

**DEPARTMENTS OF COMMERCE, JUSTICE, AND
STATE, THE JUDICIARY, AND RELATED
AGENCIES APPROPRIATIONS FOR FISCAL
YEAR 1993**

THURSDAY, MARCH 19, 1992

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

The subcommittee met at 10:15 a.m., in room S-146, the Capitol,
Hon. Ernest F. Hollings (chairman) presiding.

Present: Senators Hollings, Lautenberg, Adams, Rudman, and
Gramm.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF WILLIAM P. BARR, ATTORNEY GENERAL

ACCOMPANIED BY:

**GENE McNARY, COMMISSIONER, IMMIGRATION AND NATURALIZA-
TION SERVICE**

**J. MICHAEL QUINLAN, DIRECTOR, FEDERAL PRISON SYSTEM, BU-
REAU OF PRISONS**

HENRY E. HUDSON, ACTING DIRECTOR, U.S. MARSHALS SERVICE

**JIMMY GURULE, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUS-
TICE PROGRAMS**

**HARRY H. FLICKINGER, ASSISTANT ATTORNEY GENERAL FOR AD-
MINISTRATION**

**MICHAEL J. ROPER, DEPUTY ASSISTANT ATTORNEY GENERAL
CONTROLLER**

ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator HOLLINGS. The subcommittee will come to order, please.

This morning, the subcommittee will continue its fiscal 1993
hearings for the Department of Justice. The Department is request-
ing a total of \$10,018,488,000 in appropriated funds representing
an increase of \$695 million, or 7 percent, more than the amount
appropriated last year.

There are some amounts to be explained here with regard to the
Department's reference to a \$1 billion increase which includes var-
ious fee receipts, an additional \$250 million for expansion of a pro-
gram that is yet to be authorized, and moneys assumed transferred

into our bill from the Treasury-Postal Service appropriations bill. We will have to get those things straightened away.

Let me welcome Attorney General William P. Barr and his agency heads, Mike Quinlan, Federal Prison System; Gene McNary of the Immigration and Naturalization Service; Henry Hudson of the U.S. Marshal Service; and Jimmy Gurule, Office of Justice Programs.

I yield to you.

Senator RUDMAN. Thank you, Mr. Chairman. I welcome the Attorney General and look forward to his testimony.

PREPARED STATEMENT

Senator HOLLINGS. Very good. Mr. Attorney General, we have your complete statement. It will be included in the record, and you can highlight it as you wish or deliver it in its entirety, whichever way you choose.

Mr. BARR. Thank you, Mr. Chairman. I ask that it be put into the record as if read, and I would just like to give some overview remarks.

[The statement follows:]

STATEMENT OF WILLIAM P. BARR

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to present to you the President's 1993 budget request for the Department of Justice. I consider it a privilege to have had the opportunity to work with the members and staff at this Subcommittee during my tenure at the Department. In particular, over these past few months I have greatly appreciated the courtesy and support you have extended to me. I look forward to continuing this strong and positive relationship.

The mission of law enforcement is to protect the freedom and liberties of all Americans. Indeed, the first freedom of all who live in this country is the freedom from fear of crime. Adequately protecting this freedom and defending the blessings of liberty is an unending task, requiring both moral and financial commitment.

Like the members of this Subcommittee, we at the Justice Department are firmly committed to vigorous enforcement of the law. As I have mentioned frequently in my short tenure as Attorney General, and as you are certainly aware, enforcement of the law is a costly endeavor. Nevertheless, I believe that it is a cost we as a society must willingly bear. The President's proposed budget will give us the financial resources we need to make good on our commitment to the cause of justice.

Of course, in a time of scarce resources, all of us must be certain that our expenditures are effective and judicious. I believe the resources the President is requesting are absolutely necessary for the Justice Department to perform its mission of law enforcement for this nation. I hope you will agree with me that our budgetary plans for the coming fiscal year merit full funding. With the 1993 budget, the Department intends to build on the progress we have made in federal law enforcement over the past three years. The total request for fiscal year 1993 is \$11.3 billion. This is about 10 percent greater than the comparable amount for 1992. Out of the total, the request for discretionary funds is \$9.7 billion, an increase of 9.3 percent over 1992.

