and research in the United States.

PREPARED STATEMENT OF THE NATIONAL AUDUBON SOCIETY

On Behalf of the National Audubon Society and our one million members and supporters, we appreciate the opportunity to submit testimony regarding funding priorities for the fiscal year 2002 budget of the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service. The mission of the National Audubon Society is to conserve and restore natural ecosystems, focusing on birds

and other wildlife and their habitat for the benefit of humanity and the earth's biological diversity.

To adequately fulfill their mandates the National Marine Fisheries Service (NMFS) and the National Ocean Service (NOS) within the Department of Commerce are in need of additional monies over those provided in fiscal year 2001. Below is a detailed list of what the National Audubon Society sees as critical funding priorities within these agencies accompanied by minimum appropriations levels.

NATIONAL MARINE FISHERIES SERVICES (NMFS)

Mandates derived from passage of the Sustainable Fisheries Act (SFA) have significantly increased the commitments of NMFS since 1996. Full implementation of NMFS's additional commitments, including research programs, the development and implementation of comprehensive fishery management plans, and monitoring programs, requires substantial additional fiscal resources. While the President's proposed budget provides increases for a number of important programs, resources fully adequate to NMFS's obligations have yet to be appropriated. We urge the Committee to provide additional funds for the programs detailed below for fiscal year 2002.

Resource Information

Audubon supports the proposed $4.196 million dollar increase to the resource information base. As detailed below, we are encouraged and enthusiastic regarding increases in a number of specific line items, however, we are concerned that some increases may fall short of what is necessary.

—*Expand Annual Stock Assessments*.—The administration has requested a total of $15 million for expanding annual stock assessments, which represents an increase of $13.3 million. Audubon is supportive of this increase, however, we note that this level of funding will eliminate just one third (829) of the deficit of 2,564 research days identified in NMFS' Stock Assessments Improvement Plan as necessary for adequate stock assessment coverage. At a time when the status of nearly half (43 percent) of all assessed fish species are considered overfished, our ignorance of the status of 78 percent of our fish stocks in aggregate is simply unacceptable. To close the tremendous gap in knowledge, Audubon proposes an increase of $19 million over 2001 funding levels which would reduce the research days deficit by one half.

—*Fishery Observers*.—Audubon believes that the administration's request of and additional $4 million for fishery observers is a step in the right direction, but is insufficient. Observer coverage levels in some fisheries, such as the Atlantic pelagic longline fishery, have been below levels mandated by international agreements and biological opinions issued under the authority of the Endangered Species Act for multiple consecutive years because of fiscal constraints. To ensure that sampling occurs annually at a statistically reliable level of coverage within all statistical areas fished, Congress must provide additional money to NMFS for fishery observers. Audubon proposes an increase of $16.4 million above fiscal year 2001 funding levels for this purpose.

—*Pacific Highly Migratory Species Research*.—Audubon is supportive of the administration's request of $1 million for Pacific highly migratory species research, but believes this level of funding is inadequate. Funding for stock assessments and biological studies, as well as improving bycatch mitigation techniques for these fisheries are critical for the long-term health of the fishery. Of vital importance to improving management of these species in both the near and long-term is the completion of the Pacific Fishery Management Council's Highly Migratory Species Fishery Management Plan. To guarantee the timely completion of this plan, Audubon proposes that appropriations for Pacific Highly Migratory species be raised to $1.5 million with $500,000 of these appropriations specifically dedicated to completion of the Pacific Fishery Management Council's plan.

—*Bluefin Tuna*.—Audubon believes the Administration's request of $600,000 for bluefin tuna research is below the level needed to fund appropriate scientific research. Audubon strongly urges the Committee to appropriate $1 million and ensure that these research dollars be evenly distributed between Stanford University and the New England Aquarium. In fiscal year 2001 all federal bluefin tuna research dollars were allocated to the New England Aquarium. The Stanford University research team has traditionally lead the field in Atlantic bluefin tuna research and we believe that their significant expertise should be engaged on this issue.

—*Essential Fisheries Habitat*.—Essential fish habitats (EFH) are those waters and substrate on which fish depend. These habitats are currently being dam-

aged from both land based activities and destructive fishing practices. While the Sustainable Fisheries Act of 1996 gave NMFS a clear mandate to identify and conserve essential fish habitat, little has been done. Audubon supports an increase of $12.8 million over fiscal year 2001 funding levels. This increase in funding would allow NMFS to gain the information necessary to further refine designations of EFH and take action to conserve EFH, including measures to minimize the adverse impacts of fishing gear on EFH.

—*Cooperative Research*.—Audubon supports the administration's $6 million request for cooperative fishery research, which represents an increase of $500,000 over the fiscal year 2001 enacted level. These additional monies will provide for the expansion of cooperative research activities in the Southeast region and allow for the expertise of fishermen to be utilized in conjunction with that of NMFS in the development of data collection and other programs. Audubon further supports the continuation of shark research funding to Mote Marine Laboratory at the proposed $150,000 level.

CONSERVATION AND MANAGEMENT OPERATIONS

Audubon is encouraged by and supportive of the proposed $2.033 million increase in funding for the fisheries management programs base.

—*Regional Councils*.—The administration has requested a total of $15.6 million for the regional fishery management councils, which represents an increase of $2.5 million above the fiscal year 2001 enacted level. Audubon is supportive of the proposed increase, however this level of appropriations still falls short of what is needed to support the increased workload of the eight regional councils. Audubon proposes an increase in appropriations to $19.05 million as per the aggregate request of the eight regional councils. Audubon believes that this higher level more accurately reflects the appropriations necessary to fully execute their responsibilities.

—*Atlantic Salmon*.—Audubon supports the administration's request of $3.5 million for Atlantic salmon, which represents an increase of $1.5 million over the fiscal year 2001 enacted level. These monies will contribute to conserving and restoring populations of endangered Atlantic salmon in the Gulf of Maine Distinct population segment and their habitat. These appropriations, in conjunction with appropriations to the National Fish and Wildlife Service are critical for effecting a recovery of this highly endangered species.

—*Enforcement and Surveillance*.—While Audubon is supportive of the administration's $47.3 million request for enforcement and surveillance activities, which provides a $10 million increase for enforcement activities over fiscal year 2001 levels, we believe it falls short of what is needed to allow for effective enforcement of current fisheries regulations. We are pleased to see the proposed increase of $6.1 million for the vessel monitoring systems (VMS) over the fiscal year 2001 enacted levels and the implied commitment to effective fishery monitoring. Nevertheless, this funding level is far below what is needed to ensure coverage for noticeable portion of the estimated 10,000 U.S. commercial fishing vessels. Audubon proposes an aggregate request of $11.1 million over fiscal year 2001 enacted levels for VMS, which represents an increase of $9.8 million. This higher amount would support VMS coverage of roughly 11 percent of this nation's commercial fishing fleet. Given the increased use of large-scale area closures and the difficulty in enforcing the use of these vital management tools, VMS is an indispensable enforcement tool. Enforcement alternatives to VMS would be immensely more costly and include 100 percent observer coverage in some fisheries and the procurement of significant numbers of additional enforcement personnel, aircraft and ships to patrol area closures. VMS also provides the added benefit of improving fisheries management by providing refined real-time data regarding spatial and temporal distribution of fishing effort. Audubon is further supportive of the proposed $3.9 million increase over fiscal year 2001 enacted levels to expand and modernize the enforcement and surveillance base.

—*Sea Turtles*.—Audubon supports the Administration's request of $6.3 million for marine sea turtle activities, which represents an increase of $3 million over the fiscal year 2001 enacted level. Given that the two most recent biological opinions (May 2000, April 2001) regarding the Atlantic highly migratory species fishery determined that continuation of the Atlantic pelagic longline fishery, as currently prosecuted, constitutes a threat to the continued existence to loggerhead and leatherback sea turtles, Audubon would like to see a significant portion of these new dollars dedicated to reducing fishery interactions with sea turtles. This recommendation is further bolstered by similar turtle interaction

problems affecting pelagic longline fisheries in the central Pacific, which recently compelled a judge to drastically curtail longline fishing in that region.

—*Fisheries Oceanography*.—Audubon supports the Administrations request of $2 million for fisheries oceanography. As increasing pressure is brought to bear on fish stocks it is critical to develop new tools to further our understanding of how long-term environmental factors affect fish stocks.

COASTAL CONSERVATION ACTIVITIES

Coral Reef Activities.—Audubon supports the administration's $27.7 million aggregate request for coral reef activities. This amount represents status quo for the National Ocean Service's Coral Reef Institutes Program ($16 million) and the National Marine Fisheries Service's Coral Reef Program ($11 million), while providing a modest increase of $700,000 above the fiscal year 2001 enacted levels for Coral Reef Monitoring through the National Environmental Satellite, Data and Information Service. The fragile nature of coral reefs and their function as "hotspots" of biodiversity demand that we as a nation provide adequate funding to properly manage these critical habitats.

NATIONAL OCEANS SERVICE (NOS)

Marine Sanctuary Program.—Audubon supports the Administration's request of $36 million for the National Marine Sanctuary program, which represents an increase of $3.6 million over fiscal year 2001 enacted levels. These new dollars, if appropriated, will allow for improved protection of important sanctuary resources as well as additional personnel and ocean research.

Marine Protected Areas Program.—The administration has requested $3 million for the Marine Protected Areas (MPA) Program, which represents and increase of $3 million over fiscal year 2001. Audubon believes this amount is insufficient and proposes an additional $2 million in funding for fiscal year 2002, for an aggregate of $5 million for the NOS MPA program. Preparation of a supporting framework for collaboration between the stakeholders, as well as execution of the first comprehensive inventory and assessment of the existing system of MPAs in U.S. waters are critical to the success of the program and cannot be adequately carried out without additional monies beyond those proposed by the Administration.

Mr. Chairman and Members of the Committee thank you for the opportunity to provide testimony on Audubon's priorities for NOAA. I understand that it is a large agenda, but the problems facing America's marine resources are significant. We look forward to working with you to secure a legacy of living oceans for future generations.

PREPARED STATEMENT OF THE PACIFIC MARINE CONSERVATION COUNCIL

Pacific Marine Conservation Council (PMCC) appreciates this opportunity to share our views regarding the President's fiscal year 2002 budget request for certain fisheries programs of the National Oceanic and Atmospheric Administration (NOAA).

PMCC is a nonprofit, public benefit corporation working with commercial and recreational fishermen, marine scientists and conservationists to conserve and sustain West Coast groundfish and the coastal communities that depend upon them.

The West Coast groundfish fishery is under a federal disaster declaration, yet we have the opportunity to revive depleted stocks and to ultimately enjoy sustainable and profitable harvest. The economic impact of this important fishery reaches far beyond the communities along the 1,300-mile Pacific coastline of the Lower 48. The seafood industry distributes the catch of our commercial fishermen throughout this country and to overseas markets. Recreational fishing in these ocean waters also drives a powerful economic engine.

President Bush's budget provides for several well-considered and important investments that will enhance this nation's fisheries. For example, PMCC commends the intention of NOAA to expand stock assessments and modernize information systems.

PMCC believes that the following modest modifications to the National Marine Fisheries Service: Operations, Research and Facilities section of the NOAA budget will improve fisheries management and provide long-term national benefits:

CONSERVATION AND MANAGEMENT OPERATIONS

Observers and Training—West Coast Observers.—We greatly appreciate that this Committee provided funding in the amount of $2.275 million for the commencement

of a limited West Coast observer program in appropriations for fiscal year 2001. The President's budget carries this amount forward for 2002. To fully implement this observer program—to collect, analyze, and use the vital biological and statistical data necessary to refine management—will require the expenditure of at least $5 million per year. The $2.275 million limited program will provide approximately 10 percent coverage, while engaged marine scientists recommend 20 percent coverage for valid statistical sampling in this fishery. We respectfully request that the line for West Coast observers be raised to $5 million for fiscal year 2002. (This represents an increase of $2.725 million over the President's request.)

FISHERIES MANAGEMENT PROGRAMS

Regional Councils.—The President's budget includes $15.65 million for the eight regional fishery management councils. This is an increase over the fiscal year 2001 level, but still falls short of adequate funding for most councils to carry out their responsibilities under the Magnuson-Stevens Act. The Pacific Fishery Management Council, for example, would be funded at a level that would compromise critical work implementing their precedent-setting groundfish strategic plan "Transition to Sustainability." PMCC recommends funding the regional councils at $17.6 million for fiscal year 2002. (This represents an increase of $1.95 million over the President's request.)

STATE AND INDUSTRY ASSISTANCE PROGRAMS (INTERJURISDICTIONAL FISHERIES GRANTS)

West Coast data collection by the states.—Groundfish species do not respect the 3-mile state waters boundaries. They may be targeted or caught as by-catch in both federal and state-managed fisheries. Data collection by observers and by other means directed by the States (California, Oregon and Washington) in near-shore waters is necessary to augment information provided by federal programs. Much of this state-directed effort could utilize the services and vessels of fishermen based in our coastal towns. PMCC requests that this Committee fund these activities, to be coordinated with the National Marine Fisheries Service, in the initial amount of $3 million.

Thank you for considering our recommendations as you make the important decisions to invest in the stewardship of America's fisheries.

PREPARED STATEMENT OF THE AMERICAN CHEMICAL SOCIETY

The American Chemical Society (ACS) would like to thank Chairman Judd Gregg and Ranking Member Ernest Hollings for the opportunity to submit testimony for the record on the Commerce, Justice, State and Judiciary Appropriations bill for fiscal year 2002. ACS is a non-profit scientific and educational organization, chartered by Congress, with more than 163,000 chemical scientists and engineers as members. The world's largest scientific society, ACS advances the chemical enterprise, increases public understanding of chemistry, and brings its expertise to bear on state and national matters.

ACS firmly believes that advances in science and engineering have produced more than half of our nation's economic growth in the last 50 years and, economists agree, these advances remain the most important factor in the productivity increases responsible for our growing economy and rising standard of living. Each field of science contributes to our diversity of strengths and capabilities and has given us the flexibility to explore new fields and apply science in unexpected ways. Over the last 25 years, funding for biomedical research has increased while federal support for most other disciplines has remained flat or declined. Congress took an important step in the right direction last year when it increased funding for scientific research for fiscal year 2001. To nourish the roots of innovation in all fields and help ensure the success of growing investments in biomedicine, balance must be restored to the nation's R&D portfolio while supporting overall growth in the nation's science and technology budget. This should be a top priority for Congress and the administration as fiscal year 2002 appropriations are considered.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST) BUDGET RECOMMENDATIONS

For 100 years, NIST has assisted industry and researchers by developing technology needed to improve product quality, modernize manufacturing processes, ensure product reliability, and facilitate product commercialization. The ACS is concerned that NIST's budget increases since 1995 have generally been offset by infla-

tion and salary increases. As a result, some important programs, such as those investigating materials reliability, can not explore scientific opportunities due to lack of funds. The budget constraints also are adversely affecting NIST's ability to purchase capital equipment, recruit and retain staff, and respond to the rapid changes of a global economy. We particularly urge Congress and the administration to continue reinvigorating NIST's core laboratory programs given the quality, uniqueness, and economic importance of its work. We also support the goals of the Advanced Technology Program (ATP) and the allocation of more funds for maintenance of NIST facilities. ACS urges a greater than inflation funding increase for NIST in fiscal year 2002.

MEASUREMENT AND STANDARDS LABORATORIES

NIST laboratories' research, measurement infrastructure, and standards-related activities are critical to the operation and productivity of small and large companies across all industries, as well as universities, hospitals, and law enforcement agencies. The program provides impartial expertise, test methods, and best-in-the-world calibration services that maximize efficiencies, promote trade, and ensure confidence in the growing number of precision measurements needed for health, safety, defense, commerce, energy, and the environment.

NIST laboratories develop universal measurement techniques and technologies that foster higher quality products, more reliable processes, fewer rejected parts, and faster product development across all American industries. NIST is responsive to, and works with, industry to identify future needs, enables the development of advanced technologies, and plays a vital role in promoting international acceptance of U.S. standards abroad. We especially support NIST research in nanotechnology, healthcare, and information-technology security.

ADVANCED TECHNOLOGY PROGRAM (ATP)

ATP aims to strengthen U.S. industries' capabilities in high-risk technologies. As world competition grows, speed to market and an edge in emerging technologies are critical for the United States. ATP contributes to these goals and supports many small start-up firms that might not otherwise succeed in technology areas where venture capital funding is scarce. The program also provides an incentive for firms to perform research that has greater risks than typical industrial R&D but has promise for broad economic impact.

PREPARED STATEMENT OF THE PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS

Chairman Gregg and Members of the Subcommittee: People for the Ethical Treatment of Animals (PETA) is the world's largest animal rights organization, with more than 700,000 members. We greatly appreciate this opportunity to submit testimony regarding fiscal year 2002 appropriations for the National Oceanic and Atmospheric Administration (NOAA). Our testimony will focus on financial aid for the commercial fishing industry.

As you may know, in the summer of 2000, an emergency spending bill was passed which included $50 million for NOAA to help provide relief to the commercial fishing industry from environmental restrictions, overfishing, and foreign competition.

Fish suffer greatly when caught and killed for their flesh. Whether caught by hook or net, fish experience fear and pain.

We would like to request that the Subcommittee include report language ensuring that no NOAA funds may be used for financial aid to the commercial fishing industry.

Fish feel pain

The following is excerpted from Lord Medway's 1979 Report of the Panel of Enquiry Into Shooting and Angling, sponsored by the Royal Society for the Prevention of Cruelty to Animals:

"[T]he evidence suggests that all vertebrates (including fish), through the mediation of similar neuropharmacological processes, experience similar sensations to a greater or lesser degree in response to noxious stimuli. . . . The apparent universality throughout vertebrates of the neuropharmacological basis for the perception of painful (and pleasurable) stimuli does not permit us to agree with those who would recognize a difference in this function between 'warm-blooded' and 'cold-blooded' members."

Captain Jacques Cousteau said, "To reassure one's conscience, it is said that fish do not feel pain—of course such claims are completely without foundation."

The commercial fishing industry causes immense suffering

Trawlers drag enormous nets through the water, forcing all fish in their path into the closed end. For hours, the trapped fish are squeezed and bounced, together with any netted rocks and ocean debris. "Prolonged tumbling and dragging in the net had caused the fish to rub against each other and file away their sharp scales," author William Warner reported of a haul he observed. "Their flanks, in fact, were scraped entirely raw."

When hauled up from the deep, fish may undergo excruciating decompression. Frequently, the intense internal pressure ruptures the swimbladder, pops out the eyes, and pushes the esophagus and stomach out through the mouth.

Smaller fish, such as flounder, who are ordinarily dumped onto chopped ice, usually suffocate or are crushed to death by fish who follow. Larger fish, such as scrod and haddock, tumble onto the deck and are sorted by workers who stab them with short, spiked rods called "pickers." Next, the fish's throats and abdomens are slit, often while they are still alive. Meanwhile, nontarget fish ("bycatch"), who sometimes comprise most of the catch, are thrown overboard, often by pitchfork.

On any given day, fishers may set out some 40,000 miles of gillnets, driftnets on the Pacific high seas, and anchored nets in coastal waters. Plastic, weighted gillnets hang like curtains, generally to a depth of 30 feet. Unable to see the netting, fish swim into it. Unless they are smaller than the mesh size, they get no further than poking their heads through. When they try to back out, the netting catches them by their gills or fins. Many of the fish suffocate; others struggle so desperately in the sharp mesh that they bleed to death. Because gillnets are left unmonitored, trapped fish can suffer for days.

Some commercial fishers still harpoon large fish (such as swordfish, tuna, and sharks) or hook them individually. Large fish are also caught by "long-lining," in which a ship unreels as much as 30 miles of line bristling with hundreds of thousands of baited hooks.

Fish are not the only animals harmed

Millions of nontarget animals, including sea turtles, dolphins, birds, and seals, die horrible deaths in commercial fishing nets every year. According to the United Nations, nearly 25 percent of all marine life caught annually—30 million tons—is thrown back into the ocean dead or dying, maimed by fishing line or gillnets.

The commercial fishing industry pollutes our oceans

In the process of slaughtering billions of sea animals, trawlers also dump into the oceans 450,000 plastic containers, 52 million pounds of plastic packing material, and 298 million pounds of plastic fishing net.

SUMMARY

The commercial fishing industry kills sea animals indiscriminately, causes immeasurable suffering, and pollutes our oceans. These practices should not be subsidized with federal funds.