Before I go into the specifics of the proposal, I would like to discuss some of my priorities for the Department and how the Department has been using its resources in this current fiscal year.

I recognize, as you do, that my responsibility is to administer the law across the board, ensuring that all programs and activities in law enforcement are given their due attention and resources. As you consider the entire funding request for the Department, I trust you will see the Administration's commitment to the full breadth of the Department's responsibilities. Nevertheless, there are several areas which I believe warrant special emphasis, and I have attempted in my first months as Attorney General to bring greater attention to these challenges for law enforcement.

First, as you undoubtedly know by now, the fight against violent crime and drug trafficking is one of my top priorities. While the problem of violent crime is primarily the responsibility of state and local law enforcement, strong federal leadership can have a significant impact. In this regard, we have been increasingly tar-

getting our resources over the past year on gangs, felons who use firearms, and drug trafficking organizations.

With regard to gangs, federal law enforcement has become extremely effective in combating violent street gangs by using tough federal laws to assist local law enforcement in dismantling these criminal organizations. As you know, in the past several weeks, I have attempted to enhance this assistance by shifting 300 FBI agents from the foreign counterintelligence program to violent gang task forces in dozens of cities across the country. This was one of the largest reallocations of resources in FBI history.

Along with this shift, the Administration agreed that the Bureau of Alcohol, Tobacco, and Firearms should join the FBI in joint task forces which would expand the Washington, D.C. effort and launch new programs in Baltimore, Dallas and Atlanta. We are augmenting this effort by supporting a new national gang analysis center. Furthermore, I have added 150 INS criminal investigators who will focus on violent criminal alien gang members and I have reassigned 25 DEA agents from headquarters to drug-related violent crime task forces. I would be remiss if I did not add that I greatly appreciate the Subcommittee's support of these changes.

In connection with our crack down on felons who use firearms, we are now targeting habitual offenders who use or carry guns, seizing their weapons, and putting these repeat criminals in prison under stiff federal mandatory sentences. Under our "Operation Triggerlock," we will have charged nearly 6,000 violent criminals by the time of our one year anniversary in April.

Finally, with regard to drugs, in addition to our ongoing attack on trafficking organizations throughout the nation and around the world, the Department has been focusing resources on violent street gangs engaged in drug distribution. Over the past year, entire gangs, along with the murder and destruction caused by their drug trafficking enterprise, have been completely removed in cities such as Philadelphia, Chicago and Washington, D.C.

In addition to these efforts, the Administration's "Operation Weed and Seed" is an essential element in our attack against street crime and the social and economic devastation it brings. Working with community leaders, we are targeting high-crime neighborhoods and housing developments to "weed out" violent criminals, illegal gang activity, drug trafficking and related violence. Then, these formerly crime-saturated neighborhoods will be "seeded" through comprehensive social and economic revitalization. We hope to expand substantially this initiative next year, and this proposal is outlined more fully in my statement.

Another priority of mine and the Department's is civil rights. The Department is firmly committed to working diligently to ensure that every American's civil rights are protected, whether it be in the home, workplace, marketplace or classroom. While I was serving as Acting Attorney General, I announced plans to aggressively attack housing discrimination this fiscal year by employing the Department's own discrimination "testers." I also directed the Civil Rights Division to study the problem of mortgage discrimination for possible enforcement action.

Finally, we have been making great headway in the fight against white-collar crime and financial institution fraud. In February, I announced my intention to reassign this year another 50 FBI agents from counterintelligence to investigations of health care fraud. Furthermore, since 1988, the Department has prosecuted more than 2,700 defendants in major financial institution fraud cases. More than 1,000 of these defendants have been prosecuted in connection with major S&L cases, and more than three-fourths of those convicted have gone to jail. Our success in the past year is in large part the result of the enhanced resources we received in 1990. The task now is to build on our successes, to keep up our momentum.

All of us here—members of this Subcommittee, Justice Department officials alike—understand the need for strong law enforcement. The President's budget proposal contains some significant increases over last year's budget. This reflects an understanding of the challenges before us, and it shows the resolve necessary to meet them. This budget is right in line with the priorities of the Department. I would now like to discuss in some detail the proposed budget.