Please include language in the report accompanying the fiscal year 2002 Commerce, Justice, State, and Judiciary Appropriations bill stating that no NOAA funds shall be used for financial aid to the commercial fishing industry.

Thank you for your consideration of our request.

PREPARED STATEMENT OF THE UNITED STATES SECTION OF THE PACIFIC SALMON COMMISSION

Mr. Chairman, my name is Roland Rousseau. I am an Alternate Commissioner on the Pacific Salmon Commission (PSC) and the Chair of the Budget Committee for the U.S. Section of the Commission. The PSC was established under the Pacific Salmon Treaty (Treaty) between the United States and Canada. A new Agreement (Agreement) was concluded in June of 1999 that establishes new abundance-based fishing regimes under the Treaty and made other improvements in the Treaty's structure. I am providing this statement of the fiscal year 2002 budget for Treaty programs recommended by the U.S. Section of the Pacific Salmon Commission for the Committee's use and for the record. The U.S. Section recommends that $7,456,000 be provided for the Pacific Salmon Treaty Line Item under the Information Collection and Analysis activity of the National Marine Fisheries Service for fiscal year 2002. Included in this amount is $5,612,000 for base programs required to implement the provisions of the Treaty and $1,844,000 to acquire the technical information to implement abundance based chinook salmon management provided for under the new Agreement. The U.S. Section recommends that $400,000 be pro-

vided to continue the bilateral Transboundary River Enhancement Program under the NMFS International Fisheries Commissions Line Item in fiscal year 2002. We also recommend that $2,460,000 be provided to the Department of State in fiscal year 2002 to fund the bilateral PSC staff and offices and for U.S. Section travel and stipends. This is an increase of $309,000 over the fiscal year 2001 level.

The base Treaty implementation program, which has been level funded at $5,587,000 for several years is requested at $5,612,000 to restore the fiscal year 2001 recision. This program includes a wide range of salmon stock assessment, fishery monitoring, and technical support activities for all five species of Pacific salmon in the fisheries and rivers from Southeast Alaska to those of Washington, Oregon, and Idaho. The States of Alaska, Washington, Oregon, and Idaho, and the National Marine Fisheries Service (NMFS), are charged with carrying out a major portion of the salmon fishery stock assessment and harvest management actions required under the Treaty. Federal funding for these activities is provided through the National Marine Fisheries Service on an annual basis. The agency projects carried out under Pacific Salmon Commission funding are directed toward acquiring, analyzing, and sharing the information required to implement the conservation and sharing principles of the Treaty. A wide range of programs for salmon stock size assessments, escapement enumeration, stock distribution, and catch and effort information from fisheries, are represented. The information from many of these programs is used directly to establish fishing seasons.

In 1996, the United States adopted an Abundance-Based Approach to Managing Chinook Salmon Fisheries in Southeast Alaska. Under this approach, chinook harvest levels are based on annual estimates of chinook abundance. This system replaced harvest ceilings agreed to in 1985, which did not respond to fluctuations in chinook salmon populations. Under the new Agreement of 1999, this abundance based management approach was expanded to all chinook fisheries subject to the Treaty. Congress appropriated $1,844,000 for fiscal year 2001 to provide for the collection of necessary stock assessment and fishery management information to implement the new approach. The funding is being used by Alaska, the Pacific Northwest States, and treaty tribes to implement abundance-based chinook salmon management coastwide under the new Agreement. The U.S. Section recommends level funding of $1,844,000 to support the implementation of abundance-based chinook management in fiscal year 2002.

The United States and Canada agreed to a joint salmon enhancement program on the Transboundary Rivers flowing between Canada and Southeast Alaska in 1988. Congress has provided $400,000 annually for this effort through the National Marine Fisheries Service's International Fisheries Commission line item under the Conservation and Management Operations activity. The U.S. Section recommends that $400,000 again be provided in fiscal year 2002 for funding of this very successful bilateral program.

The U.S. Section of the Pacific Salmon Commission recommends a Department of State funding level of $2,460,000 for Treaty implementation in fiscal year 2002. This is an increase of $309,000 over the fiscal year 2001 appropriation, and is vitally needed to support new U.S. commitments made in the June, 1999 Agreement. This funding provides for the United States contribution to the bilateral Pacific Salmon Commission staff and offices based in Vancouver, British Columbia. It also provides for travel for U.S. Commissioners, panel members, and technical Committee members and stipends for authorized Commissioners and panel members. As a result of the new PSC agreement a new bilateral standing Committee and a new panel will start up this fiscal year. An increase in funding will be needed to cover the U.S. Section travel and salary costs associated with these new bodies.

This concludes the Statement of the U.S. Section of the Pacific Salmon Commission submitted for consideration by your Committee. We wish to thank the Committee for the support that it has given us in the past.

DEPARTMENT OF JUSTICE

PREPARED STATEMENT OF THE CENTRAL PIEDMONT COMMUNITY COLLEGE

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to submit testimony to the hearing record regarding Central Piedmont Community College's (CPCC) efforts to meet a regional and national need for forensic technician training. First, I would like to thank the Subcommittee for its assistance last year resulting in $500,000 from the Crime Laboratory Improvement Program. This funding has been matched with a generous donation by the Belk Foundation plus local bond monies of $3.2 million for a total of $3.7 million. These funds together will be

used to develop curricula and upgrade instructional technology toward our goal of establishing a National Academy for Forensic Computing and Investigation (NAFCI).

We are seeking continued federal partnership assistance to fully implement NAFCI. A staff person from the National Institute of Justice recently spent a day on our campus to review our current programs and vision for the Academy. We are working to forge a very productive working partnership with the Department of Justice based upon our experience and the Department's expressed needs in forensic training.

The elements that make CPCC an ideal site for such an initiative are as follows. CPCC is the largest institution of higher education in the State of North Carolina, with over 70,000 students, and is the leading provider of career training and retraining in the State. CPCC's efforts to establish a National Academy for Forensic Computing and Investigation came about in response to requests from North Carolina's law enforcement community, including the Federal Bureau of Investigation, as well as the Charlotte-Mecklenburg business community.

CPCC was specifically targeted to carry out this mission by virtue of a thirty-year history as the leading provider for criminal justice training. The public safety program at CPCC has expanded quickly with the growth of the Charlotte-Mecklenburg region. The current program serves a 13-county region and offers a comprehensive range of programs and services, including instruction in the high demand occupational skills area of forensics technology. This instruction is currently available to a variety of law enforcement and public agency officials who previously would have had to travel extensively for this type of professional development and training.

Citing extreme inability to find skilled workers in the field, a consortium of local industry leaders, including the Charlotte Chamber of Commerce, the Federal Bureau of Investigation, and representatives from the banking, insurance, law enforcement, and legal industries, asked CPCC's Department of Public Safety to develop a training program in forensic technology. These industries also seek assistance in retraining and upgrading skills of incumbent workers.

The challenge is to meet not only local public agency demand for criminal justice training, but also the increasing need from the private sector which is now requesting specialized skills training in criminal justice topics such as forensics computer technology. There are currently no forensic science degrees offered at the graduate or undergraduate levels at any of North Carolina's colleges and universities.

The need for forensics training can also be translated to the national level. According to the National Institute of Justice (1999), 49 percent of the cases prosecuted in the United States were successful solely because of the forensic sciences. Unfortunately, law enforcement, social services, and other governmental agencies, along with private corporations nationwide must search throughout the country to obtain forensic training. This translates into an investigative gap, particularly pronounced in the Southeast United States, costing reduced productivity, delayed justice, and loss of funds. Compounding this situation is the fact that the technology and science are changing so rapidly that ongoing training and skill upgrades are necessary.

The establishment of a National Academy for Forensic Computing and Investigation (NAFCI) at centrally located CPCC can help to bridge the investigative gap both regionally and nationally while providing high skill careers for North Carolina.

CPCC's Public Safety facility at the North Campus is the home to the College's Criminal Justice Program. Today, the North Campus serves more than 12,000 citizens of the Charlotte-Mecklenburg region on an annual basis. In addition, the facility is the primary training site for ten local, two State, and three Federal agencies.

There are currently three course areas under the umbrella term public safety at CPCC's North Campus—police, fire, and rescue. Associates' degrees are available in Criminal Justice and in Fire Protection Technology, and in-service training for all three groups is available. An additional component within the criminal justice arena is a Regional Training Center, headquartered at CPCC that is responsible, in a 13-county area, for providing in-service training for criminal justice professionals in North Carolina. CPCC is also the primary training source for all Firefighter I and II level personnel with the Charlotte Fire Department and all volunteer firefighters in Mecklenburg County. Given this breadth of experience, CPCC is the institution best positioned to take on the responsibility of addressing the need for forensic training.

The development and implementation of the NAFCI will serve to increase the skills of the current workforce reliant upon and adversely affected by a lack of appropriate training in forensic science. These groups include law enforcement officers, fire service, prosecutors and criminal attorneys, investigators, crime laboratory personnel, medical examiners and coroners, correctional personnel, insurance investiga-

tors, agents, and claims adjusters, fraud examiners, social services professionals, and nurses.

The Academy's emphasis on Computer Forensics will demonstrate the value of the application of computer technologies in solving the information needs of anyone required to conduct forensic investigations. Each of the following topics represents a computer class; others will be developed as required:

—Facial Reconstruction of Unknown Human Remains—Digital Imaging
—Information Systems Security—Cyber Crime
—Identifying and locating the Cyber Criminal—Voice Recognition
—Reconstruction of Damaged Computer Software—Fingerprint Identification
—Using the Computer to Determine Time of Crime—Firearms Identification
—Construction of new Evidence Tracking Systems—Dental Identification
—Computerized Collision Diagramming—DNA Data Retrieval

The workforce development goals of this initiative are to train or retrain 2,000 workers in the forensics field within the first 5 years. This timely response will result in a significant change in the way that CPCC accomplishes workforce development. Through the creation of an effective bridge between industry and academia, CPCC hopes to become a national model for community colleges across the country not only in the field of forensic science but also in other fields where workforce gaps exist.

Given industry's need and the characteristics of the target audience, CPCC proposes innovative strategies for success. One of the most unique features of this initiative is that CPCC has bridged the gap between industry and academia by forming an Industry Advisory Panel charged with providing direct and substantial course input throughout the life of this initiative. The panel includes a diverse array of leading edge companies dependent upon forensics for the success of their business. Needs assessments will be conducted to determine skill areas that require further development, and special courses will be designed and implemented based on statements of need. NAFCI will then create intensive courses for faculty in the various fields as well as for current professionals in the various areas. For example, social services workers can be educated on the indicators of child abuse and correct use of the multidisciplinary approach to child abuse investigation. Courses in forensic computing, accounting, arson investigation, forensic accident reconstruction, and bodily injury can be offered to fraud investigators.

The NAFCI seeks to develop curriculum strategies and educational materials that meet the needs of all the vast and varied types of life-long learners. Thus, in addition to the more standard educational materials, CPCC will develop and offer short-term training modules for the certificate seeker and on-line courses for the law enforcement professionals who are much better served by courseware unlimited by time or place. Opportunities for education in the field via service learning programs and/or internship experiences will also be utilized. NAFCI will also seek to provide state-of-the-art or "hands-on" training for the investigative professional along with continuing education approved by the appropriate certifying board of each State serviced.

NAFCI will increase the number of people who have the forensic skills to develop and support community-based investigations, especially in rural areas of the country. For example, the NAFCI will actively seek to train experienced Registered Nurses from rural areas to become forensic nurses by conducting advanced courses in forensic pathology, forensic dentistry, and forensic anthropology. These nurses may then assist rural law enforcement agencies with evidence collection from violent crimes. The Center will also promote public education concerning all disciplines in the forensic sciences, and serve as a major source for national certification by the American Board of Medicolegal Death Investigators, Inc.

Educational materials will be produced and widely disseminated via various means including, electronic media, CD–ROMS, conferences, journal articles, manuals, newsletters, on-line courses with interactive laboratory experiences, summer institutes, videos, and workshops

In addition, CPCC will liaison directly with the local high school populations via College Tech Prep, Upward Bound, and Talent Search programs to assist disadvantaged students prepare for forensics technology careers. Additional outreach to disadvantaged populations will take place via CPCC's collaborations with the local JOBSLINK (North Carolina's One-Stop Career Shop). JOBSLINK is a project sponsored by the State Employment Service Office, JTPA, the Department of Social Services, and Office of Vocational Rehabilitation. Although designed to meet the needs of everyone, JOBSLINK has specific responsibilities for working with welfare recipients and the unemployed. Because CPCC provides staffing to JOBSLINK, faculty will have the opportunity to intimately recruit students from the local disadvantaged population. Further, there is potential for developing a "pipeline" be-

tween CPCC and 4-year institutions that allow students to specialize in areas of science related to forensics so that those students will be prepared to enter into laboratory work, field work or graduate forensic programs.

In addition, the North Carolina State Bureau of Investigation maintains a full-service laboratory in Raleigh and a limited-service laboratory in Asheville, for the purpose of examining all types of evidence related to criminal investigations. The establishment of a National Academy for Forensic Computing and Investigation at CPCC could provide a training link to these two institutions.

To accomplish these goals CPCC is seeking a total of $3.5 million in additional federal partnership assistance to establish the approximately $7.2 million Center, which will include a state-of-the-art forensics laboratory. A Federal investment in this initiative is warranted for the contribution that the NAFCI can make toward filling an investigative gap that exists in the region, for the new careers that will be established, and for the necessary upgrading of skill levels for the better functioning of North Carolina's criminal justice system.

PREPARED STATEMENT OF THE AMERICAN PUBLIC POWER ASSOCIATION

The American Public Power Association (APPA) is the national service organization representing the interests of over 2,000 municipal and other state and locally owned utilities throughout the United States. Collectively, public power utilities deliver electric energy to one of every eight U.S. electric consumers (about 40 million people), serving some of the nation's largest cities. The majority of APPA's member systems are located in small and medium-sized communities in every state except Hawaii.

We appreciate the opportunity to submit this testimony in support of fiscal year 2002 appropriations for the Federal Trade Commission and the Antitrust Division of the Department of Justice.

The electric power industry is in the midst of sweeping and dramatic change, with a record number of mergers over the last four years. Add to this change, the recent lawsuits filed against wholesale electricity suppliers in California by the Independent System Operator alleging market power abuse. In addition, several cities in California have filed lawsuits alleging that a coalition of gas companies illegally attempted to eliminate competition, thus engaging in antitrust violations that caused natural gas prices to skyrocket. The industry experienced little competition in the past, except for franchise competition between investor-owned utilities (IOUs) on the one hand and publicly and cooperatively owned utilities on the other. During this transitional period—as this important, closely regulated industry moves towards increased competition—sufficient resources are necessary so that the two federal antitrust agencies can adequately perform merger assessments.

The Department of Justice Antitrust Division and the Federal Trade Commission play a critical advisory role along with the Federal Energy Regulatory Commission (FERC) with respect to antitrust monitoring and enforcement in the electric utility industry.

Important lessons have been learned through the deregulatory experiences of the airlines, cable, and telecommunications industries. As the electric power industry struggles to transition from regulation to competition, those lessons must inform the policies and process that will guide, and ultimately determine, the structure of a competitive electric power industry.

There is no need to start at the bottom of the deregulation learning curve, or to repeat the mistakes made in other industries.

Mergers among electric utilities are having a profound negative effect on the development of competition in the electric industry. In fact, because utility mergers determine the basic structure of the electric power industry, they actually have the potential to define (or preclude the development of) the competitive landscape. The recent wave of electric utility mergers certainly has increased concentration in the industry, as the number of firms that are legally and practically capable of providing electric service declines through consolidation. Largely for the same reasons, the structural impacts of such mergers will likely be long term. What is not known is whether mergers of incumbent electric utilities and/or other wholesale power suppliers, collectively or individually, are on balance procompetitive or anticompetitive. Specifically, there are a number of unknowns about electric utility mergers:

—Whether an increase in concentration will produce associated efficiencies;

—Whether any efficiencies that do result will be passed on to consumers in the form of lower electric rates, or instead be passed on to shareholders, or used for diversification;

—Whether an increase in concentration will simply serve to fortify existing market power to exclude new entrants, drive out new entrants through price competition and mergers, purchase existing competitors, or result in excessive profits.

As the mixed deregulatory experiences of other industries demonstrate, these are not questions that can be accurately answered in the absence of actual market data. The pressure placed on DOJ's Antitrust Division and the FTC will be enormous as we search for the answers to these and many more questions.

APPA urges Congress to provide the Antitrust Division of the Department of Justice and the Federal Trade Commission adequate funding in fiscal year 2002 that will ensure the agencies can continue to perform their consumer protection roles.

PREPARED STATEMENT OF THE NORTHWEST TRIBAL COURT JUDGES ASSOCIATION

On behalf of the Northwest Tribal Court Judges Association (NWTCJA), I am pleased to submit this written testimony on the fiscal year 2002 Appropriations for Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

The NWTCJA is a voluntary regional representative membership association (non-profit association organized in 1981), whose active members include any duly appointed or elected judge for any Indian tribe located in the States of Washington, Oregon, Idaho, and Alaska. NWTCJA represents more than 37 tribal justice systems in the Northwest, has a twenty-year track record of providing quality training and technical assistance services to tribal justice systems. The mission of the NWTCJA is "to provide a forum for communication and cooperation among and between tribal court judges and other entities to enhance the training and skills of court personnel and to secure resources to accomplish these ends in the interest of better serving tribal people, communities, and our sovereign nations." We provide training for court personnel and need money to accomplish these purposes.

Justice Department Funding.—Indian Country Law Enforcement Initiative and Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559)

(1) *Full Funding for Indian Country Law Enforcement Initiative.*—NWTCJA strongly supports full funding for the Indian Country Law Enforcement Initiative ($173.3 million in Justice Department funding as requested in the Justice Department's fiscal year 2001 budget). NWTCJA would like to specifically emphasize our support for the funding of the Indian Tribal Court Fund at a level of at least $15 million (Please note that this fund was formally authorized by the 106th Congress—see Public Law 106–559, Section 201). Through the increased funding for law enforcement under the Indian Country Law Enforcement Initiative, more police officers have been added throughout Indian Country without the accompanying funds to support tribal courts that will be impacted by the increased caseloads generated by this increased law enforcement.

(2) *At least $15 million in funding for the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).*—When the 106th Congress enacted Public Law 106–559 in December 2000, it recognized the vital legal and technical assistance needs of tribal justice systems—finding in part that "there are both inadequate funding and inadequate coordinating mechanisms to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation" and promised three grant programs to address these Congressional recognized needs. It is vital that Congress provide adequate funding for Public Law 106–559 (see the Act itself for more specific information). NWTCJA strongly supports funding of Public Law 106–559 at the level of at least $15 million. Failure to provide this funding level will make the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559) a hollow recognition of tribal justice systems needs without providing needed resources. Native American tribal courts must deal with a wide range of difficult criminal and civil justice problems on a daily basis, including the following:

—The violent crime rate has been declining nationally but increasing substantially in Indian Country. Tribal court systems are grossly under-funded to deal with these criminal justice problems.

—The case number and complexity of tribal civil caseloads have also been rapidly expanding.

—Congress recognized this need when it enacted the Indian Tribal Justice Act—specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and

safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation."

—While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in fiscal year 1994, THERE HAS BEEN NO FUNDING provided tribal courts under this Act.

—Since enactment of the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase, with no corresponding increase in funding. In fact, the Bureau of Indian Affairs' funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was enacted in 1993.

—The 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act in December 2000 for 7 more years of funding at a level of $58.4 million per year (see Public Law 106–559, section 202).

As the former Attorney General, Janet Reno, stated in testimony before the Senate Indian Affairs Committee, it is vital to "better enable Indian tribal courts, historically under-funded and under-staffed, to meet the demands of burgeoning caseloads." The Attorney General indicated that the "lack of a system of graduated sanctions through tribal court, that stems from severely inadequate tribal justice support, directly contributes to the escalation of adult and juvenile criminal activity."

The majority of the existing tribal justice systems in the Northwest and the more than 100 developing tribal court systems in Alaska, function in isolated rural communities. These tribal justice systems face many of the same difficulties faced by other isolated rural communities, but these problems are greatly magnified by the many other complex problems that are unique to Indian country. In addition to the previously-mentioned problems, tribal justice systems are faced with a lack of jurisdiction over non-Indians, complex jurisdictional relationships with Federal and State criminal justice systems, inadequate law enforcement, great distance from the few existing resources, lack of detention staff and facilities, lack of sentencing or disposition alternatives, lack of access to advanced technology, lack of substance abuse testing and treatment options, and lack of resources to hold people accountable, i.e. no monies for probation. It should also be noted that in most tribal justice systems, 80–90 percent of the cases filed are criminal cases, and 90 percent of these cases involve the difficult problems of alcohol and/or substance abuse. While a few tribal courts are just beginning the planning and implementation of Drug Courts with monies from the DCPO, these monies are provided for only a few years, are limited in amounts, and provide a temporary panacea to the ever increasing problem of drug addiction in our young people.

IMPORTANCE OF TRIBAL COURTS

"Tribal courts constitute the frontline tribal institutions that most often confront issues of self-determination and sovereignty, while at the same time they are charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. In addition, they constitute a key tribal entity for advancing and protecting the rights of self-government. . . . Tribal courts are of growing significance in Indian Country." (Frank Pommersheim, Braid of Feathers: American Indian Law and Contemporary Tribal Law 57 (1995)). Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. Former Attorney General Reno acknowledged that, "With adequate resources and training, they are most capable of crime prevention and peacekeeping" (A Federal Commitment to Tribal Justice Systems, 79 Judicature No. 7, November/December 1995, p. 114). It is her view that "fulfilling the Federal Government's trust responsibility to Indian nations means not only adequate Federal law enforcement in Indian Country, but enhancement of tribal justice systems as well." Id.

Tribal courts agonize over the very same issues State and Federal courts confront in the criminal context, such as child sexual abuse, alcohol and substance abuse, gang violence and violence against women. These courts, however, while striving to address these complex issues with far fewer financial resources than their Federal and State counterparts must also "strive to respond competently and creatively to Federal and State pressures coming from the outside, and to cultural values and imperatives from within." (Pommersheim, "Tribal Courts: Providers of Justice and Protectors of Sovereignty," 79 Judicature No. 7, November/December 1995, p. 111). Judicial training that addresses the present imperatives posed by the public safety crisis in Indian Country, while also being culturally sensitive, is essential for tribal courts to be effective in deterring crime in their communities.

There is no federally-supported institution to provide on-going, accessible tribal judicial training or to develop court resource materials and management tools, similar to the Federal Judicial Center, the National Judicial College or the National Center for State Courts. Even though the NWTCJA provides local training, the three or four meetings each year with one day of training at each meeting, cannot provide the in-depth extensive judicial training necessary to make tribal justice systems strong and effective arms of tribal government. Furthermore, in these difficult economic times, many tribes cannot afford to send judges to the trainings that are offered.

INADEQUATE FUNDING OF TRIBAL JUSTICE SYSTEMS

There is no question that tribal justice systems are, and historically have been, underfunded. The 1991 United States Civil Rights Commission found that "the failure of the United States Government to provide proper funding for the operation of tribal judicial systems . . . has continued for more than 20 years." The Indian Civil Rights Act: A Report of the United States Civil Rights Commission, June 1991, p. 71. The Commission also noted that "[f]unding for tribal judicial systems may be further hampered in some instances by the pressures of competing priorities within a tribe." Moreover, they opined that "If the United States Government is to live up to its trust obligations, it must assist tribal governments in their development . . ." Almost 10 years ago, the Commission "strongly support[ed] the pending and proposed congressional initiatives to authorize funding of tribal courts in an amount equal to that of an equivalent State court" and was "hopeful that this increased funding [would] allow for much needed increases in salaries for judges, the retention of law clerks for tribal judges, the funding of public defenders/defense counsel, and increased access to legal authorities."

As indicated by the Civil Rights Commission, the critical financial need of tribal courts has been well-documented and ultimately led to the passage of the Indian Tribal Justice Act, 25 U.S.C. § 3601 et seq. (the "Act"). Congress found that "[T]ribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health, safety and the political integrity of tribal governments." 25 U.S.C. § 3601(5). Affirming the findings of the Civil Rights Commission, Congress further found that "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation." 25 U.S.C. § 3601(8). In order to remedy this lack of funding, the Act authorized appropriation base funding support for tribal justice systems in the amount of $50,000,000 for each of the fiscal years 1994 through 2000. 25 U.S.C. § 3621(b). An additional $500,000 for each of the same fiscal years was authorized to be appropriated for the administration of Tribal Judicial Conferences for the "development, enhancement and continuing operation of tribal justice systems . . ." 25 U.S.C. § 3614.

Eight (8) years after the Act was enacted, how much funding has been appropriated? Not one single dollar was even requested under the Act for fiscal years 1994, 1995, 1997, 1998 or 1999. Only minimal funds were requested for fiscal year 1996 and 2000. Yet, even these minimal funds were deleted. Even more appalling than the lack of appropriations under the Act is the fact that BIA funding for tribal courts has actually substantially decreased following the enactment of the Indian Tribal Justice Act in 1993 in anticipation of Congress making the appropriations Indian Country believed it would. In December 2000, Congress re-affirmed its commitment to funding of the Indian Tribal Justice Act by re-authorizing the Act for 7 more years of funding (see Public Law 106–559, Section 202) but it did so without appropriating any monies for that purpose. Now is the time to follow through on this long promised funding and provide actual funding under the Indian Tribal Justice Act!

CONCLUSION

Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. They are the keystone to tribal economic development and self-sufficiency. Any serious attempt to fulfill the Federal Government's trust responsibility to Indian Nations must include increased funding and enhancement of tribal justice systems. The Northwest Tribal Court Judges Association welcomes the opportunity to comment on the Justice Department's Budget Request for the fiscal year 2002 funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000. Thank you very much.

PREPARED STATEMENT OF THE NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION

On behalf of the National American Indian Court Judges Association (NAICJA), I am pleased to submit this written testimony on the fiscal year 2002 Appropriations for Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

The NAICJA is a voluntary national representative membership association (nonprofit organization incorporated in 1969) of current and former tribal court judges throughout the United States. NAICJA, which represents more than 350 tribal justice systems nationwide, has a thirty-year track record of providing quality training and technical assistance services for tribal justice systems.

Justice Department Funding.—Indian Country Law Enforcement Initiative and Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559)

(1) *Full Funding for Indian Country Law Enforcement Initiative*.—NAICJA strongly supports full funding for the Indian Country Law Enforcement Initiative ($173.3 million in Justice Department funding as requested in the Justice Department's fiscal year 2001 budget). NAICJA would like to specifically emphasize our support for the funding of the Indian Tribal Court Fund at a level of at least $15 million (Please note that this fund was formally authorized by the 106th Congress—see Public Law 106–559, section 201). Through the increased funding for law enforcement under the Indian Country Law Enforcement Initiative, more police officers have been added throughout Indian Country. Without substantial additional funding, tribal courts will be unable to handle the increased caseloads generated by this increased law enforcement.

(2) *At least $15 million in funding for the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).*—When the 106th Congress enacted Public Law 106–559 in December 2000, it recognized the vital legal and technical assistance needs of tribal justice systems—finding in part that "there is both inadequate funding and inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation" and promised three grant programs to address these Congressional recognized needs. It is vital that Congress provide adequate funding for Public Law 106–559 (see the Act itself for more specific information). NAICJA strongly supports funding of Public Law 106–559 at the level of at least $15 million. Failure to provide this funding level would make the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559) a hollow recognition of tribal justice systems needs without providing needed resources. Native American tribal courts must deal with a wide range of difficult criminal and civil justice problems on a daily basis, including the following:

—While the crime rate, especially the violent crime rate, has been declining nationally, it has increased substantially in Indian Country. Tribal court systems are grossly under-funded to deal with these criminal justice problems.

—Number/complexity of tribal civil caseloads have also been rapidly expanding.

—Congress recognized this need when it enacted the Indian Tribal Justice Act—specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation."

—While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in fiscal year 1994, tribal courts have yet to see ANY funding under this Act.

—Since Congress enacted the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase, but there has been no corresponding increase in funding for tribal court systems. In fact, the Bureau of Indian Affairs funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was enacted in 1993.

—The 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act in December 2000 for seven more years of funding at a level of $58.4 million per year (see Public Law 106–559, section 202).

As Attorney General Janet Reno stated in testimony before the Senate Indian Affairs Committee on, it is vital to "better enable Indian tribal courts, historically under-funded and under-staffed, to meet the demands of burgeoning case loads." The Attorney General indicated that the "lack of a system of graduated sanctions

through tribal court, that stems from severely inadequate tribal justice support, directly contributes to the escalation of adult and juvenile criminal activity."

The vast majority of the approximately 350 tribal court systems function in isolated rural communities. These tribal justice systems face many of the same difficulties faced by other isolated rural communities, but these problems are greatly magnified by the many other complex problems that are unique to Indian country. In addition to the previously mentioned problems, tribal justice systems are faced with a lack of jurisdiction over non-Indians, complex jurisdictional relationships with Federal and State criminal justice systems, inadequate law enforcement, great distance from the few existing resources, lack of detention staff and facilities, lack of sentencing or disposition alternatives, lack of access to advanced technology, lack of substance abuse testing and treatment options, etc. It should also be noted that in most tribal justice systems, 80–90 percent of the cases are criminal case and 90 percent of these cases involve the difficult problems of alcohol and/or substance abuse.

IMPORTANCE OF TRIBAL COURTS

"Tribal courts constitute the frontline tribal institutions that most often confront issues of self-determination and sovereignty, while at the same time they are charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. In addition, they constitute a key tribal entity for advancing and protecting the rights of self-government. . . Tribal courts are of growing significance in Indian Country." (Frank Pommersheim, Braid of Feathers: American Indian Law and Contemporary Tribal Law 57 (1995)). Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. Attorney General Reno acknowledged that, "With adequate resources and training, they are most capable of crime prevention and peacekeeping" (A Federal Commitment to Tribal Justice Systems, 79 Judicature No. 7, November/December 1995, p. 114). It is her view that "fulfilling the Federal Government's trust responsibility to Indian nations means not only adequate Federal law enforcement in Indian Country, but enhancement of tribal justice systems as well." Id.

Tribal courts agonize over the very same issues State and Federal courts confront in the criminal context, such as, child sexual abuse, alcohol and substance abuse, gang violence and violence against women. These courts, however, while striving to address these complex issues with far fewer financial resources than their Federal and State counterparts must also "strive to respond competently and creatively to Federal and State pressures coming from the outside, and to cultural values and imperatives from within." (Pommersheim, "Tribal Courts: Providers of Justice and Protectors of Sovereignty," 79 Judicature No. 7, November/December 1995, p. 111). Judicial training that addresses the present imperatives posed by the public safety crisis in Indian Country, while also being culturally sensitive, is essential for tribal courts to be effective in deterring crime in their communities.

There is no federally supported institution to provide on-going, accessible tribal judicial training or to develop court resource materials and management tools, similar the Federal Judicial Center, the National Judicial College or the National Center for State Courts. Even though the NAICJA annually sponsors the National Tribal Judicial Conference, the three-day conference cannot provide the in-depth extensive judicial training necessary to make tribal justice systems strong and effective arms of tribal government.

INADEQUATE FUNDING OF TRIBAL JUSTICE SYSTEMS

There is no question that tribal justice systems are, and historically have been, underfunded. The 1991 United States Civil Rights Commission found that "the failure of the United States Government to provide proper funding for the operation of tribal judicial systems . . . has continued for more than 20 years." The Indian Civil Rights Act: A Report of the United States Civil Rights Commission, June 1991, p. 71. The Commission also noted that "[f]unding for tribal judicial systems may be further hampered in some instances by the pressures of competing priorities within a tribe." Moreover, they opined that "If the United States Government is to live up to its trust obligations, it must assist tribal governments in their development . . ." Almost ten years ago, the Commission "strongly support[ed] the pending and proposed congressional initiatives to authorize funding of tribal courts in an amount equal to that of an equivalent State court" and was "hopeful that this increased funding [would] allow for much needed increases in salaries for judges, the retention of law clerks for tribal judges, the funding of public defenders/defense counsel, and increased access to legal authorities."

As indicated by the Civil Rights Commission, the critical financial need of tribal courts has been well documented and ultimately led to the passage of the Indian Tribal Justice Act, 25 U.S.C. § 3601 et seq. (the "Act"). Congress found that "[T]ribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health, safety and the political integrity of tribal governments." 25 U.S.C. § 3601(5). Affirming the findings of the Civil Rights Commission, Congress further found that "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation." 25 U.S.C. § 3601(8). In order to remedy this lack of funding, the Act authorized appropriation base funding support for tribal justice systems in the amount of $50,000,000 for each of the fiscal years 1994 through 2000. 25 U.S.C. § 3621(b). An additional $500,000 for each of the same fiscal years was authorized to be appropriated for the administration of Tribal Judicial Conferences for the "development, enhancement and continuing operation of tribal justice systems . . ." 25 U.S.C. § 3614.

Eight (8) years after the Act was enacted, how much funding has been appropriated? None. Not a single dollar was even requested under the Act for fiscal years 1994, 1995, 1997, 1998 or 1999. Only minimal funds were requested for fiscal year 1996 and 2000. Yet, even these minimal funds were deleted. Even more appalling than the lack of appropriations under the Act is the fact that BIA funding for tribal courts has actually substantially decreased following the enactment of the Indian Tribal Justice Act in 1993. In December 2000, Congress re-affirmed its commitment to funding of the Indian Tribal Justice Act by re-authorizing the Act for seven more years of funding (see Public Law 106–559, section 202). Now is the time to follow through on this long promised funding and provide actual funding under the Indian Tribal Justice Act!

CONCLUSION

Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. They are the keystone to tribal economic development and self-sufficiency. Any serious attempt to fulfill the Federal Government's trust responsibility to Indian Nations must include increased funding and enhancement of tribal justice systems.

We welcome the opportunity to comment on the Justice Department's Budget Request for the fiscal year 2002 funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559). Thank you very much.

PREPARED STATEMENT OF THE ALASKA INTER-TRIBAL COUNCIL

On behalf of the Alaska Inter-Tribal Council (AITC), I am pleased to submit this written testimony on the fiscal year 2002 Appropriations for Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

The AITC is a statewide organization comprised of 176 federally recognized member Tribes dedicated to promoting, supporting and advocating for the powers and rights of Alaska Tribal governments including the development and perpetuation of tribal justice systems, the exercise of judicial authority and the administration of justice.

Justice Department Funding.—Indian Country Law Enforcement Initiative and Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559)

(1) *Full Funding for Indian Country Law Enforcement Initiative*.—AITC strongly supports full funding for the Indian Country Law Enforcement Initiative ($173.3 million in Justice Department funding as requested in the Justice Department's fiscal year 2001 budget). AITC would like to specifically emphasize our support for the funding of the Indian Tribal Court Fund at a level of at least $15 million (Please note that this fund was formally authorized by the 106th Congress—see Public Law 106–559, section 201). Through the increased funding for law enforcement under the Indian Country Law Enforcement Initiative, more police officers have been added throughout Indian Country. Without substantial additional funding, tribal courts will be unable to handle the increased caseloads generated by this increased law enforcement.

(2) At least $15 million in funding for the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559). When the 106th Congress enacted Public Law 106–559 in December 2000, it recognized the vital legal and technical assistance needs of tribal justice systems—finding in part that "there is both inadequate funding and inadequate coordinating mechanism to meet the technical

and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation" and promised three grant programs to address these Congressional recognized needs. It is vital that Congress provide adequate funding for Public Law 106–559 (see the Act itself for more specific information). AITC strongly supports funding of Public Law 106–559 at the level of at least $15 million. Failure to provide this funding level would make the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559) a hollow recognition of tribal justice systems needs without providing needed resources. Alaska Native and Native American tribal courts must deal with a wide range of difficult criminal and civil justice problems on a daily basis, including the following:

—While the crime rate, especially the violent crime rate, has been declining nationally, it has increased substantially in tribal communities nationwide. Tribal court systems are grossly under-funded to deal with these criminal justice problems.

—Number/complexity of tribal civil caseloads have also been rapidly expanding.

—Congress recognized this need when it enacted the Indian Tribal Justice Act—specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation."

—While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in fiscal year 1994, tribal courts have yet to see ANY funding under this Act.

—Since Congress enacted the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase, but there has been no corresponding increase in funding for tribal court systems. In fact, the Bureau of Indian Affairs funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was enacted in 1993. Moreover, Alaska Native Tribes have historically never had access to BIA funds for tribal courts or law enforcement.

—The 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act in December 2000 for seven more years of funding at a level of $58.4 million per year (see Public Law 106–559, section 202).

As Attorney General Janet Reno stated in testimony before the Senate Indian Affairs Committee on, it is vital to "better enable Indian tribal courts, historically under-funded and under-staffed, to meet the demands of burgeoning case loads." The Attorney General indicated that the "lack of a system of graduated sanctions through tribal court, that stems from severely inadequate tribal justice support, directly contributes to the escalation of adult and juvenile criminal activity."

Since time immemorial Alaska Native Tribes have maintained peace, law and order in their communities through the exercise of indigenous juridical, social and political authority. Today, Alaska Natives continue to administer justice through their modern day Tribal governments, councils and courts. Over 100 of the 229 federally recognized Tribes located in Alaska are actively establishing or operating single tribal courts systems, inter-tribal/regional and/or appellate courts. This constitutes a significant amount of tribal court activity nationwide since almost half (229) of the Tribes in the United States are located in Alaska. The vast majority of the approximately 100 tribal court systems in Alaska function in isolated rural communities. Moreover, most Alaska Tribal courts are intervening in domestic relations and civil/family law matters involving child protection, adoptions, child custody and juvenile delinquency. These tribal justice systems face many of the same difficulties faced by other tribes in the lower 48 States and other isolated rural communities. These problems are greatly magnified by the many other complex problems that are unique to Tribes. For instance, tribal justice systems are faced with complex jurisdictional relationships with Federal and State criminal justice systems, inadequate law enforcement, great distance from the few existing resources, lack of detention staff and facilities, lack of sentencing or disposition alternatives, lack of access to advanced technology, lack of substance abuse testing and treatment options, etc. It should also be noted that in most tribal justice systems, 80–90 percent of the cases are criminal cases and 90 percent of these cases involve the difficult problems of alcohol and/or substance abuse.

IMPORTANCE OF TRIBAL COURTS

"Tribal courts constitute the frontline tribal institutions that most often confront issues of self-determination and sovereignty, while at the same time they are

charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. In addition, they constitute a key tribal entity for advancing and protecting the rights of self-government. . . . Tribal courts are of growing significance in Indian Country." (Frank Pommersheim, Braid of Feathers: American Indian Law and Contemporary Tribal Law 57 (1995). Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. Attorney General Reno acknowledged that, "With adequate resources and training, they are most capable of crime prevention and peacekeeping" (A Federal Commitment to Tribal Justice Systems, 79 Judicature No. 7, November/December 1995, p. 114). These courts, however, while striving to address these complex issues with far fewer financial resources than their Federal and State counterparts must also "strive to respond competently and creatively to Federal and State pressures coming from the outside, and to cultural values and imperatives from within." (Pommersheim, "Tribal Courts: Providers of Justice and Protectors of Sovereignty," 79 Judicature No. 7, November/December 1995, p. 111).

INADEQUATE FUNDING OF TRIBAL JUSTICE SYSTEMS

There is no question that tribal justice systems are, and historically have been, underfunded. The 1991 United States Civil Rights Commission found that "the failure of the United States Government to provide proper funding for the operation of tribal judicial systems . . . has continued for more than 20 years." The Indian Civil Rights Act: A Report of the United States Civil Rights Commission, June 1991, p. 71. The Commission also noted that "[f]unding for tribal judicial systems may be further hampered in some instances by the pressures of competing priorities within a tribe." Moreover, they opined that "If the United States Government is to live up to its trust obligations, it must assist tribal governments in their development . . ." Almost ten years ago, the Commission "strongly support[ed] the pending and proposed congressional initiatives to authorize funding of tribal courts in an amount equal to that of an equivalent State court" and was "hopeful that this increased funding [would] allow for much needed increases in salaries for judges, the retention of law clerks for tribal judges, the funding of public defenders/defense counsel, and increased access to legal authorities."

As indicated by the Civil Rights Commission, the critical financial need of tribal courts has been well documented and ultimately led to the passage of the Indian Tribal Justice Act, 25 U.S.C. § 3601 et seq. (the "Act"). Congress found that "[T]ribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health, safety and the political integrity of tribal governments." 25 U.S.C. § 3601(5). Affirming the findings of the Civil Rights Commission, Congress further found that "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation." 25 U.S.C. § 3601(8). In order to remedy this lack of funding, the Act authorized appropriation base funding support for tribal justice systems in the amount of $50,000,000 for each of the fiscal years 1994 through 2000. 25 U.S.C. § 3621(b). An additional $500,000 for each of the same fiscal years was authorized to be appropriated for the administration of Tribal Judicial Conferences for the "development, enhancement and continuing operation of tribal justice systems . . ." 25 U.S.C. § 3614.