VIOLENT CRIME

Although reducing violent crime is our top budget priority, it does not have high visibility in our formal 1993 budget request. In the budget, most of the violent crime effort of the Federal Bureau of Investigation is in a program that is simply titled "Other Field Programs." This program includes investigation of crimes on Federal property and Indian reservations, interstate thefts, bank robbery, airline piracy, a growing list of statutory offenses against violent acts, and the tracking of fugitives. In the U.S. Attorneys, violent crime falls under the title "Criminal litigation." In ad-

dition, the Marshals Service deals with fugitives and the Criminal Division provides litigation guidance.

Starting with the resources we have in 1992, our violent crime initiative moves in two principal directions. One is a direct assault on violent street criminals where agents of the FBI and DEA and personnel from INS and the Marshals Service join with State and local law enforcement agencies. The other effort is the more comprehensive "Operation Weed and Seed" program. By 1993, we hope to apply nearly \$486 million to our violent crime initiative, more than a 23 percent increase over the original 1992 enacted level for violent crime programs.

DIRECT ASSAULT ON VIOLENT CRIME

In 1993, the violent crime activities of the FBI will be further strengthened by reallocating another 85 agents from the counterintelligence program to further increase the number of Violent Crime Task Forces and broaden their focus on gangs.

As the law enforcement agencies develop their Violent Crime Task Force cases, the U.S. Attorneys will need to expand their capacity for handling additional cases. In addition, the U.S. Attorneys will take a lead role with State and local law enforcement officials in targeting repeat violent offenders, drug traffickers, and gang members who must be removed from circulation so that neighborhoods can be rejuvenated. Beyond the reprogramming within the FBI, increases totaling \$26 million and 360 positions (161 attorneys) are requested for violent crime.

OPERATION WEED AND SEED

On January 27, the President formally endorsed the "Weed and Seed" program which provides intensive crime and drug fighting assistance, social services, and job opportunities to targeted inner city neighborhoods. The goal is to "weed out" crime from targeted neighborhoods by increasing police visibility, developing police relationships with the citizenry, addressing social and economic problems in communities where narcotic trafficking is prevalent, and then "seed" them by developing an active community policing program coordinating the delivery of social services, including prevention, intervention and treatment programs, addressing social and economic problems in communities where narcotic trafficking is prevalent, and building a framework under which public and private agencies can enhance public safety and the overall quality of life. In 1993, the program includes a \$30 million commitment by the Department of Justice. The Government's total 1993 commitment may reach \$500 million, provided that Congress adopts the appropriations language proposed for the budgets of the various departments affected by the program and permits the establishment of Urban Enterprise Zones.

The concept of "Weed and Seed" originated in Philadelphia. In 1991, the Office of Justice Programs made pilot grants to Trenton, New Jersey; Kansas City, Missouri and Omaha, Nebraska; and in 1992, grants will be made to at least eight to ten cities. With the request for 1993, over 30 neighborhoods may be selected for participation.

DRUG ABUSE AND CONTROL

Unlike our violent crime initiative, drug abuse and control have long been recognized as a Federal responsibility. In January 1992, the President transmitted the Fourth National Drug Control Strategy to Congress. The principal goal remains unchanged: to reduce the level of illegal drug use in America. The President noted that in fighting the drug war, we are winning the war against casual drug use, but progress is slower in the war against hard core drug use.

Debate will continue over the proper balance between "supply" and "demand" efforts to combat drugs. Clearly, the ultimate victory must be won on the battlefield of values. This means that drug abuse must be rejected in the family, classroom, houses of worship, and throughout our social structure. But as the National Drug Control Strategy report says, "Treatment and education stand little chance of succeeding if they must compete in a neighborhood where drug dealers flourish on every corner."

The National Drug Control Strategy for 1993 enumerates the agencies requesting \$12.7 billion for the anti-drug abuse effort, a total 6 percent greater than the \$12 billion available in 1992. For the Department of Justice only, the 1993 total is \$4.7 billion. This is \$411 million more than the amount provided in 1992 and represents more than 41 percent of all the financial resources included in our 1993 budget.