Eight (8) years after the Act was enacted, how much funding has been appropriated? None. Not a single dollar was even requested under the Act for fiscal years 1994, 1995, 1997, 1998 or 1999. Only minimal funds were requested for fiscal year 1996 and 2000. Yet, even these minimal funds were deleted. Even more appalling than the lack of appropriations under the Act is the fact that BIA funding for tribal courts has actually substantially decreased following the enactment of the Indian Tribal Justice Act in 1993. In December 2000, Congress re-affirmed its commitment to funding of the Indian Tribal Justice Act by re-authorizing the Act for seven more years of funding (see Public Law 106–559, section 202). Now is the time to follow through on this long promised funding and provide actual funding under the Indian Tribal Justice Act!

CONCLUSION

Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. They are the keystone to tribal economic development and self-sufficiency. Any serious attempt to fulfill the Federal Government's trust responsibility to Indian Nations must include increased funding and enhancement of tribal justice systems.

We welcome the opportunity to comment on the Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

PREPARED STATEMENT OF THE TRIBAL LAW AND POLICY INSTITUTE

On behalf of the Tribal Law and Policy Institute, I am pleased to submit this written testimony on the fiscal year 2002 Appropriations for Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

The Tribal Law and Policy Institute is a Native American owned and operated non-profit corporation organized to design and deliver education, research, training, and technical assistance programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples.

Justice Department Funding.—Indian Country Law Enforcement Initiative and Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559)

(1) *Full Funding for Indian Country Law Enforcement Initiative*.—AITC strongly supports full funding for the Indian Country Law Enforcement Initiative ($173.3 million in Justice Department funding as requested in the Justice Department's fiscal year 2001 budget). AITC would like to specifically emphasize our support for the funding of the Indian Tribal Court Fund at a level of at least $15 million (Please note that this fund was formally authorized by the 106th Congress—see Public Law 106–559, section 201). Through the increased funding for law enforcement under the Indian Country Law Enforcement Initiative, more police officers have been added throughout Indian Country. Without substantial additional funding, tribal courts will be unable to handle the increased caseloads generated by this increased law enforcement.

(2) At least $15 million in funding for the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559). When the 106th Congress enacted Public Law 106–559 in December 2000, it recognized the vital legal and technical assistance needs of tribal justice systems—finding in part that "there is both inadequate funding and inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation" and promised three grant programs to address these Congressional recognized needs. It is vital that Congress provide adequate funding for Public Law 106–559 (see the Act itself for more specific information). AITC strongly supports funding of Public Law 106–559 at the level of at least $15 million. Failure to provide this funding level would make the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559) a hollow recognition of tribal justice systems needs without providing needed resources. Alaska Native and Native American tribal courts must deal with a wide range of difficult criminal and civil justice problems on a daily basis, including the following:

—While the crime rate, especially the violent crime rate, has been declining nationally, it has increased substantially in tribal communities nationwide. Tribal court systems are grossly under-funded to deal with these criminal justice problems.

—Number/complexity of tribal civil caseloads have also been rapidly expanding.

—Congress recognized this need when it enacted the Indian Tribal Justice Act—specifically finding that "tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments" and "tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation."

—While the Indian Tribal Justice Act promised $58.4 million per year in additional funding for tribal court systems starting in fiscal year 1994, tribal courts have yet to see ANY funding under this Act.

—Since Congress enacted the Indian Tribal Justice Act, the needs of tribal court systems have continued to increase, but there has been no corresponding increase in funding for tribal court systems. In fact, the Bureau of Indian Affairs funding for tribal courts has actually decreased substantially since the Indian Tribal Justice Act was enacted in 1993. Moreover, Alaska Native Tribes have historically never had access to BIA funds for tribal courts or law enforcement.

—The 106th Congress re-affirmed the Congressional commitment to provide this increased funding for tribal justice systems when it re-authorized the Indian Tribal Justice Act in December 2000 for seven more years of funding at a level of $58.4 million per year (see Public Law 106–559, section 202).

As Attorney General Janet Reno stated in testimony before the Senate Indian Affairs Committee on, it is vital to "better enable Indian tribal courts, historically under-funded and under-staffed, to meet the demands of burgeoning case loads." The Attorney General indicated that the "lack of a system of graduated sanctions

through tribal court, that stems from severely inadequate tribal justice support, directly contributes to the escalation of adult and juvenile criminal activity."

Since time immemorial Alaska Native Tribes have maintained peace, law and order in their communities through the exercise of indigenous juridical, social and political authority. Today, Alaska Natives continue to administer justice through their modern day Tribal governments, councils and courts. Over 100 of the 229 federally recognized Tribes located in Alaska are actively establishing or operating single tribal courts systems, inter-tribal/regional and/or appellate courts. This constitutes a significant amount of tribal court activity nationwide since almost half (229) of the Tribes in the United States are located in Alaska. The vast majority of the approximately 100 tribal court systems in Alaska function in isolated rural communities. Moreover, most Alaska Tribal courts are intervening in domestic relations and civil/family law matters involving child protection, adoptions, child custody and juvenile delinquency. These tribal justice systems face many of the same difficulties faced by other tribes in the lower 48 States and other isolated rural communities. These problems are greatly magnified by the many other complex problems that are unique to Tribes. For instance, tribal justice systems are faced with complex jurisdictional relationships with Federal and State criminal justice systems, inadequate law enforcement, great distance from the few existing resources, lack of detention staff and facilities, lack of sentencing or disposition alternatives, lack of access to advanced technology, lack of substance abuse testing and treatment options, etc. It should also be noted that in most tribal justice systems, 80–90 percent of the cases are criminal cases and 90 percent of these cases involve the difficult problems of alcohol and/or substance abuse.

IMPORTANCE OF TRIBAL COURTS

"Tribal courts constitute the frontline tribal institutions that most often confront issues of self-determination and sovereignty, while at the same time they are charged with providing reliable and equitable adjudication in the many and increasingly diverse matters that come before them. In addition, they constitute a key tribal entity for advancing and protecting the rights of self-government. . . . Tribal courts are of growing significance in Indian Country." (Frank Pommersheim, Braid of Feathers: American Indian Law and Contemporary Tribal Law 57 (1995). Tribal justice systems are the primary and most appropriate institutions for maintaining order in tribal communities. Attorney General Reno acknowledged that, "With adequate resources and training, they are most capable of crime prevention and peacekeeping" (A Federal Commitment to Tribal Justice Systems, 79 Judicature No. 7, November/December 1995, p. 114). These courts, however, while striving to address these complex issues with far fewer financial resources than their Federal and State counterparts must also "strive to respond competently and creatively to Federal and State pressures coming from the outside, and to cultural values and imperatives from within." (Pommersheim, "Tribal Courts: Providers of Justice and Protectors of Sovereignty," 79 Judicature No. 7, November/December 1995, p. 111).

INADEQUATE FUNDING OF TRIBAL JUSTICE SYSTEMS

There is no question that tribal justice systems are, and historically have been, underfunded. The 1991 United States Civil Rights Commission found that "the failure of the United States Government to provide proper funding for the operation of tribal judicial systems . . . has continued for more than 20 years." The Indian Civil Rights Act: A Report of the United States Civil Rights Commission, June 1991, p. 71. The Commission also noted that "[f]unding for tribal judicial systems may be further hampered in some instances by the pressures of competing priorities within a tribe." Moreover, they opined that "If the United States Government is to live up to its trust obligations, it must assist tribal governments in their development . . ." Almost ten years ago, the Commission "strongly support[ed] the pending and proposed congressional initiatives to authorize funding of tribal courts in an amount equal to that of an equivalent State court" and was "hopeful that this increased funding [would] allow for much needed increases in salaries for judges, the retention of law clerks for tribal judges, the funding of public defenders/defense counsel, and increased access to legal authorities."

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lack of adequate funding impairs their operation." 25 U.S.C. § 3601(8). In order to remedy this lack of funding, the Act authorized appropriation base funding support for tribal justice systems in the amount of $50,000,000 for each of the fiscal years 1994 through 2000. 25 U.S.C. § 3621(b). An additional $500,000 for each of the same fiscal years was authorized to be appropriated for the administration of Tribal Judicial Conferences for the "development, enhancement and continuing operation of tribal justice systems . . ." 25 U.S.C. § 3614.

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CONCLUSION

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We welcome the opportunity to comment on the Justice Department funding of the Indian Country Law Enforcement Initiative and the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

Thank you very much.

PREPARED STATEMENT OF THE NATIONAL CENTER FOR VICTIMS OF CRIME

My name is Susan Herman, and I am the executive director of the National Center for Victims of Crime. I submit this testimony to urge members of the Subcommittee on Commerce, Justice, State and the Judiciary to remove the cap on the Victims of Crime Act (VOCA) Fund and allow all money in the Fund to be obligated according to statutory formula. In addition, I urge you to prevent the addition of new earmarks off the top of the VOCA Fund.

The National Center for Victims of Crime is the nation's largest nonprofit advocacy and resource organization serving victims of all crime. Since its founding in 1985, the National Center has worked with nearly 10,000 public and private nonprofit organizations and agencies across the country, and has provided information, support, and technical assistance to hundreds of thousands of victims, victim service providers, allied professionals, and advocates.

As you may know, the VOCA Fund was created by Congress in 1984 to provide Federal support to the many state and local programs that assist victims of crime. The VOCA Fund is derived entirely from fines and penalties on offenders at the Federal level, and the bulk of the Fund is distributed to the States through a formula grant. The State money is split between the crime victim compensation programs, which pay many of the out-of-pocket expenses of victims, and victim services such as rape crisis centers, domestic violence shelters, victim assistants in law enforcement and prosecutor offices, and other direct services to victims of crime. Under the VOCA formula, States have four years to spend a given year's distribution, giving them adequate time to plan for the most effective use of this money.

For the past two years, through the appropriations process, the amount of money available to the States has been capped at approximately $500 million, despite collections of over $1 billion. Removing the cap on the VOCA Fund, allowing that money to be put to the purpose for which Congress originally intended it, would make a tremendous difference to crime victims nationwide.

The National Center hears from victim service providers every day about the significant unmet needs in every corner of the country. Some examples of this need include:

—*Victim assistant positions in law enforcement agencies*.—Most police agencies have no crime victim assistant, who can make sure victims receive appropriate referrals, are informed about the availability of crime victim compensation, and help answer victims' questions about the status of their case. Unless such a po-

sition exists at the law enforcement level, victims whose cases do not result in an arrest and charging will be deprived of any system-based services.

—*Services to immigrant victims of crime*.—All over the country, there are limited services, or a even complete absence of services, for large groups of immigrant victims of crime. Such victims are often linguistically or culturally isolated. Without the availability of interpreters, such victims cannot access the services that may otherwise be available. Additionally, victims who come from a society where the police are not trusted, or where sexual violence is unmentioned or domestic violence is condoned, often require a different approach to providing services. Effective victim services require ready access to service providers who are culturally knowledgeable and sensitive to these varying needs.

—*Services to victims in rural jurisdictions*.—While every State provides services to victims of crime, too many victims in rural jurisdictions still lack access to basic services. In many parts of the country, victims are hundreds of miles from the nearest rape crisis center or battered women's shelter.

—*Assistance to victims with disabilities*.—One area of greatest need is in reaching and serving crime victims with disabilities—developmentally disabled victims, mentally ill victims, hearing impaired victims, and others whose disability makes them simultaneously more vulnerable to crime and less able to access existing services.

In addition to those services, many States have a need to fund one-time expenses, which are unlikely to be funded without a large influx of money. A few examples include:

—*Automated notification systems*.—Many States would like to implement automated crime victim notification systems, that automatically telephone crime victims when defendants are released or escape, or send written notice of criminal justice proceedings. These systems require significant design and development funds, but far less money to maintain after that. Automated notification systems are especially important for domestic violence, sexual assault, and stalking victims, who are often at risk when a defendant is released. Such systems also make it easy for women to update their contact information as they relocate.

An automated notification system would make it easier to extend legal rights to victims of domestic violence and stalking in the States that don't currently provide such rights now. Many State victims' bills of rights apply only to victims of felonies. Domestic violence is often charged as a misdemeanor. The criminal justice system often argues that it would be too expensive to provide rights to victims of misdemeanors, largely due to costs involved in notifying victims of releases and court proceedings. Once an automated notification system is in place, it is relatively inexpensive to include domestic violence victims in crime victims' bills of rights.

—*Statewide victimization surveys and needs assessments*.—A number of States would like to conduct a statewide victimization survey and needs assessment to more clearly identify which jurisdictions and victim populations are underserved, and how best to allocate resources. With the pressure to fund existing programs each year, there hasn't been the "extra" money to set aside for such surveys that would lead to greater efficiency and more appropriate services for victims of crime.

—*Translation services*.—Victim assistance programs are acutely aware of the need for translation services that would allow non-English speaking victims to access services. The translation of written materials, the development of public service announcements in other languages, and the creation of programs to identify interpreters would help reach this underserved population.

—*Other investments to enhance victim services*.—There are many other important funding needs for victim programs that do not involve new programs or hiring additional staff. Many victim services programs do not have computers, or have no Internet access. This technology would improve their capacity to serve victims of crime. There is also a great need for case management software and assessment tools to help programs improve and evaluate their effectiveness in serving victims of crime. Money to develop those tools would largely be a one-time expenditure.

We understand that because the VOCA Fund fluctuates from year to year, there is some concern that extra money available one year would simply mean the creation of new positions that can't be sustained. There is certainly a need to expand programs that provide direct assistance to victims of crime, and part of any increase in funding would likely be directed to that need. However, as described above, there are also many important projects—projects that do not involve the creation of new permanent staff positions or ongoing expenses—that States could fund with a significant but non-recurring increase in funds.

Moreover, States have the ability to plan for financial stability over time. Under the VOCA formula, States have four years to spend a given year's allocation, so States can plan their spending to provide stability over a few years. Fluctuations in funding levels is a problem the States should solve, not the Federal Government. In addition, as described above, there are many one-time expenses the influx would be applied to.

Moreover, there is no reason to believe collections for the VOCA Fund will drop for a prolonged period. Though deposits into the VOCA Fund do vary from year to year, the general trend has been an increase in the amount of money in the Fund. Again, the bulk of the money deposited in the VOCA Fund comes from fines on offenders at the Federal level. Why should we expect the Department of Justice to become less vigilant in its prosecution of Federal crimes?

All of these reasons mitigate against the fear that removing the cap on the VOCA Fund would result in a significant increase in staff positions that would have to be cut the following year.

We also urge you to discontinue earmarks for Federal positions off the top of the VOCA Fund. In the past two years, in addition to the cap, the appropriations process has resulted in new, permanent open-ended earmarks for victim assistance positions in U.S. Attorneys' Offices and the Federal Bureau of Investigation. This, too, limits the amount of money available for its intended purposes, which is the support of crime victim assistance at the State level. These positions may be warranted, but surely Congress can find other sources of revenue to support Federal employees.

The most important action Congress can take to help this nation's victims of crime is to provide the funding for services and compensation programs that help them rebuild their lives. Congress' creation of the VOCA Fund in 1984 was a landmark action that fundamentally changed the way our society responds to victims of crime. We urge you to continue this great effort, by removing the cap on the VOCA Fund, and resisting pressure to earmark Federal positions from the Fund. We must continue the progress of our national response to victims of crime.

PREPARED STATEMENT OF THE CALIFORNIA INDIAN LEGAL SERVICES

Thank you, Mr. Chairman, for this opportunity to address you and the distinguished members of this Subcommittee. On behalf of California Indian Legal Services, I am pleased to submit this written testimony on the fiscal year 2002 Appropriations for Department of Justice funding of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (Public Law 106–559).

California Indian Legal Services (CILS) is a non-profit entity, as defined under section 501(c)(3) of the Internal Revenue Code of 1986, which provides free legal assistance services for Indian tribes as well as their members. CILS was created by California Indian leaders in 1967 to redress the severe inequities that existed in California at that time and that persist to today. California is home to more Indian nations than any other state; most of whom have little natural or financial resources and must rely on CILS to address most, if not all, of their legal needs. California is also second only to Oklahoma in the number of Native Americans residing within its borders.

Total Federal funding under the Legal Services Corporation Act to provide free legal services in California to Indian tribes that cannot afford to hire attorneys, as well as tribal members, is approximately $800,000 per year. Adjusted for inflation, this amounts to only one-quarter of the funding that Congress originally allocated for this purpose over thirty years ago.

Each year, CILS provides a broad array of civil legal assistance to over 50 Indian tribes and over 3,000 Indian families in California. The gulf between the community need and available resources means that California Indian tribes and CILS must often sacrifice intensive, time-consuming, but necessary projects in order to address more immediate problems. Department of Justice funding for Tribal Civil Legal Assistance Grants under section 102 of the Act would allow Indian tribes and Indian legal services providers like CILS to partially break this cycle and focus on a longstanding, critical community need for tribal justice systems.

The lack of tribal courts has constrained the ability of tribal governments to fully exercise their inherent sovereignty and Indian individuals and tribes are often unable to resolve disputes or seek justice. While Indian tribes in California retain exclusive jurisdiction, most have neither the resources nor the forum to exercise such jurisdiction. Without tribal courts, many disputes fall within a jurisdictional vacuum, or can only be litigated in Federal courts located hundreds of miles away. The former can be especially devastating to a tribal community when the vacuum leads to political paralysis. For example, where there have been disputes over the conduct

of tribal elections, the lack of dispute resolution systems has brought tribes and the operation of their governments to a standstill.

Among the various disputes that may arise in Indian country, the Federal courts only have the power to review certain tribal court decisions, but lack jurisdiction to hear disputes in the first instance, and state courts will have no jurisdiction whatsoever. Thus, there often is no alternative forum. Also, Indian tribes have broad regulatory authority over their members on the reservation and more limited regulatory authority over non-members within their reservation. Tribes have the authority to regulate their reservations and so enact laws concerning many varied matters, including the environment, water quality, utilities, land use, traffic, zoning, liquor, and animal control. Without tribal courts, however, tribes are denied effective recourse when their regulatory laws are violated. Thus, without tribal courts, California Indian tribes face great difficulty enforcing their own laws.

Individual Indians, too, are harmed by the lack of tribal justice systems and inadequate resources for free civil legal assistance in such systems. Without some dispute resolution system, Indian individuals often lack any forum to which they can bring their disputes involving Indian real property or matters involving federally-guaranteed hunting, fishing and trapping rights. Moreover, they are denied the opportunity, granted to other Indian people in the nation, to bring their internal disputes to a culturally accessible court. Although Public Law 280 grants state courts adjudicatory authority over many disputes arising on the reservation, many Indian people do not feel comfortable bringing their cases to state court, where they often encounter a difficult and alienating experience. Moreover, some disputes involving matters exclusively within tribal jurisdiction, such as tribal enrollment or elections, and governed by tribal law cannot be heard in state court.

Studies conducted by Federal, State, and private agencies over the past 100 years have reached the same conclusion; Indians in California are not receiving a fair share from Federal Indian programs; and because they have received less support from the Federal Government, California Indians have suffered greater devastation in social-economic well-being relative to other Indian groups in other states. The well-documented reports reaching this conclusion have come from both Republican and Democratic administrations, and from non-profit and tribal organizations. The most recent study commissioned by Congress revealed that in 1994 per capita BIA spending in California was one-quarter of that for the rest of the country as a whole.

Due to the lack of adequate funding for California Indians, most California Indian tribes lag behind their counterparts in other states in the development of tribal justice systems. While Congress has appropriated funding for other tribal court development programs administered by the Department of Justice, those programs often require a stage of development that was and remains unattainable by most California Indian tribes with their present resources. Appropriations for the Indian Tribal Justice Technical and Legal Assistance Act of 2000 will allow California Indian tribes and other similarly situated Indian tribes located throughout the United States to obtain the assistance that they need in order to meet the prerequisites of other tribal justice grant programs.

We commend Congress for recognizing the vital importance of tribal justice systems and their integral roles in tribal self-governance. We also thank Congress for recognizing the established record of Indian legal services programs in providing cost effective legal assistance to Indian people in tribal court forums and in making significant contributions to the development of tribal courts and tribal jurisprudence. We urge Congress to take the next crucial step and appropriate adequate funding so that the tribal justice needs of Indian tribes, in California and throughout the United States, will no longer be neglected.

PREPARED STATEMENT OF CLEMSON UNIVERSITY

Mr. Chairman, Mr. Ranking Member, and members of the Subcommittee, as President of Clemson University, I would like to draw to your attention two initiatives directed by Clemson's Institute on Family and Neighborhood Life, and I ask you to consider an appropriation for each.

CONSORTIUM ON CHILDREN, FAMILIES, AND THE LAW

Clemson University respectfully requests $3.0 million in fiscal year 2002 from the Office of Juvenile Justice and Delinquency Prevention to Clemson University for a collaborative effort involving the 15 centers of the Consortium on Children, Families, and the Law to conduct research and provide technical assistance and training on (a) the prevention and treatment of youth violence; (b) innovations in juvenile

justice policy; (c) alternatives to and improvements in the juvenile courts; and (d) State laws, policies, and programs relating to children, families, and the law.

Although recent statistics indicate a decline in rates of juvenile violence, each year several million children come into contact with the juvenile justice system as juvenile offenders, victims of crime, or both. There remains a tremendous need to assist States, communities, and the Federal Government in preventing youth violence and responding effectively to youth and their families in the legal system.

To address these issues, a network of uniquely qualified institutions across the country is needed to assist States, communities, law enforcement agencies, and the Federal Government by evaluating and disseminating violence prevention programs that have a demonstrated track record, assessing the impact of policies and practices currently guiding the juvenile justice system, and conducting research demonstrations and interstate comparisons on innovative juvenile justice policy and practice.

The Consortium on Children, Families, and the Law provides a ready network to conduct interdisciplinary, multi-State research and consultation on issues affecting children and the law. With its geographic diversity and nationally-recognized researchers, the Consortium is in a position to be able to build and disseminate knowledge quickly and broadly. Member centers of the Consortium are located at Clemson University (the hub of the Consortium), Creighton University (Omaha, NE), the Medical University of South Carolina, the University of Iowa, the University of Hawaii-Manoa, the University of Nebraska-Lincoln, the University of New Hampshire, the University of Pennsylvania, the University of Pittsburgh, the University of South Carolina, and the University of Virginia. Affiliate members of the Consortium include the American Bar Association's Center on Children and the Law, the Public Interest Directorate of the American Psychological Association, and the Youth Law Center.

A primary activity proposed by the Consortium on Children, Families, and the Law for work in fiscal year 2002 is expansion of the Bullying Prevention Program, which is aimed at reducing bullying and related antisocial behaviors among elementary and middle school children.

Past research by members of the Consortium on Children, Families and the Law (Clemson University, University of South Carolina) confirms that bullying among school children is a significant problem in the United States. One in four reported having been bullied with some regularity (at least several times per month); one in 10 reported having been frequently bullied—once a week or more.

The negative effects of bullying on children are well documented. Bullying has been shown to lead to higher rates of depression, illness, absenteeism, suicidal ideation, and lower self-esteem among victims. Moreover, a recent study conducted by the U.S. Secret Service suggests that bullying has been a precursor to several incidents of school shootings. Children who bully need prompt attention to ensure that these behaviors do not continue or escalate into more serious forms of antisocial behavior.

To date, one program model has been documented to be successful in reducing bullying among school children. The Bullying Prevention Program, developed by Norwegian psychologist Dan Olweus, has been found to reduce bullying by 20–50 percent and to reduce the likelihood of children engaging in other types of antisocial behavior.

Faculty at Clemson University and at the University of South Carolina led the first wide-scale implementation and evaluation of the Bullying Prevention Program in the United States. Initial evaluations of this program within middle school settings in South Carolina were very promising and contributed to the recognition of the program as one of 11 national "Blueprints for Violence Prevention" by the Center for the Study and Prevention of Violence at the University of Colorado and as an Exemplary Program by the Centers for Substance Abuse Prevention (CSAP). Members of the Consortium have provided consultation to over 30 schools in a number of States (Colorado, Georgia, Maine, Massachusetts, Montana, Pennsylvania, South Carolina, and Virginia) to implement the Bullying Prevention Program.

Funding to the Consortium on Children, Families, and the Law from the Office of Juvenile Justice and Delinquency Prevention would allow us to:

—*More widely disseminate the highly-successful Bullying Prevention Program.*—We currently are unable to adequately meet the growing demand from schools to implement this program because of a lack of qualified trainers. Funding would assist us to provide training and follow-up consultation to trainers from across the United States who could respond to calls for training and technical assistance from school sites. It also would allow us to help interested schools to cover additional costs associated with the implementation of the program (eg., materials and staff time).

—*Continue efforts to evaluate the effectiveness of the program in elementary school settings.*—Findings from our earlier evaluation of the program in middle school settings suggested that the program would be most effective if implemented in elementary schools in the U.S. Research is needed to systematically evaluate the program in elementary schools, with particular focus on those factors that affect the successfulness of the program in different settings. Such information will be vital to efforts to effectively disseminate this model.

NATIONAL CENTER ON RURAL JUSTICE AND CRIME PREVENTION

Clemson University also is requesting an appropriation of $500,000 from the Bureau of Justice Assistance to support the National Center on Rural Justice and Crime Prevention. Although crime and violence rates have generally been declining throughout the country since 1994, dramatic social and economic changes in rural life in the last 20 years place many rural areas and small towns at risk of increasing crime and violence rates. From 1993–1998, violent and property crime rates in rural areas decreased much more slowly than in urban and suburban areas. Moreover other key indicators of community well-being, including poverty rates, educational attainment, economic growth, and teenage pregnancy rates, suggest that many rural areas and small towns are increasingly vulnerable to conditions that appear to undermine community safety.

Because rural communities and small towns have been virtually ignored by many policymakers and researchers, relationships among factors that are thought to contribute to changes in rural crime and violence rates (e.g., migration in and out of communities; poverty; economic changes; and changes in family structure, etc.) are not well understood. For example, some evidence exists to suggest that rapid population growth in rural communities causes an increase in crime and violence rates at 3 to 4 times the rate of growth. However, the reasons why rapidly growing communities would experience such an increase in crime and violence are not clear. As a result, implementation of effective crime and violence prevention and reduction strategies in these communities is much more difficult. Similarly, very little attention has been given to the impact of regional differences, such as the clustering of poverty in several Southern rural counties, on crime and violence rates. Yet, community conditions, such as poverty, changing family structures, and the strength or weakness of key community institutions (e.g., schools, faith-based organizations, civic groups, etc.) are likely to affect the capacity of citizens to coalesce around a shared agenda of crime and violence prevention. Generating and sharing knowledge about crime and violence in the context of the unique elements of rural life is important to developing policies and programmatic strategies that are likely to be effective in rural areas.

Since its creation in 1999, the National Center on Rural Justice and Crime Prevention (NCRJ) at Clemson University has worked in partnership with rural communities to generate knowledge about community-based problem-solving strategies for preventing and reducing crime and violence and to learn more about the adaptability of community justice models to rural areas. The knowledge generated has helped inform the technical assistance efforts to rural communities nationwide. In the short life of the NCRJ, technical assistance has been provided to organizations in more than 26 States, including rural schools about youth violence; law enforcement, the judiciary, and prosecutors about community-justice related strategies; social service agencies about domestic violence and child abuse and neglect; health agencies about community safety; and neighborhood resource centers about strategies for strengthening families in the justice system.

This request for $500,000 in funding will enable the NCRJ to expand project sites to other States and to further develop a base of knowledge about the effect of changing conditions in rural communities on crime and violence rates. It will also enable NCRJ faculty to develop a more comprehensive package of technical assistance "tools" for use by practitioners.

Thank you for the opportunity to present this statement for the record.

PREPARED STATEMENT OF THE CITY OF FAIRFIELD, CALIFORNIA

Mr. Chairman and members of the Commerce, Justice, and State Subcommittee on Appropriations, thank you for this opportunity to testify before this Committee. My name is George Pettygrove and I am the mayor of the City of Fairfield, California. On behalf of the citizens of Fairfield, I request your support of one of the City's highest Federal priorities for the fiscal year 2002.

The City of Fairfield, California, requests your support of a $500,000 earmark in the fiscal year 2002 Department of Justice Appropriations Bill under the COPS

Technology Program for the technical infrastructure associated with the new Solano County Regional Law Enforcement Training Center.

Law enforcement agencies in Solano County and Napa County are experiencing a gradual degradation of training facilities as a result of urban development. In response, law enforcement agencies within both counties are planning a new facility in an area unlikely to be encroached upon for at least 25 years.

Federal funds will focus on technology for the new facility, including a firearms simulator, driving simulators, smartboard technology, weaponless defense training materials, and targeting systems for four ranges.

A joint powers authority (JPA), consisting of the cities of Fairfield, Benicia, Vallejo, and Napa County is being formed to move the project forward. JPA participants anticipate additional jurisdictions will join the JPA in light of the lack of proper law enforcement training facilities in the region. The JPA has identified $2.5 million in matching funds for the $5.5 million project.

Once again, thank you for this opportunity to testify before this Committee.

PREPARED STATEMENT OF THE CENTER DIRECTORS' ASSOCIATION

The Regional Information Sharing Systems (RISS) Program respectfully requests that Congress appropriate for fiscal year 2002, $38.5 million to continue their support in combating drug trafficking and organized crime.

These funds will enable RISS to continue identifying, targeting, prosecuting, and removing criminal conspirators involved in drug trafficking, organized criminal activity, criminal gangs, and violent crime that span multijurisdictional boundaries. Funds will allow RISS to continue to support the investigation and prosecution efforts of over 5,600 local, State, and Federal law enforcement member agencies across the nation comprising over 600,000 sworn law enforcement personnel.

Through funding from Congress, RISS has implemented and operates the only secure Web-based nationwide network—called riss.net—for communications and sharing of criminal intelligence by local, State, and Federal law enforcement agencies. Funds will allow RISS to upgrade the technology infrastructure and resources to support increased use and reliance on the system by member law enforcement agencies and support the integration of other systems connected to riss.net for information sharing and communication. Using Virtual Private Network technology, the law enforcement users access the public Internet from their desktop and have a secure connection over the private riss.net Intranet to all RISS criminal intelligence databases and resources. RISS member law enforcement agencies accessed riss.net an average of 2.7 million times per month during fiscal year 2000. Riss.net is a proven, highly effective system that improves the quality of criminal intelligence information available and puts it in the hands of the law enforcement officers to make key decisions at critical points in their investigation and prosecution efforts.

The Office of Justice Programs (OJP), Regional Information Sharing Systems (RISS) is a Federally funded program comprised of six regional intelligence centers. The six centers provide criminal information exchange and other related operational support services to local, State, and Federal law enforcement agencies located in all fifty States, the District of Columbia, U.S. territories, Canada, England, and Australia. These centers are:

Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN): Delaware, District of Columbia, Indiana, Maryland, Michigan, Pennsylvania, Ohio, New Jersey, and New York, as well as Canada and England.

—*Mid-States Organized Crime Information Center (MOCIC)*.—Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, as well as Canada.

—*New England State Police Information Network (NESPIN)*.—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, as well as Canada.

—*Regional Organized Crime Information Center (ROCIC)*.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, as well as Puerto Rico and the U.S. Virgin Islands.

—*Rocky Mountain Information Network (RMIN)*.—Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, as well as Canada.

—*Western States Information Network (WSIN)*.—Alaska, California, Hawaii, Oregon, and Washington, as well as Canada, Guam, and Australia.

RISS is a force multiplier in fighting increased violent criminal activity by street gangs, drug traffickers, sophisticated cyber criminals, and emerging criminal groups that require a cooperative effort by local, State, and Federal law enforcement. There

is a rising presence of organized and mobile narcotics crime, distinguished by increases in drug-related emergency room incidents, increases in drug purities (especially heroin, methamphetamine, ecstasy, cocaine, GHB, and marijuana), and increasing communications sophistication by the criminal networks. Inter-agency cooperation has proven to be the best method to combat the increasing criminal activity in these areas. The RISS centers are filling law enforcement's need for rapid, but controlled sharing of information and intelligence pertaining to known or suspected drug traffickers and criminals. Congress funded the RISS Program to address this need as evidenced by its authorization in the Anti-Drug Abuse Act of 1988.

The success of RISS has been acknowledged and vigorously endorsed by the International Association of Chiefs of Police (IACP), as well as other national law enforcement groups such as the National Sheriff's Association (NSA) and the National Fraternal Order of Police (NFOP). These groups have seen the value of this congressional program to law enforcement nationally and have worked with the National Association of Attorneys General (NAAG), the National District Attorneys Association (NDAA), and the National Criminal Justice Association (NCJA) to further strengthen the awareness of RISS. In fact, the National Association of Attorneys General passed a resolution calling for full funding for RISS and increased funding for the Bureau of Justice Assistance (BJA).

According to the Executive Working Group for Federal-State-Local Prosecutorial Relations, in its publication titled, Toward a Drug Free America: A Nationwide Blueprint for State and Local Drug Control Strategies, "Each State should develop a computerized capacity to store, collate, and retrieve intelligence and historical information concerning drug offenders. Before initiating new computer projects, each State should take advantage of existing computerized information exchange and pointer systems, such as the Regional Information Sharing Systems (RISS). Each State should actively participate in multi-State, regional, and national information networking projects."

RISS is operating current state-of-the-art technical capabilities and systems architecture that allow local, State, and Federal law enforcement member agencies to interact electronically with one another in a secure environment. The RISS system has built-in accountability and security. The RISS secure Intranet (riss.net) protects information through use of encryption, smart cards, Internet protocol security standards, and firewalls to prevent unauthorized access. The RISS system is governed by the operating principles and security and privacy standards of 28 CFR Part 23 (Criminal Intelligence Systems Operating Policies). The technical architecture adopted by RISS requires proper authorization to access information, but also provides flexibility in the levels of electronic access assigned to individual users based on security and need-to-know issues. Riss.net supports secure e-mail and is easily accessible using the Internet. This type system and architecture is referenced and recommended in the General Counterdrug Intelligence Plan (GCIP).

The GCIP promotes Federal, State, local and tribal law enforcement information sharing, and leveraging resources and existing cooperative mechanisms. RISS fully supports the GCIP and the following initiatives are underway related to action items in the Plan. RISS has entered into a partnership with the High Intensity Drug Trafficking Areas (HIDTA) to electronically connect the HIDTAs to riss.net for communications and information sharing. Currently 11 HIDTAs are electronically linked to riss.net, with 7 more pending connection during 2001. Six State agencies are also electronically connecting their systems to riss.net. The National Drug Intelligence Center (NDIC) is a member of RISS and uses the RISS network as a communications mechanism for publishing counterdrug intelligence products to Federal, State, and local law enforcement members. RISS and the El Paso Intelligence Center (EPIC) officials have entered into a partnership to electronically connect EPIC to riss.net to capture clandestine laboratory seizure data from RISS State and local law enforcement member agencies. RISS needs funds to purchase hardware and software to support and integrate these systems that improve the accessibility to critical criminal intelligence for law enforcement agencies throughout the country.

RISS continues to promote inter-agency investigations by improving capabilities for member agencies to quickly and easily access RISS databases by expanding the enrollment of member agencies for access to riss.net through distribution of security hardware and software. Web browser technology has been implemented for use by member agencies in accessing the RISS intelligence database pointer system and the RISS National Gang Database. At the direction of Congress, dial-up (800) access capability to the RISS secure intranet will be provided for member agencies in geographic areas where access to Internet Service Providers is not available. Funds are required to increase the distribution of security hardware and software to additional RISS member agencies that need electronic access to riss.net.

In fiscal year 2001, Congress invested $25 million in the RISS Program. RISS has received level funding of $25 million for the past 5 fiscal year funding cycles ($20 million in the line item and $5 million from COPS except for fiscal year 2001 when the line item was raised to $25 million with no allocation from COPS). During the past 5 fiscal year funding cycles and up to the current time, RISS has furnished case specific support to hundreds of local and state police, as well as sheriff departments. These investigations have had an unrivaled impact on the local jurisdictions of main street America, the grass roots of law enforcement in the nation. During this same time period, RISS implemented the secure intranet providing Web-based access for communications and information sharing to over 5,600 law enforcement agencies nationwide—a network which is now electronically linked to 11 HIDTAs (with 7 more pending connection), six State law enforcement systems, and the EPIC Clandestine Laboratory Seizure System. The Southwest Border States Anti-Drug Information System (SWBSADIS) initiative encompassing the States of Arizona, California, New Mexico, and Texas is also integrated with riss.net. RISS is currently working to connect the Bureau of Land Management, Department of Interior, to riss.net. To support this increased need to integrate other systems and the increased demand for RISS services, RISS is requesting an increase in funding to $38.5 million for fiscal year 2002.

In view of today's increasing demands on Federal, State, and local law enforcement budgets, requests for RISS services have risen. The Institute for Intergovernmental Research (IIR) report on the RISS Program showed that as of December 31, 2000, the number of criminal subjects maintained in the RISSIntel intelligence databases for all centers combined was 790,241 with 190,159 new subjects being added in 2000. The combined databases of all six RISS centers also maintained data on 1,357,450 locations, vehicles, weapons, and telephone numbers for a grand total of 2,147,691 data entries available for search. For the twelve-month period January through December 2000, the total number of inquiries by law enforcement member agencies to the RISSIntel database for all six regional intelligence centers combined was 707,457. These inquiries resulted in hits or information to assist law enforcement agencies in their criminal cases. All RISS centers combined delivered 9,346 analytical products to member agencies in support of their investigation and prosecution efforts in 2000.

This support of law enforcement has had a dramatic impact on the success of their investigations. Over the three-year period 1998–2000, RISS generated a return by member agencies that resulted in 12,510 arrests, seizure of narcotics valued over $246 million, seizure of almost $14 million in currency, and recovery or seizure of property valued at over $32 million. In addition, more than $11 million was seized through RICO civil procedures. In the 20-year period since 1980 when the Program was fully implemented, the RISS Program has assisted its member agencies with their investigations. Results of these investigations have amounted to well over $12 billion in recoveries at a total cost that approximates 2.44 percent of that amount, or a $41 return for every dollar spent.

RISS is continuing initiatives with the Federal Bureau of Investigation and with the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury to assist in their efforts to facilitate the exchange of criminal intelligence with State and local law enforcement. RISS continues to work with Federal and State corrections departments to strengthen cooperation and information sharing with the law enforcement community, and to maintain a national prison gang database to identify prison gang criminal activity, both within and outside the prison environment. We have established a working relationship with gang investigators across the nation to identify and maintain information on violent street gangs, as well as their membership, organization structure, migration trends, and their propensity for violence.

RISS has also assisted the Office of Juvenile Justice and Delinquency Prevention, and continues to work with Federal, State, and local agencies in their efforts to combat the menace of drugs on our street, and the growing influence of youth gangs in the distribution and sale of drugs.

The Bureau of Justice Assistance administers the RISS Program and has established guidelines for provision of services to member agencies. The RISS regional intelligence centers are subject to oversight, monitoring, and auditing by the U.S. Congress, the General Accounting Office, a Federally funded program evaluation office; the U.S. Department of Justice, Bureau of Justice Assistance; and local government units. The Intelligence Systems Policy Review Board also monitors the RISS centers for 28 CFR Part 23 compliance. This 28 CFR Part 23 regulation places stricter controls on the RISS intelligence sharing function than those placed on Federal, State, or local agencies. Evaluation of RISS center operation has been very positive.

A new authorization and full funding of the RISS Program is necessary in order to permit membership growth and improve services capabilities to the membership nationwide. In the past five years, RISS membership has increased 20 percent to over 5,600 local, State, and Federal law enforcement agencies at present. It is respectfully requested that the Congress fully fund the RISS Program as a line item in the congressional budget, in the requested amount of $38.5 million. Local and State law enforcement, who depend on the RISS centers for information sharing, training, analytical support, funding, and technical assistance, are anticipating increased competition for decreasing budget resources. It would be counterproductive to require the RISS members from State and local agencies to self-fund match requirements, as well as to reduce the amount of BJA discretionary funding. The State and local agencies require more, not less, funding to fight the nation's crime/drug problem. The RISS Program cannot make up the decrease in funding that a match would cause and it has no revenue source of its own. Cutting the RISS appropriation by requiring a match should not be imposed on the program.

We are grateful for this opportunity to provide the committee with this testimony and appreciate the support this committee has continuously provided to the RISS Program.