The \$4.7 billion Department of Justice segment includes the entire appropriations for the Drug Enforcement Administration and Organized Crime Drug Enforcement, as well as all obligations of the Assets Forfeiture Fund. Because of the magnitude

of the Drug Abuse grant program in the Office of Justice Programs, the preponderance of its activities are classified as part of the drug war. Beginning in 1983, the Federal Bureau of Investigation formally joined the list of investigative agencies budgeting directly for the drug war. Perhaps the most indicative measure of the success of the drug war is the inclusion of more than \$1.6 billion for the housing and care of prisoners convicted of drug-related offenses. Smaller but significant funding amounts are contributed by the U.S. Attorneys, the Marshals Service, and the Immigration and Naturalization Service. Rounding out the heavy commitment by the Department are direct activities of the Criminal and Tax Divisions, as well as INTERPOL.

Although the Justice Department is primarily associated with the mission of reducing the supply of drugs, it is strongly committed to drug abuse prevention and education. The DEA and the FBI have allocated increasing resources to this effort. The Federal Prison System is actively involved in prisoner education and treatment programs, and the Office of Justice Programs is authorized to provide grants for almost any activity that may successfully fight drug abuse.

Recognizing that the preponderance of our resources are directed at reducing the drug supply, there are three possible approaches. One is to destroy drugs at their source. A second is to sharpen the attack on drug trafficking organizations. Finally, the drug supply can be reduced by attacking drug transactions at the street dealer level. As circumstances change, the response of law enforcement also must change.

WHITE COLLAR CRIME

Three years ago, when former Attorney General Thornburgh was before this Committee, he noted that the battlefield of values was not limited to drugs but extended to the nation's corporate board rooms. We were already involved in addressing financial institution and defense contractor fraud, HUD-related cases, and a variety of other crimes in the suites. The magnitude of fraud in the savings and loan industry and its precarious condition soon became evident. Within months, the Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Since then, we have relentlessly pursued fraud cases and secured long sentences and orders for high fines and restitution not only from savings and loan industry defendants but also from others who have violated their fiduciary responsibilities.

In 1993, our White Collar Crime request totals \$640 million, of which \$278 million is requested to respond to financial institutions fraud. To respond to the broadening array of white collar criminal activity, we are requesting 388 positions and \$23.3 million in program increases.

More than half of the entire program and the majority of the program increases are slated for investigations conducted by the Federal Bureau of Investigation. As expected, the second largest component, in terms of ongoing and increased resources, is the U.S. Attorneys. Five of our legal divisions comprise the remainder of the program.

A number of new or expanded white-collar crime initiatives need to be undertaken. We must investigate and vigorously prosecute instances of fraud involving health care, insurance and pension plans to guard against another debacle on a scale similar to the savings and loan crisis. The ballooning number of bankruptcies also appear to be laced with fraud.

Within the Federal Bureau of Investigation, the focus will be on augmenting health care and financial institution fraud cases, sharply increasing the resources applied to computer crimes, investigating the siphoning off of funds both before and after bankruptcies are filed, and responding to complaints about fraud associated with telemarketing, insurance, and commodities and securities.

The Tax Division requires additional staff to stem a massive evasion of the motor vehicle fuel excise tax and to collect taxes owed but concealed during bankruptcy proceedings. Within the Criminal Division and the U.S. Attorneys, prosecutions will focus increasingly on pension plan fraud, health care fraud, and computer crimes.

The Civil, Antitrust, and Environment and Natural Resources Divisions will continue to devote considerable resources to ferreting out those who violate criminal laws in their business activities.

IMMIGRATION

Although the President's budget contains several immigration initiatives, the priority for controlling illegal immigration was enhanced greatly by the Department's February 19, 1992 reprogramming notification which proposed to accelerate the application of user fee resources to strengthen inspection and examination activities. This reprogramming also had the beneficial effect of providing resources in 1992 to hire 300 Border Patrol agents and 200 investigators to interdict, identify, and deport

criminal aliens, and over 700 INS employees to serve those who are lawful immigrants and travelers.