THE REGIONAL INFORMATION SHARING SYSTEMS

To assist the RISS centers in implementing this program, the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance worked with the centers to institute the following components.

—*Information Sharing Component*.—Every center will maintain and operate either a manual and/or automated information-sharing component that is responsive to the needs of participating enforcement agencies in addressing multi-jurisdictional offenses and conspiracies. This component must be capable of providing controlled input, dissemination, rapid retrieval, and systematic updating of information to authorized agencies.

—*Analytical Component*.—Every center will establish and operate an analytical component to assist the center and participating agencies in the compilation, interpretation, and presentation of information provided to the center. This component must be capable of responding to participating agency requests for analysis of investigative data.

—*Telecommunications Component*.—Centers may establish and/or maintain a telecommunications system designed to directly support the operation of the information sharing component and analytical component, and to support center sponsored investigations and activities.

—*Investigative Support Component*.—Centers may establish and operate an investigative support component by providing financial assistance to participating agencies for their conduct of multi-jurisdictional investigations. Financial resources may include funds for the purchase of information, contraband that may be used as evidence, services, investigative travel and per diem, and overtime compensation. Funds expended and activities conducted under this component must directly support the operation of the information sharing and analytical components.

—*Specialized Equipment Component*.—Centers may establish and maintain a pool of special investigative equipment for loan to participating agencies. The loan of such equipment must directly support the operation of the information sharing and analytical components.

—*Technical Assistance Component*.—Centers may establish and maintain a component to provide technical assistance to member agencies. Through use of center personnel and others in participating agencies, consultation, advice, and information may be made available to member agencies concerning use of specialized equipment, investigative procedures, accounting of center funds if provided by the center in support of investigations, and information analysis. This component will emphasize use of technical resources among the centers as necessary and available. Technical assistance in the form of active participation by center personnel in member agency investigations is prohibited.

—*Training Component*.—Centers may establish and maintain a training component to upgrade investigative skills of personnel from participating agencies. Such training assistance may consist of financial support to send personnel to training courses, seminars, and conferences or, more commonly, design and delivery of special training courses by center staff. Training provided under this component must support the center goals and objectives.

To further enhance the coordination and exchange of information among member law enforcement agencies, the centers have initiated additional support service ac-

tivities including distribution of center publications/digests and sponsorship of membership conferences.

PREPARED STATEMENT OF THE CITY OF GAINESVILLE, FLORIDA

On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking Federal funds in the fiscal year 2002 Commerce, Justice, State and Judiciary Appropriations bill to assist with the following two innovative projects the City is undertaking:

—The Downtown Revitalization Project to enable economic redevelopment in a downtown setting including improving stormwater treatment, developing park facilities, enhancing alternative transportation and restoring an urban wetland, and

—The Public Safety Enhancement Project to improve public safety.

THE DOWNTOWN REVITALIZATION PROJECT

This is a broadly developed, multi-faceted initiative that has an established goal of revitalizing Downtown Gainesville. The City of Gainesville has experienced a renaissance in establishing Downtown as a desirable place to live, work and play. The Initiative encourages the redevelopment of existing buildings and parking lots within Downtown into mixed residential, commercial, and office uses. Already the City has participated in two redevelopment multi-use projects in Downtown that have brought in residential, commercial and office spaces. The City's participation is providing streetscaping and stormwater management, both being vital components of the success of any redevelopment initiative. A third redevelopment project under way is Alachua County's proposed Judicial Complex and associated parking structure.

The Revitalization Initiative is dependent on a master stormwater facility that has been planned as a landmark stormwater park that will not only serve as a functional stormwater management facility, but provide an urban park setting for Downtown and nearby residents, visitors and employees. The stormwater park will also function as a Rail Trail Hub to provide linkage of four primary existing and proposed rail trail systems.

The proposed Downtown Connector will connect the Gainesville Hawthorne Rail Trail through the stormwater park and is being implemented with funding through the Transportation Enhancement Program.

The proposed 6th Street Rail Trail will provide access to the north and west through three historic, and predominantly African American neighborhoods; Porters, Pleasant Street, and Grove Street. The trail and enhanced roadway will provide a primary multi-modal transportation corridor connecting the University of Florida and Shands Medical Complexes to Downtown.

FUNDING REQUESTS

The cornerstones of the City of Gainesville's Downtown Revitalization Initiative are the development of the Sweetwater Urban Stormwater Park and the reconstruction of Depot Avenue.

—*Sweetwater Urban Stormwater Park*.—The Sweetwater Urban Stormwater Park component will provide stormwater treatment for Depot Avenue, the proposed Rail Trails, as well as the Downtown portion of the Sweetwater Branch watershed located upstream of the park. The Park is in the planning stages as the centerpiece of a U.S. Environmental Protection Agency (USEPA) and Florida Department of Environmental Protection funded Brownfields pilot project. This project consists of the cleanup costs, construction of the stormwater facilities, installation of reuse water system for irrigation, and development of the recreational components of the Park. The total cost of the Sweetwater Urban Stormwater Park is estimated at $17,200,000.00. The Federal funding request is for $9,700,000.00.

—*Depot Avenue*.—This component includes the enhancement of approximately two (2) miles of Depot Avenue from SR 331 to US 441. The Depot Avenue component includes right-of-way acquisition and construction activities at a cost of approximately $6 million. The enhancement will encourage increased utilization of mass transit, bicycle and pedestrian modes of travel; increase accessibility to major public heritage and recreation destinations for the community; and enhance the linkage between Downtown and the University of Florida and Shands Medial Complexes.

The enhancement of Depot Avenue will also provide infrastructure and improved safety while accessing Downtown, University of Florida area, the adjoining Porters Neighborhood, just west of SR 329 (South Main Street) and the SpringHill Neighborhood in Southeast Gainesville. The socio-economic conditions of these areas include high crime rates, sub-standard housing, and lack of access to services and investment.

PUBLIC SAFETY ENHANCEMENT PROJECT

This is an innovative crime data gathering, reporting and training system to enhance public safety. The goal of this effort is to facilitate communication between our urban area public safety and court system agencies through the use of system-wide technology upgrades. The impact for the entire region is considerable, since this county serves as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services.

For this initiative, the partner urban area public safety agencies will need the following: Mobile Lap Top Computers/Data Terminals—$3.5 million, and System-Wide Communications and GIS Software—$0.8 million.

The components of this project are designed to work together as a well-integrated system to provide improved more effective service to the residents of this region. Urban area public safety agencies and local criminal justice system agencies will benefit operationally from the enhanced data sharing capacities provided by this project.

Though portions of this project have been attempted by other agencies, the Gainesville Police Department will become one of the first law enforcement agencies in the state to gather, analyze and provide information regarding crime and quality of life type incidents in such an efficient, comprehensive and automated manner. The activities provided by the infusion of these requested Federal funds would enable us to:

—Establish a region-wide data communications system allowing the ready exchange of information between participating agencies.
—Create a Geographic Information System (GIS) that would enable all entities access to an accurate crime analysis and resource management tool.
—Reduce errors and improve information timeliness by implementation of an automated incident reporting system.

The need for laptop computers is partially driven by the Federal Government's "re-farming" of radio frequencies through the Federal Communications Commission. Due to this "re-farming" and the high cost of radios, many law enforcement officers will no longer have radios mounted in department vehicles. The use of laptop computers can fulfill the critical need for a second communication device, and at the same time help accomplish several other public safety objectives, including mobile computer aided dispatch, automated report writing and use of a geographic information system (Crime Mapping, etc.).

MOBILE COMPUTER AIDED DISPATCH

The advantages gained by utilization of a mobile data system are numerous for the law enforcement officer as well as its potential ramifications to the public. Removing the reliance on strictly verbal communication via a radio and widening the information flow via direct data communications, results in an enhancement of the ability to successfully resolve problems in the field. Utilizing laptop computers as mobile computer aided dispatch terminals significantly increases the ability for public safety officers to communicate.

During critical situations such as a school-shooting incident, officers could access information such as floor plans, aerial photographs and interior pictures of each school. Detailed information regarding each of the public and private schools could be stored on a computer disk and made available to and utilized by officers, firefighters and ambulance personnel. Information such as this could prove to be invaluable regarding how best to approach and/or gain access to the school and who to contact in an emergency. The disk would contain the names (and photographs) and contact information of pertinent school staff as well as important contact information regarding hospitals, poison control and hazardous materials.

MOBILE AUTOMATED REPORT WRITING

For generations officers have handwritten reports that are then manually filed. The only improvement is that currently a small portion of the report is entered into a computer database at some later date. However, since the information is compartmentalized it is often entered redundantly throughout the criminal justice system. This method of capturing the information for reports is antiquated. It takes an un-

necessary amount of time, wastes valuable resources and provides increased opportunities for errors. Benefits realized by the use of automated reporting are reduced errors, elimination of data entry duplication and more accessible, timely and accurate reports.

GEOGRAPHICAL INFORMATION SYSTEM (GIS)

For years law enforcement agencies have tracked crime using pin maps to geographically show where crimes occur. This method of tracking crime has become impractical and too time consuming for all but the smallest of law enforcement agencies. The advent of computerized geographical information programs, like "ArcView" has enabled law enforcement agencies to return to the pin map method of displaying crime patterns, but in a much more effective manner. Additionally, mapping programs can contain several hundreds of data layers that can be utilized by numerous public and private agencies. The following objectives are examples of how a GIS system will enable us to use the information immediately entered on mobile lap top computers.

—*Electronic Pin Maps (Crime Mapping)*.—Once a GIS system is established, all reports that are generated will be mapped in several formats, including calls for service. This enables agencies to properly decide where to deploy their limited resources. Electronic pin maps also can be time sensitive and/or location sensitive. Officers working various shifts can identify hot-spots (areas with proportionally higher amounts of crime) by time and location. A hot spot during the day, may not be a hot spot at night, or visa versa. Additional maps can be generated for Uniform Crime Report (UCR) incidents, Crime Analysis identified crimes, and calls verified by Florida State Statutes. Information that is not immediately available is of little or no use when it is entered at a later date. Providing timely information to officers and citizens in the form of displaying maps with current and historical crime incident information is needed so a practical analysis may be done and an effective response developed. Unlike pin maps of yesterday, electronic mapping allows for the storing historical of data. In the past, the map had to be cleared before a new map was created. Using electronic mapping, maps can be created and stored to allow for comparison over any period of time. Another use for the maps, is the identification of locations that have repeated calls for service. If a location has had several calls for service in a short period of time, a plan can be developed to solve the underlining problem and thereby reduce or eliminate future calls for service.

—*Management of Resources Utilizing Computer Statistics*.—Many law enforcement agencies have begun to use a method of management which utilizes crime data. Law Enforcement supervisors are being held accountable for the level or increase in crime in their assigned geographical area. The Gainesville Police Department has divided the City into districts. Each District Commander is held responsible for the criminal activity and the utilization of resources in that geographical area. GIS information will be used to better manage the department's limited resources.

—*WEB Mapping*.—Sharing the information gathered in an effective manner is another key component to this process. Many of the law enforcement agencies in Alachua County currently have a WEB site on the Internet. Increased utilization of WEB based services will include making available crime alerts, statistics, block summaries, pictures of offenders, crime record check and the ability to request copies of reports. This access will enable citizens to have information available to them in a more convenient and timely manner. In the future, crime maps developed by the GIS system will be used to display maps over the Internet. Maps will be made available to other law enforcement and governmental agencies and the public at large.

—*Integration with other Agencies*.—In order for a geographical information system to be truly effective, it requires the cooperation of several agencies. GIS systems with hundreds of layers of data can be a useful tool for all the cooperative agencies. Law enforcement personnel will be able to view maps and aerial or satellite photographs of a given area of the city. On top of those maps and/or photographs layers of information will be available to all users. Law enforcement personnel will provide numerous layers of data to the system and will in return be able to access the layers from other agencies. Alachua County already has begun the process of developing a GIS and the Gainesville Police Department is currently working with the University of Florida to develop a method of converting data to a format used by "ArcView".

The concept in which pertinent information, including aerial photographs, is contained on a computer disk for use by officers with laptop computers could be ex-

panded to other potentially critical areas such as hospitals, large shopping areas, the airport and the stadium and shared with other public safety agencies.

PREPARED STATEMENT OF THE NATIONAL, COORDINATED LAW-RELATED EDUCATION PROGRAM

I am Lee Arbetman, the Coordinator of the National, Coordinated Law-Related Education Program. I am submitting this testimony on behalf of Youth for Justice, the National, Coordinated Law-Related Education Program (LRE). The National, Coordinated Law-Related Education Program received an appropriations earmark for fiscal year 2001 in the amount of $1.9 million. The need for the Program continues to substantially exceed the Program's resources. Accordingly, for fiscal year 2002, the National, Coordinated Law-Related Education Program respectfully requests the Subcommittee's appropriations support at a level of $2.4 million.

LRE/Youth for Justice is committed to involving young people in each state directly in identifying and implementing solutions to this nation's epidemic of violence. The program's approach is to teach young people about the law so that they can lead their lives within the law. In the last decade, the National Program has reached millions of at-risk children and trained thousands of teachers, juvenile justice counselors and law enforcement officials.

Law-Related Education, despite its name, has nothing whatsoever to do with legal or pre-legal training. The National, Coordinated Law-Related Education Program has a proven record of success in juvenile delinquency and violence prevention. Law-related lessons reach at-risk children and juvenile offenders in school and juvenile justice settings in urban, suburban and rural environments. Youth for Justice meets its goals by developing and maintaining strong, viable LRE centers in each state. The National Program leverages a tiny federal investment, $1.9 million in fiscal year 2001, many times over in private sector and state and local money and in in-kind support from the criminal justice and juvenile justice communities.

The program has two components. The first component of the program is INTERVENTION. This part of the program operates primarily in various kinds of juvenile justice facilities. In settings ranging from detention centers to training schools and after-care, Law-Related Education Programs help youth develop problem-solving, conflict resolution, and communication skills in the context of engaging lessons that focus on personal responsibility.

The second component, PREVENTION, operates primarily in elementary and secondary schools. When you visit a school involved in this program, you are very likely to see a teacher, a judge, a lawyer, the town's police chief, a law student or a probation officer working with a class of students. In some of the best Youth for Justice classrooms, police officers co-teach with classroom teachers on a daily basis.

Assistance from the National, Coordinated Law-Related Education program continues to enhance state Law-Related Education programs. For example—

New Hampshire.—Your home State of New Hampshire continues to be a national leader in adopting Law-Related Education for use as both a prevention and intervention program. This year, a student team from Milford High School won the statewide "We The People" competition in March while the Manchester West High School team won the "Mock Trial" competition. Each team will advance to the national competitions. In addition, the "Lawyer in Every School" program continues to be a key component of the New Hampshire program.

Colorado.—In Colorado, at least 250 teachers have attended an annual public-private partnership conference for the past sixteen years as a means of updating their own knowledge. In May, hundreds of at-risk youth from Colorado schools will attend a Colorado Project Citizen Showcase where they will meet with federal, state, and local policymakers to present youth perspectives on policy issues that impact their lives. Federal support has been matched by private foundations and by local school districts through release time for teacher training and through individual volunteer efforts. As a result, teachers and school districts throughout the state receive a basic level of ongoing technical assistance.

Hawaii.—This year's LRE support helped the Hawaii State Judiciary and non-profit Hawaii Friends of Civic and Law-Related Education to expand Parents and the Law (PAL), a project providing legal information to teen and at-risk parents. Assistance from LRE also benefited the state's efforts to curb youth violence in school settings. Technical and curriculum support provided through LRE enabled Hawaii State Judiciary staff to plan and conduct workshops for private and public schools devised to stem violence and hate speech.

Wisconsin.—Recently, high school students argued before the Wisconsin Supreme Court as part of the statewide mock trial program. Over 170 schools participate in

this annual event. In addition, the PEACE program (Peers in Education Addressing Conflict Effectively) helps train teachers to implement mediation programs in elementary schools so students can acquire the skills necessary to mediate and resolve their own disputes peacefully.

Mr. Chairman, thanks to the continued commitment of this Subcommittee, Youth for Justice, the National, Coordinated Law-Related Education Program has built a vital, cost-effective program. This program:

—Involves young people in identifying and implementing solutions to violence;
—Promotes research-based educational programs that strive for safe, disciplined and drug-free schools and communities;
—Teaches young people acceptable ways to resolve conflicts;
—Fosters constructive attitudes towards authority figures;
—Provides young people with meaningful opportunities to serve their communities;
—Promotes understanding of and reasoned commitment to the rule of law along with tolerance for varied points of view in a free and diverse society; and
—Helps young people understand the democratic process and develop the decision-making, and problem solving skills to enable their full participation in that process.

LRE/Youth for Justice uses technology as a cost-effective way to expand its reach to the LRE field. For example, LRE has posted a planning guide for its Youth Summits on the Internet as well as free mock trial competition and descriptions of and contact information for state LRE programs. The National LRE Program also provides technical assistance to state LRE centers to demonstrate how they can use technology to link teachers and community volunteers.

Youth for Justice is committed to providing leadership in the national effort to stop the outrage of violence committed by and perpetrated against this nation's youth. Each Spring, thousands of young people from both the school and juvenile justice settings gather with public officials to participate in Youth Summits designed to help develop public policy to help prevent violence by and against youth. Law-Related Education is an extraordinarily effective prevention program, but it is also an extraordinarily effective intervention program—Law-Related Education also reaches juvenile offenders in halfway houses, detention centers, and other non-school settings.

THE NATIONAL LAW-RELATED EDUCATION PROGRAM

The National, Coordinated Law-Related Education Program is comprised of five not-for-profit corporations, each of which is recognized nationally and internationally as a leader in the field of law and civic education: The American Bar Association's Division for Public Education; the Center for Civic Education; the Constitutional Rights Foundation; Street Law, Inc.; and the Phi Alpha Delta Public Service Center. By combining their expertise and experience as teachers, school administrators, juvenile justice professionals, attorneys and professors, these five organizations have successfully administered a nationwide program in which they have:

—Established and maintained an effective network of delinquency prevention law and citizenship projects in all fifty states, the District of Columbia and Puerto Rico;
—Provided training and technical assistance to the state projects in this network so that federal funding effectively leverages public and private funding appropriate to each state;
—Established innovative law and citizenship programs for at-risk youth;
—Developed and field-tested quality, research-based curricular materials for children—kindergarten through grade twelve—in public and private schools, juvenile detention centers, after-school programs and court-related diversion programs;
—Organized special initiatives on violence prevention, drug prevention, juvenile justice and urban education, publishing materials and sponsoring training events nationwide; and
—Mobilized thousands of volunteers with expertise in law, public policy, drug and alcohol abuse prevention, juvenile justice and other areas.

EVALUATIONS AND STUDIES OF LAW-RELATED EDUCATION

For the past two decades, researchers have consistently reported that law-related curricula and instruction make a positive impact on youth, when compared with traditional approaches to teaching and learning law, civics and government.

The Office of Juvenile Justice and Delinquency Prevention has noted that evaluations of Law-Related Education Program have been "encouraging . . . confirming

the previous findings that such education serves as a significant deterrent to delinquent behavior". *Eighth Analysis and Evaluation of Federal Juvenile Delinquency Programs,* U.S. Department of Justice, OJJDP, p. 60 (1985). The *Twelfth Analysis and Evaluation of Federal Juvenile Delinquency Programs* published in 1988 similarly states, "[A] national study suggests that Law-Related Education, when properly implemented, can reduce the tendency to engage in delinquent behavior."

A review of the research in Law-Related Education and related fields conducted by Dr. Jeffery W. Cornett (April 1997) concludes that LRE programs have a positive effect on student knowledge about law and legal processes, and about individual rights and responsibilities. Research studies indicate that effective LRE programs have improved juveniles' attitudes toward the justice system and toward authorities.

In 1998, the National, Coordinated Law-Related Education Program released impact data from demonstration programs in Los Angeles, Chicago and Washington, D.C. showing the positive effect that Law-Related Education can have on the highest at-risk youth.

In January 2001, Caliber Associates, the Office of Juvenile Justice and Delinquency Prevention's evaluation contractor, analyzed Law-Related Education in terms of programs proven to be effective in delinquency prevention and intervention. The results of this study demonstrate the promise of Law-Related Education with respect to delinquency prevention and intervention.

The National, Coordinated Law-Related Education Program has a unique and remarkable record of achievement and continued support is crucial for the following reasons:

—First, congressional support for Law-Related Education is vital to its survival.

—Second, the Federal Government and, in particular, the Congress, has made a substantial investment over more than a decade in the creation of a National, Coordinated Law-Related Education network and infrastructure including state coordinating organizations.

—Third, only a national program will undertake national initiatives that benefit the entire country, such as national training; national technical assistance; state financial assistance; new program and curriculum development such as Law-Related Education's highly successful and acclaimed Youth Summits; and the replication of successful state programs and the avoidance of unsuccessful pilot programs.

—Fourth, federal money is seed money used to sustain a national program which raises approximately seven times the federal support through state legislative support, private donations and in-kind support.

For all of these reasons, the National, Coordinated Law-Related Education Program is seeking earmark support at the 2.4 million dollar level. We thank you, Mr. Chairman and the members of this Subcommittee, for your support over all these many years and we ask for your continued support.

PREPARED STATEMENT OF THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS

The Membership Group of SEARCH submits this testimony seeking appropriation support for our National Technical Assistance and Training Program in the fiscal year 2002 Byrne discretionary program appropriation for the Bureau of Justice Assistance (BJA), U.S. Department of Justice (DOJ). The National Technical Assistance and Training Program received an appropriations earmark in fiscal year 2001 in the amount of $1.6 million. We respectfully submit this testimony to request funding at the $2.0 million level for fiscal year 2002.

SEARCH is a nonprofit criminal justice organization governed by a Membership Group comprised of one gubernatorial appointee from each of the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. For over 30 years, we have dedicated our efforts to assisting state and local justice agencies combat crime and administer justice through the effective and responsible use of information and identification technologies.

SEARCH's National Technical Assistance and Training Program provides no-cost assistance to all components of the state and local criminal justice system with respect to the development, operation, improvement and/or integration of all types of justice information systems. This significant program not only helps state and local agencies work more efficiently and effectively through the use of advanced information technology, but it also creates the foundation for a national information infrastructure for justice systems.

SEARCH continues to experience an explosive growth in demand for the program. In 2000, we provided a 30 percent increase in the number of technical assistance

efforts as compared to 1999. We expect to experience at least an additional 25–35 percent increase in technical assistance provided in 2001. There are a number of reasons for this demand, including the success of grant programs such as the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, the Local Law Enforcement Block Grants Program, the COPS Technology Grant Program, and the Crime Identification Technology Act, which have provided seed money for justice information systems automation and integration. Also impacting the demand for SEARCH technical assistance and training services is the critical need of the nation's criminal justice agencies to share complete and accurate information quickly, which is manifested in their efforts to integrate and connect justice information systems. The momentum is showing nationally and is being led by the Attorney General's Global Justice Information Network initiative. This initiative is advocating dramatic improvements in how justice agencies share information nationally.

We want to commend BJA and its fine, professional staff. Working in partnership with SEARCH, BJA has provided strong, national leadership to create opportunities for information systems training and technical assistance for state and local criminal justice officials.

TECHNICAL ASSISTANCE PROGRAM BENEFITS ALL STATES

SEARCH provides technical assistance via written correspondence, telephone consultations, electronic mail, an Internet Website, and onsite visits to agencies nationwide (including assistance focusing on statewide or regional justice integration efforts), as well as assistance provided at our National Criminal Justice Computer Laboratory and Training Center in Sacramento, California. SEARCH is responsive to Technical Assistance requests from every state, assisting agencies from all branches of government (state, county, city, regional), and providing guidance to every discipline in the justice system, including law enforcement, courts, prosecutor, probation, parole, corrections, and other case management agencies.

Integrated systems assistance typically involves being onsite to help a state or region establish an automated justice information system, or evaluate and plan for multiagency integration of existing systems. These efforts are typically significant and complex, can involve multiple agencies and site visits, and deal with issues with far-reaching impact on state and local governments. SEARCH is currently providing such long-term technical assistance to agencies in Alabama, Arizona, California, Georgia, Hawaii, Kentucky, Missouri, Montana, Texas, Washington and Wisconsin.

In the past year, SEARCH has provided hundreds of technical assistances via telephone, letter and email; thousands of Internet-based assistances; and dozens of technical assistances provided onsite at justice agencies or our Sacramento facility. In fiscal year 2002, as mentioned earlier, we expect these numbers to increase dramatically as demand for our technical assistance services rises. Not only do we expect demand on our in-house assistance to grow, we anticipate providing 50 separate onsite assistance efforts, which will serve scores of agencies and often involve multiple site visits for each effort.

NATIONAL TRAINING PROGRAM RESPONSIVE TO CYBERCRIME THREAT

SEARCH helps the nation's law enforcement agencies to combat the escalating problem of computer crime by training and equipping them with the skills needed to investigate cybercrime, make arrests, and prosecute offenders. Since its inception, SEARCH's National Technical Assistance and Training Program has trained more than 26,500 criminal justice officials from every state in the use of computers and other information technologies. In fiscal year 2001, SEARCH will train more than 1,000 state and local criminal justice officials across the nation, both onsite at agencies and at our National Criminal Justice Computer Laboratory and Training Center in Sacramento. In order to provide training at more sites nationally, SEARCH recently implemented a Mobile Training Center that uses laptops and other mobile equipment.

Training courses focus on providing investigators with critical operational skills, knowledge and techniques that will have a real-world impact, enabling them to gain a technological edge over the new breed of criminals who use computer technology to commit crimes such as fraud, theft and the online sexual exploitation of children. SEARCH's training courses, which range from one day to two weeks in length, include: The Investigation of Computer Crime; The Seizure and Examination of Microcomputers; Basic Local Area Network Investigations; Introduction to Internet Crime Investigations; Advanced Internet Investigations; and The Investigation of On-line Child Exploitation.

To help our trainees keep pace with the ever-changing environment of cybercrime, SEARCH has developed two new courses, which will debut in 2001: Digital Media Analysis, and Computer Forensics. In the past year, staff from justice agencies in Colorado, Kentucky, Maryland, Texas and Vermont were among those who attended SEARCH training. "The Investigation of Computer Crime," a weeklong course, was conducted onsite in a number of states, including Colorado, Texas and Vermont, and is next scheduled to be presented April 30-May 4, 2001, in Concord, New Hampshire.

SELECTED EXAMPLES OF ASSISTANCE

The following illustrates just a few examples of SEARCH technical assistance and training efforts in the past year and the broad range of agencies receiving assistance.

New Hampshire.—Recently, SEARCH assisted the New Hampshire Supreme Court with federally mandated reporting requirements for trial courts. As mentioned, next week, representatives of law enforcement agencies from throughout the state will attend SEARCH's "The Investigation of Computer Crime" training course in Concord. This weeklong course provides participants with an understanding of computer technology, its application to criminal endeavors, and the issues associated with investigating these types of cases.

Colorado.—SEARCH provided onsite assistance to officials of the Colorado Integrated Criminal Justice Information System (CICJIS) with developing and implementing a short-term plan to accomplish system implementation goals. CICJIS is a significant, multiyear effort to integrate justice information systems on a statewide basis. Also, at the local level, SEARCH provided onsite assistance to the Westminster Municipal Court to help define its information requirements and evaluate continued use of its case management system. In shorter-term efforts in Colorado, SEARCH provided assistance associated with computer crime investigation issues to various state and local justice agencies, including the Colorado Bureau of Investigation, the Denver District Attorney's Office, the Boulder County Sheriff's Department, and the Police Departments of Colorado Springs and Longmont. In addition, 47 law enforcement investigators attended a weeklong SEARCH training course, "The Investigation of Computer Crime," held at the U.S. Air Force Academy in Colorado Springs.

Hawaii.—Nearly 30 officials, including the Hawaii Attorney General, attended a SEARCH-led meeting in Hawaii to oversee strategic planning for the statewide integration of multiple justice information systems, an effort being overseen by the state Attorney General's Office. In other assistance, SEARCH provided information on two occasions to the Hawaii Criminal Justice Data Center regarding security system audits.

Vermont.—Of statewide significance is the onsite assistance that SEARCH is providing jointly to the Vermont Department of Public Safety, the Burlington Police Department and the Vermont Association of Chiefs of Police. SEARCH is assisting these agencies with the development of a strategic plan for information systems automation, especially with a view toward ensuring that the state system meets the needs of local users, and that Burlington's plans for new Computer-aided Dispatch, Records Management and Mobile Data Systems are responsive to statewide needs and requirements. In shorter-term assistance, the Essex Police Department received information on Internet Service Provider issues. In addition, law enforcement officers from throughout the state learned valuable new skills at a one-week SEARCH training course, "The Investigation of Computer Crime," which was held in Pittsford and cohosted by the Vermont Criminal Justice Training Council.

TECHNICAL ASSISTANCE AND TRAINING PROGRAM MATERIALS

SEARCH's National Technical Assistance and Training Program also includes the preparation, publication, and national dissemination of materials and reports that assist criminal justice agencies in acquiring and using computers and other information technology. For example, SEARCH publishes quarterly Technical Bulletins that identify and evaluate information systems and technologies that have existing or potential application in criminal justice management. SEARCH also offers an online resource, the Integrated Justice Information Systems Website, which features state and local profiles of justice integration efforts, including links to information on governance structures, funding, technical overviews, project documents and more, as well as links to useful integration publications, articles and other resources. The Website can be reached at www.search.org/integration.

CONCLUSION

Without question, federal support for the National Technical Assistance and Training Program makes a vital contribution to the war on crime. For a modest federal investment, leveraged many times over by state and local funds, a critical contribution is made to the ability of state and local criminal justice agencies to provide—and to share—timely, accurate and compatible information for use in apprehending, prosecuting and sentencing offenders.

Accordingly, we respectfully request that the Subcommittee act to ensure fiscal year 2002 funding of SEARCH's National Technical Assistance and Training Program. We thank you, Mr. Chairman, the members of your Subcommittee and the Subcommittee staff for your continued support.

DEPARTMENT OF STATE

PREPARED STATEMENT OF THE ASIA FOUNDATION

Mr. Chairman: Thank you for the opportunity to submit testimony supporting The Asia Foundation's fiscal year 2002 budget request. The Foundation is grateful for the support that the Congress and this Committee have provided over the years.

Mr. Chairman, I would like to present The Asia Foundation's programs and our future plans to address the challenges and opportunities facing Asia. We believe that our programs demonstrate how a small, independent organization can advance American interests in the Asia-Pacific region.

The Administration has endorsed the work of The Asia Foundation by requesting an appropriation of $9.25 million for fiscal year 2002. This funding would enable the Foundation to pursue programs in governance and legal reform, human rights, economic reform and peaceful, cooperative regional international relations. Most importantly, it will enable the Foundation to support Asian organizations that are positioned to play key roles in democratic and economic reform efforts throughout the region.

OVERVIEW

Let me put the work of the Foundation into context. U.S. economic, political and security interests in Asia have become broader and more complex in the post-Cold War decade. Regional security challenges remain among the most important in the world, including China-Taiwan cross-straits relations, the Korean peninsula and the India-Pakistan border disputes, as well as internal conflicts in Indonesia, the Philippines, and Sri Lanka. Political changes in Asia, welcome as they are, represent a challenge to stability, as in the case of Indonesia. Some countries in the region remain under authoritarian rule, while a number of countries have embraced democracy, although their new systems are fragile. Human rights abuses and questions of impunity continue. Even though women in Asia have made gains, in many places they are still subject to economic and political inequities and, in the worst cases, they are victims of abuse and trafficking. Economically the region has not fully recovered from the crisis of 1997, and Japan's economy, so important to the region's economic growth, continues to sputter. One consequence of the transitions underway in countries is the increased demand by Asians for a range of reforms: the rule of law, government transparency and accountability, anti-corruption measures, the end of "crony capitalism", and improved corporate governance. At the same time, public policymaking, once considered the exclusive purview of the state, is expanding to include a role for citizens and business organizations in fields such as legal reform, human rights, the environment and health.

We believe that The Asia Foundation, building on its continuing presence in Asia for nearly 50 years, is helping significantly to advance U.S. interests in this complex and dynamically evolving region. We are pleased that so many in Congress support our work. In the most recently enacted State Department authorization, The Asia Foundation was authorized at an annual level of $15 million. And we were especially gratified by the support received from the House. Last spring, the full House voted overwhelmingly to sustain Asia Foundation funding.

In the past, this Committee has encouraged the Foundation's grant making role, and we remain faithful to that mission. The Foundation's hallmark is to make sequential grants to steadily build and strengthen institutions, develop leadership and advance policy reforms in countries in the region. Foundation assistance supports training, technical assistance, and seed funding for new, local organizations—all aimed at promoting reform, building Asian capacity, and strengthening relations with U.S. institutions.

The democratic and economic transitions underway in Asia represent, in part, the return on investment the Foundation has made, over time, in support of individuals and institutions committed to reform. The Asia Foundation is a model of public-private partnership, with a long history of support from Asian and American policymakers and a respected track record in Asia.

THE ASIA FOUNDATION'S MISSION

The Foundation's core objectives are central to U.S. interests in the Asia-Pacific region.

—*Democracy, Human Rights and Rule of Law*.—Developing and strengthening democratic institutions and encouraging an active, informed and responsible non-governmental sector; advancing the rule of law; and building institutions to uphold and protect human rights.

—*Open Trade and Investment*.—Supporting open trade, investment and economic policy reform at the regional and national levels.

—*Peaceful and Stable Regional Relations*.—Promoting regional discussions on security cooperation, regional economic policy, and law and human rights.

The region's future progress is in large part tied to governance and legal reforms that must be undertaken, but require political solutions. The increased complexity of problems in Asia requires flexible and creative solutions, based on knowledge, expertise and relationships in the region. The following examples illustrate the ways in which Foundation programs in key areas contribute to the advancement of U.S. interests in the region.

PROGRAMS

Democracy and Human Rights

Strengthening formal governmental institutions—including the constitutional framework, the legislative branch, and the judiciary—and encouraging the development of civil society and the protection of human rights, have been the hallmarks of The Asia Foundation's programs in Asia.

—The Foundation has contributed to the development of parliaments in 16 countries in Asia through technical assistance, training members and staff, facilitating interaction with the non-governmental sector, and developing parliamentary capacity to review budgets and other executive functions in Thailand, Taiwan, South Korea, Mongolia, the Philippines and Indonesia.

—The Foundation is probably the single largest supporter of the non-governmental sector in the Asian countries in which we operate. The Foundation builds the capacity of organizations, encourages public participation, and works to improve the regulatory environment for NGOs. Foundation support has contributed to the establishment of new NGOs that have quickly made their mark, such as the Indonesian Institute for Independent Judiciary (LeIP), which played an important role in the recent, first time ever "fit and proper" test for new candidates for the Indonesian Supreme Court. LeIP conducted investigations of the capacity and integrity of candidates for the court at the request of the Indonesian Parliament, adding hope for more transparent procedures, better qualified justices and increased judicial accountability in future.

—With the trend toward devolution of political and administrative authority to the sub-national level, local governance and decentralization programs are a priority for the Foundation. The Foundation has taken a lead role in supporting milestone efforts in China, the Philippines and Indonesia: for example, developing capacity for village level elections and supporting reforms of urban neighborhood committees in China.

—The Foundation's human rights programs are premised on the expectation that the rights and obligations of all citizens will be better respected and observed when public institutions function in an open, transparent, and predictable manner, and when effective mechanisms are available for citizens to enforce their rights when they are threatened or violated. Responsible government, social stability, and the benefit of broad-based economic development are all predicated upon recognition and respect for human rights. Meaningful state and societal commitment to human rights is especially important for the poor, women, and other marginalized groups whose rights are vulnerable to abuse.

With this in mind, the Foundation promotes the protection and advancement of human rights as an important priority of its work. Through its support of non-governmental and governmental human rights efforts at the regional, national, and local levels, the Foundation's programs focus on forensic training for NGOs to investigate past human rights abuses; promotion of religious tolerance in Indonesia, including the use of Islamic scriptures to support messages of peace and non-violence;

establishment of alternative dispute resolution programs; media training and guides on international human rights standards and conflict reporting for journalists; and programs to reduce trafficking and violence against women.

In Indonesia, Cambodia, Thailand, the Philippines and Sri Lanka the Foundation is supporting comprehensive human rights programs that combine public awareness, training and monitoring efforts. The Foundation is giving special attention to the troubled region of Indonesia through support for local human rights organizations in Aceh, West Papua, and most recently, the Maluku Islands. In Maluku, an NGO coalition, Tapek Ambon, is working with Asia Foundation support, to reduce Muslim-Christian violence and to report human rights abuses to the Indonesian government and to national and international human rights organizations.

With a $9.25 million appropriation, the Foundation will be able to maintain its programs in these current areas.

Rule of Law

The Asia Foundation is committed to the development of law and effective legal systems. Foundation grants and technical assistance support improved judicial administration, legal education, community legal assistance programs, and alternative dispute resolution. The following examples illustrate the scope of Foundation legal programming:

—In China, where there are increased domestic and international pressures to reform the legal system and adopt international standards, the Foundation was one of the earliest supporters of legal reform efforts. Since 1998, the Foundation has supported efforts in China to limit the arbitrary power of officials, and create greater scope for citizen participation and redress through a series of administrative law reforms. With China's impending entry into the WTO, the Foundation's administrative law efforts in the future will also focus on China's compliance with WTO requirements related to legal transparency and consistency. Other programs support the provision of legal aid services and popular legal education to bring the benefits of legal reform directly to China's citizens.

—Building on more than a decade of work in East Timor, the Foundation is the only American organization supporting East Timorese efforts in the constitutional drafting process, as well as assisting human rights groups, the newly formed National Jurists Association, and local NGOs involved in voter education programs for the upcoming elections.

—With Foundation support, Sri Lankan organizations have been instrumental in providing legal aid services and legal rights training for local government officials and community leaders as well as legal literacy services for the public. This includes Foundation assistance to the Legal Aid Commission of Sri Lanka for the provision of legal aid through five regional offices, and services for victims of unlawful arrest and torture.

—In the Philippines, the Foundation has supported a number of legal and judicial reform efforts, including strengthening legal protection of women and children, improvements in evidentiary procedure and other criminal laws, support for alternative law groups to monitor and report on judicial performance, and the development of alternative dispute resolution mechanisms at the local level.

—In Indonesia, the Foundation has supported the National Law Commission to develop an action plan for the reform of the Indonesian legal system, as well as the newly established National Ombudsman Commission, and a number of "watchdog NGOs" to review and monitor the development and application of law, and the conduct of the judiciary and the police.

Legal reform programs throughout the region, with particular emphasis on Indonesia, China, the Philippines and Nepal, will be a significant focus for the Foundation in fiscal year 2002. For example, in Indonesia, the Foundation will re-invigorate its programs with law schools and will consider initiating programs with the Ministry of Justice and the Supreme Court. In Nepal, the Foundation has begun a planning exercise for legal and judicial reform with Nepali legal institutions, including the courts, and a program to integrate alternative dispute resolution in to local government functions.

Open Trade and Investment

The Asia Foundation supports programs that lead to open trade and investment, and related economic policy reform. In particular, these programs help address the political and governance factors that contributed to the regional economic crisis, and support transparency, accountability and the rule of law.

—In Indonesia, the Foundation supports policy and regulatory reforms that are making it easier for small and medium enterprises (SMEs) to get started and function, an area critical to growth and employment.

—In collaboration with business, government and nongovernmental organizations, the Foundation works to improve the policy environment for information and communication technology (ICT) in Asia. Some examples include: support for the implementation of the APEC e-commerce readiness program, including identifying policy reforms needed for ICT in Thailand; policy research on ICT and competitiveness that led to improved legislation for e-commerce and intellectual property protection in the Philippines, as well as telecommunications law reform.

—In Vietnam, in an effort to increase awareness and understanding of the U.S.-Vietnam bilateral trade agreement, the Foundation supported a series of workshops with the Vietnam Chamber of Commerce and Industry (VCCI) covering technical issues in customs and trade. The workshops also led to the production of handbooks produced by VCCI and the Foundation for domestic entrepreneurs. These handbooks lay out the schedule of commitments under various trade regimes and offers practical information for firms.

—The Foundation supported regional organizations such as the Asia-Pacific Economic Cooperation (APEC) forum and the Pacific Economic Cooperation Council (PECC), which are committed to open trade and investment in the Pacific region. The Foundation supported the APEC working group on technology which set the agenda for the ASEAN ministerial meeting on SME and information technology issues. The Foundation also supported the formation of the Mongolian National Committee for Pacific Economic Cooperation (MONCPEC) and its engagement with PECC and APEC to enable Mongolia to analyze domestic economic reform efforts in the context of regional economic needs.

In fiscal year 2002, the Foundation will increase its emphasis on the development of small and medium enterprise policy reform throughout the region, as well as focus on building constituencies for economic reform and open markets, particularly in the area of corporate governance to help reduce corrupt practices and restore investor confidence.

Peaceful and Stable Regional Relations

The Asia Foundation's programs in international relations reflect the unique capacity of the Foundation to promote increased understanding of different foreign policy perspectives through regional and international dialogue. Foundation programs advance and complement more formal diplomatic efforts to advance U.S. economic and security interests in the region, and help to strengthen Asian institutional and human resource capacity in the foreign policy field. For example:

—The Foundation provides regular support for the Council for Security Cooperation in the Asia Pacific (CSCAP) process as a useful vehicle for Track Two dialogue on regional security and the evolving regional security structures.

—In cooperation with the Asia Center at Harvard University, the Foundation supports a trilateral security conference series bringing together scholars and officials from China, Japan, and the United States for an on-going, high-level dialogue on security issues in the region.

—The Foundation is supporting a number of programs focusing on U.S.-China relations, including a bi-lateral conference series on the Taiwan issue, meetings for Chinese foreign policy and defense officials with American counterparts, and Master's degree programs at U.S. universities for mid-career Chinese diplomats.

In the coming year, the Foundation plan to re-initiate a series of bilateral dialogues between countries of key interest to the United States, including Thailand, Indonesia, and Vietnam. The Foundation will also support a new cross-straits security dialogue involving participants from the United States, China and Taiwan, and will facilitate additional cross-straits dialogue on such issues as local governance reform and the role and status of the non-profit sector.

CONCLUSION

As the preceding examples of our work emphasize, the Foundation is a field-based organization that supports projects in Asia and builds the capacity of Asian institutions, while at the same time maintaining close links with the U.S. foreign policy community. Working through 14 offices in the Asia-Pacific region, including China, Hong Kong and Taiwan, the Foundation provides vital support to local economic and political reform efforts. Through these offices and our resident representatives, we establish relationships with creative, reform-minded individuals and organizations who seek to advance the same goals and interests to which we are committed.

The Asia Foundation is first and foremost a grant making organization. The Foundation has consistently received national recognition for its efficient grant-to-operating expense ratio, reflecting its commitment to maximizing the impact of its programs in Asia, while keeping operating expenses low. We are not a research or-

ganization or an academic institution, nor are we Washington based. We work on the ground in Asia as an accepted, trusted partner and supporter of Asian reform efforts that also support and reinforce American political, economic and security interests.

Public funding is essential to our mission for many reasons. While the Foundation remains committed to expanding private funding, the flexibility and reliability that public funding lends to the Foundation's efforts is critical. As an organization committed to American interests in Asia, we can only be successful if potential private donors understand that the U.S. government continues to support our efforts in the region.

Furthermore, private funding is almost always tied to specific projects (as are USAID funds for which the Foundation competes) and do not replace public funding, either in scale or in flexibility. The Foundation does not solicit or accept private funds that might compromise either our credibility or our fundamental commitment to support of U.S. interests in Asia. Moreover, the flexibility afforded by U.S. government appropriated funds enables the Foundation to respond quickly to fast-breaking developments and program opportunities, as demonstrated by our 2000 funding for human rights in East Timor and law reform programs in Indonesia. It also enables the Foundation to work in countries such as China, Vietnam, Korea, and Pakistan that are of priority to the United States, but where USAID and other official U.S. assistance is minimal or non-existent. The Asia Foundation continues to be a model of public-private partnership and a resource which complements official foreign policy efforts.

It is important to note one important example of a new opportunity that has arisen in the Philippines where the new government of President Gloria Macapagal Arroyo has a daunting task of restoring confidence in the country's political institutions, curbing corruption, and revitalizing the Philippine economy. The Foundation is poised to support programs that build coalitions for reform within the nongovernmental, business, and governmental sectors, increase opportunities for public participation, and support local efforts to liberalize the economy. With additional funding, the Foundation would expand its legal and economic reform programs in the Philippines, and build on programs that reduce corruption, increase transparency and accountability in governance, and protect human rights, in line with American interests.

In closing, Mr. Chairman, I have cited just a few examples of the many Asia Foundation programs that we consider central to U.S. political, economic, and security interests in an area of the world that is of vital importance, and that will continue to experience change in the years ahead.

As you and your colleagues know, budget constraints have resulted in significant reductions in the Foundation's annual appropriation since fiscal year 1996 and even the requested $9.25 million is below the $15 million appropriation for the Foundation for a decade prior to 1996. We have worked hard to manage our budget, reduce staff and expenditures, increase our efficiency, and diversify our funding sources. We have maintained our regional presence through our offices in Asia and ensured that the maximum possible amount of appropriated funds are dedicated to on-the-ground programs. Nevertheless, this constrained level of funding has limited the Foundation's ability to respond to the challenges and opportunities emerging in Asia. At a time of rapid change and uncertainty in the region, additional funding would enable the Foundation to expand directly its positive contributions to American interests.

PREPARED STATEMENT OF THE ROBERT F. WAGNER GRADUATE SCHOOL OF PUBLIC SERVICE

"THE CHALLENGE OF DEMOCRATIC PUBLIC SERVICE IN THE NEW MILLENIUM"

The American experiment in democratic decision-making began long ago and in simpler times, but it has many lessons to offer nations and peoples around the world. After the Allies' victory in World War II, the United States faced an enormous challenge of rebuilding in Europe and Asia. Now, having defended its democratic system and won the Cold War, the United States faces a new challenge of encouraging the development of democratic political systems and market economies around the world. The struggle for democracy and economic freedom will require new weapons, but success in this battle may depend as much on American ingenuity and technological superiority as did our previous victories.

Through its direct aid programs, its Fulbright and other scholar exchange programs, the Edmund Muskie and Ron Brown Fellows programs, and through various

foreign visitor programs, our government is making a strategic investment in developing democratic, market-oriented leadership around the world. Indirectly, America's investment in higher education has also paid international dividends: American universities are the most popular destination of students who study abroad. (More international students enroll at NYU than any other American university.) During their stay and time of study in the United States, these international students are exposed to American institutions, American values, and American freedom.

MEETING THE CHALLENGE: NYU AND THE ROBERT F. WAGNER GRADUATE SCHOOL OF PUBLIC SERVICE

I represent the Robert F. Wagner Graduate School of Public Service at New York University. The Wagner School—named after a great Senator from the State of New York, and his son, the three-term mayor of New York—is the largest school of public service in the United States, including students from more than 40 countries. In the past decade, Wagner faculty and programs have provided professional education to officials throughout the Newly Independent States, Africa, Latin America, and Asia. We have current partnerships with universities in France, England, Spain, Belgium, Ukraine, Mexico, Chile, Argentina, Mozambique and South Korea. We have welcomed their students into our classrooms, sent ours to theirs, and our faculty have taught courses on their campuses. The Wagner School has been a leading participant in the U.S. funded fellowships and educational exchange, hosted Fulbright scholars, and is now carrying out two Department of State funded programs in Ukraine and Mozambique. Wagner faculty are also providing technical assistance to the World Bank and other international organizations in Cambodia, Indonesia, Columbia, Uganda, South Africa and Mozambique.

Wagner students receive very practical training. At the end of their master's degree program, they spend two semesters working in teams under faculty—supervision working for real world clients doing "capstone" projects in public policy, management, finance or urban planning. In the past three year more than 60 students have participated in international capstone projects for international organizations based in the United States such as Save the Children, UMCOR, Trickle Up, as well as a number of U.N. agencies. For example, this year five Wagner students are evaluating a humanitarian assistance project in Mozambique in cooperation with six students from our partner university in Mozambique. They coordinated their plans using email and interactive televideo conference meetings, and spent three weeks in January working in combined teams doing field work in Gaza, a province of Mozambique, which was an area most affected by last year's devastating floods.

International NGOs, many based in the United States, have become major players in responding to humanitarian crises around the world and in civil society capacity building. The service delivery parts of the United Nations system, such as UNICEF and the Department of Peacekeeping Operations, have been given new and more complex assignments. At the same time, funders are demanding greater evidence of successful performance and imposing more rigorous standards of accountability. These developments have greatly increased the need for managerial competence in international public service organizations.

In January 2000, The Wagner School inaugurated a new master's degree for managers of international public service organizations and is creating a new sub-field of public management education—international public service management. The first two classes of 36 students represent 24 countries. Our partner program at Korea University, the Graduate School of International Studies, has admitted five students to a dual masters degree program: first an MA in international affairs, then our MS in management next year.

NEEDS EXCEEDING CAPACITY

Even as the largest school of public service, the Wagner School can enroll only a small fraction of the international students who want to pursue the fields of study offered. For many students from less economically developed parts of the world, the combined cost of tuition and books and travel to and residency in New York, constitute an impossibly high barrier to access. This barrier looms especially large for women from less developed regions of the world.

Distance learning technologies have been used to expand the reach of our programs in our partnerships with universities around the world. Building on our experience using interactive televideo conferencing in courses with Europe, Latin America, and Asia, we are now introducing this technology in our work with Mozambique. By reducing the time and financial costs of faculty and student travel in educational partnerships, we believe modern technologies will enable the Wagner School to dramatically widen and deepen its reach to build capacity for democratic

public service in the nations of the world. We are increasingly working with our university partners in other nations using distance learning technologies to provide a meeting place for technical assistance and exchange between officials in specialized fields. For example, two weeks ago the Wagner School hosted a two hour meeting between solid waste management officials in Rio De Janeiro and officials and experts in New York and Paris using an interactive televideo conference. We believe that if we were properly equipped the Wagner School could multiply many times over the reach and effectiveness of its public service policy and management education efforts around the world.

The International Center for Democratic Public Service

To bring together all of the outstanding programs and resources we have to offer, Wagner is seeking to develop an International Center for Democratic Public Service. This Center will focus the vast resources found in the Wagner School, NYU and New York City on developing and supporting policy leadership and management solutions worldwide. In addition to offering a range of courses and degree programs, the International Center for Democratic Public Service will serve as a forum for American and international leaders to discuss major policy objectives, and at which public service professionals can gather to share ideas and best practices before a global audience. It will create a global network of students, scholars, and practitioners who want to better understand how to improve public service delivery throughout the world in the 21st Century.

As part of its strategic plan, the Robert F. Wagner Graduate School of Public Service intends to move its faculty and programs from their dispersed locations around Washington Square into one new integrated facility. A crucial component of this effort—and one needed to extend Wagner programs to a global economy—is the inclusion of the full range of distance learning technologies that would make the School's new home a state-of-the-art global professional education center. This is an area in which we will be seeking government support to help leverage funding from private foundations, corporations and individuals concerned with the delivery of public services worldwide.

Properly equipped classrooms and computer laboratories can facilitate a wide range of projects involving faculty, students and practitioners located in multiple sites simultaneously, and technologically advanced lecture halls can accommodate unlimited attendance spanning great distances. These are all well-developed technologies, but their initial cost is expensive. However, the cost-effectiveness of these means of professional education make them the best hope for providing democratic public service capacity building on the scale necessary to transform the societies aspiring to join the United States in the great democratic experiment.

RELATED AGENCIES

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS, INC.

The National Association of Government Guaranteed Lenders, Inc. ("NAGGL") is a trade association for lenders and other participants who make approximately 80 percent of the Small Business Administration ("SBA") section 7(a) guaranteed loans. The SBA's 7(a) guaranteed loan program has proven to be an excellent public/private partnership. Since the program's inception, the SBA has made or guaranteed more than 600,000 loans totaling approximately $80 billion. We thank the Committee for the opportunity to comment on appropriations for the SBA 7(a) program for fiscal year 2002.

NAGGL requests that an appropriation of $118 million be made for the SBA 7(a) program in fiscal year 2002. Although this represents a decrease in appropriations from the current year, it, nevertheless, would fund a growing program. The current year's appropriation would fund about $10.4 billion in 7(a) loans. Next year, we estimate demand of $11 billion. Yet, less appropriations would be needed in fiscal year 2002 as a result of the OMB-determined SBA 7(a) subsidy rate declining from the fiscal year 2001 rate of 1.17 to 1.07 for fiscal year 2002.

Since the beginning of "Credit Reform" in 1992, the SBA 7(a) subsidy rate has fallen from a high of 5.21 to the projected current services level for fiscal year 2002 of 1.07. This represents an 80 percent reduction in the estimated cost of the program to the government. This reduction in subsidy costs has been achieved by improved underwriting guidelines, establishment of lender review procedures, and fee increases on both borrowers and lenders.

There are many positive attributes of the SBA 7(a) loan program, including:

—SBA loan programs provide as much as 40 percent of all long-term loans (loans with maturities of three years or longer) to small businesses.

—SBA 7(a) loans have significantly longer maturities than conventional loans to small businesses. The average original maturity of SBA 7(a) loans, according to the Office of Management and Budget ("OMB"), is 14 years. By comparison, only 16 percent of conventional small business loans have maturities in excess of one year, and of those loans, the average maturity is less than four years

—Longer maturities mean substantially lower monthly payments for borrowers. For example, the difference in monthly payments from a 10 year SBA 7(a) loan to a five year conventional loan (which would be above the average maturity for conventional loans), would be 35–40 percent. This is a significant increase for the average SBA borrower who tends to be a new business startup or an early stage company.

—Small businesses do not have the same access to capital as do large businesses. The SBA programs bridge that capital gap. Banks can not be expected to make long-term loans, the kind most needed by small business, when banks are funded by a short-term deposit base.

—The SBA 7(a) appropriations are leveraged almost 99 to 1 by the private sector, making this one of the governments' best economic development instruments. With a more accurate subsidy rate estimate (as discussed below), the leverage ratio would be even higher.

—The SBA 7(a) loan program is just that—a loan program—which helps qualified small businesses obtain the long-term capital they need for growth and expansion. This means jobs, and a "net return on investment" for our local communities and the U.S. Treasury.

Unfortunately, the Administration's budget request for fiscal year 2002 for the SBA 7(a) loan program calls for further increases on both borrowers and lenders. The Administration proposes to reduce the subsidy rate from the fiscal year 2002 current services level of 1.07 to zero. In reviewing the past performance of the SBA 7(a) loan program, fee increases simply are not justified. In addition, a recent NAGGL survey of SBA 7(a) lenders indicated that the use of the 7(a) program would be greatly diminished if fees were increased.

For instance, for loans approved from fiscal year 1992–1998, Congress appropriated approximately $1.4 billion for subsidy budget authority. When looking at those loan cohorts, already approximately $1.25 billion has been returned to the Treasury through "subsidy re-estimates." This means OMB has substantially overestimated the cost of the 7(a) program. NAGGL believes that the SBA 7(a) program subsidy rate is far less than the subsidy rate currently estimated by OMB.

In testimony before the House Small Business Committee just last year, an SBA official testified that the estimated default rate for the SBA 7(a) loan program was "in the 8–10 percent range." Yet OMB requires the use of an approximate 14 percent default rate in the subsidy rate calculation. Each 1 percent reduction in the default estimate would reduce the subsidy rate by approximately 34 basis points, or .34. If the highest SBA default estimate of 10 percent (per the House testimony last year) were used, the current subsidy rate of 1.17 percent would be reduced by over 120 basis points. This would mean that the subsidy rate today is already below zero.

At the same House Small Business Committee hearing last year, the former SBA Administrator testified "the program is already being run at a profit to the government." There is clearly no justification whatsoever to increase program costs on SBA 7(a) program participants.

It is especially noteworthy that the leadership of both the Senate and House Small Business Committees have agreed with our assessments. In a letter to the Chairman and Ranking Member of the Senate Budget Committee dated March 16, 2001, Senate Small Business Committee Chairman Christopher Bond wrote:

"The small business community is dependent on the SBA 7(a) program to obtain long-term financing at a competitive interest rate. Each year, 40,000 or more small business concerns, who cannot obtain credit elsewhere, turn to the 7(a) program for critical financing. Currently, both the borrowers and lenders pay significant fees to the SBA to help offset the credit subsidy cost necessary to underwrite the program. The fiscal year 2002 budget request seeks to increase the fees paid by borrowers and lenders to offset the need for an annual appropriation. The net result of the Administration's budget would be to drive both the small business borrowers and the lenders from the program. I do not believe it is the intention of the Administration, nor is it the intent of Congress, to deny needed business loans to small business borrowers at the same time the economy is slowing and credit underwriting standards have tightened significantly. Therefore, I strongly recommend that $118

million be added to the Business Loan Account of the SBA fiscal year 2002 budget to support an $11 billion 7(a) loan program."

Likewise, the Ranking Democrat on the Senate Small Business Committee, Senator John Kerry introduced an amendment to the Senate budget resolution that would restore fiscal year 2002 funding for the SBA 7(a) program. Senator Bond and several other Senators, both Republican and Democrat, co-sponsored the legislation that passed the Senate under unanimous consent. A copy of the Senate Small Business Committee news release is attached.

In a letter to the House Budget Committee dated March 14, 2001, House Small Business Committee Chairman Donald Manzullo writes:

"Previous reports from the General Accounting Office (GAO) indicate the subsidy costs have been inflated. OMB re-estimates of the subsidy cost of the 7(a) program consistently show execution rates are inflated. This has the potential to lead to the overcharging of small business borrowers. As the U.S. economy enters a period of zero growth and perhaps even a recession, the Committee is also concerned about the effect of these proposed heightened fees on the availability of capital to small businesses.

The proposed increase in 7(a) fees, despite improvements in purchases and recoveries, continues to raise concerns in the Committee. Inaccurate subsidy costs will result in overpayment of fees and eliminate flexibility in program delivery. The Committee believes that the 7(a) program is already operating at or near a zero subsidy rate and the President's budget request should instead contain a one-time accurate accounting change to reflect that reality. Thus, there should not be a need to increase fees."

Importantly, the Administration's budget request recognizes that the proposed fee increase could have a detrimental impact on small businesses. Included in the budget narrative is the following:

" The Administration's fee proposal acknowledges that some small businesses may have trouble accessing capital—"

Yet in the analytical perspectives section of the budget (page 150), the Administration further states:

"Traditionally, small firms have faced difficulty obtaining long-term loans in the private market place because they tend to have limited credit history and cash flows. SBA's role as a 'gap' lender is to correct these market imperfections and provide credit access during economic downturns."

NAGGL requests your support for $118 million in fiscal year 2002 appropriations for the SBA 7(a) program. We urge you to make sure there remains a viable, usable SBA 7(a) loan program by rejecting any further fee increases, and supporting sufficient appropriations to support an $11 billion SBA 7(a) loan program for fiscal year 2002.

PREPARED STATEMENT OF THE UPPER MISSISSIPPI RIVER BASIN ASSOCIATION

The Upper Mississippi River Basin Association (UMRBA) is the organization created 20 years ago by the Governors of Illinois, Iowa, Minnesota, Missouri, and Wisconsin to serve as a forum for coordinating the five states' river-related programs and policies and for collaborating with federal agencies on regional issues. As such, the UMRBA has an interest in the budget of the Maritime Administration (MARAD).

Of particular concern to the UMRBA is funding for MARAD Operations. The President's fiscal year 2002 budget proposal includes $34 million for this account, an increase of 6 percent from fiscal year 2001. Among other things, the MARAD Operations budget supports research and development efforts, which help advance ship design, construction, and operations. For example, MARAD funding has been used to support the design of prototype mooring buoys used on the Upper Mississippi River. Such buoys allow tows to tie up safely while awaiting lockage, thus avoiding environmental damage that might be caused by mooring to the shoreline. Funding for research and development efforts such as these is critical to the safety and efficiency of commercial navigation on this nation's inland waterway system.

In addition, the MARAD Operations account supports the Inland Waterways Intermodal Cooperative Program. This new program is designed to increase the efficiency and productivity of ports and freight transportation companies that use inland waterways. Shippers, terminal operators, barge lines, railroads, and fleeters

will work together to identify and implement innovative cargo handling methods and technology.

Finally, the MARAD Operations account supports MARAD's efforts to assist the maritime industry in complying with requirements to manage ballast water. Discharge of water from ships' ballast tanks can introduce non-indigenous aquatic species into U.S. waters. These species, such as zebra mussels and round gobies, can spread rapidly from the Great Lakes to inland waterways like the Mississippi River, threatening native species, the integrity of the ecosystem, and many water-dependent sectors of the economy. MARAD is working with other federal agencies and the maritime industry to develop a ballast water treatment technology test and demonstration program.

The UMRBA supports adequate funding for the Maritime Administration's Operations account.

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