OTHER PRIORITIES

Earlier, I mentioned a number of priorities that the Congress must address, but detailed discussion of them can be deferred because they can be fully covered as we later address specific organization requirements.

MATTERS OF SPECIAL INTEREST

The Civil Liberties Act of 1988 established a Fund out of which Japanese-Americans interned during World War II would receive a payment of \$20,000 if still living at the time the Act was signed. An authorization was established for \$1.25 billion to compensate 62,500 people over a three year period. This Fund will become exhausted in 1993. However, because the number of eligible interned Japanese Americans has been higher than expected, legislation is proposed to provide benefits to those who remain unpaid. In addition, equity requires payment to non-Japanese spouses and parents who were also interned, a provision of the Administration's legislative proposal. To pay these additional costs, the authorization for this permanent-indefinite appropriation will need to be increased by \$250 million.

The Radiation Exposure Compensation Act established a Trust Fund to pay claims of individuals exposed to radiation stemming from atmospheric nuclear tests and uranium mining. The first funding for this purpose was a \$30 million appropriation to the Department of Defense in 1992. In 1993, the Administration is requesting almost \$171 million in the Department of Justice. Because fixed compensation amounts are not provided by law, this program falls within discretionary spending ceilings, but instead of being classified under the domestic discretionary category, the costs are classified as defense discretionary. This is because they stemmed from the activities of the Department of Defense and the Department of Energy and its predecessor agencies. In addition, a small component of the Civil Division charged with administering compensation claims is proposed for similar funding.

Unusual interest has already been shown in another matter which shows up as a general provision of the Department's budget. Section 111, if enacted, would permit the Department to charge prisoners the costs of their first year of incarceration following sentencing. The fee for most prisoners would be waived because of their indigence or other mitigating circumstances, but it seems very reasonable that society should not shoulder the full cost of incarcerating criminals who have the ability to pay.

The appropriation request includes a modification of the U.S. Code that would require U.S. courts to award filing and docketing fees to the United States when the United States is a prevailing party in a lawsuit. The United States would continue to be exempt from paying fees when it files documents. For example, if the United States won a case as the plaintiff, the loser, be it an individual or a corporation, would be required to pay these fees, notwithstanding that the Government had not paid any filing fees.

INDIVIDUAL COMPONENTS

Understanding how certain priorities of the Administration sweep across almost all of the Department's components is necessary to comprehend how we deal with nationwide problems and to understand how critical it is that each has its proper share of resources. The war on drugs is our best example. In other cases, developing programs can be adequately described within organizations that are directed at specific missions. The remainder of my remarks are directed mainly at Department components falling under such broad classifications as law enforcement, litigation, corrections, State and local assistance, and infrastructure.

LAW ENFORCEMENT

The largest law enforcement component in the Department of Justice is the FBI. Its direct appropriation request exceeds \$2 billion. The FBI's enhanced role in fighting violent crime has already been discussed along with its continuing and growing responsibilities in the war on drugs and white collar crime. The changing world situation not only allows us to shift major resources out of foreign counterintelligence but also allows us to shift certain counterintelligence costs to the defense discretionary category under the operative budget agreement.

The changes mentioned above focus on the work of the Bureau's 56 field offices and approximately 400 resident agencies. In addition to the reprogrammings for 1992, which will be augmented in 1993, the budget includes a number of program increases to strengthen FBI field activities. For the Drugs Program, the request for 35 positions and \$2.2 million focuses on establishing additional Regional Drug Intelligence Squads. Under the White Collar Crime Program, an additional 225 positions and \$14.2 million would be applied to financial institution fraud, fraudulent bankruptcy filings, computer and wire fraud, and criminal activities in the telemarketing, insurance, securities, and commodities industries. In addition, the magnitude of health care fraud requires resources beyond those we will obtain through reprogrammings. For the Organized Crime Program, an additional 53 positions and \$2.4 million are needed to counter the influx of Asian organized crime groups. The final direct request for field funding relates to increasing the size of the Hostage Rescue Team (HRT). This segment of the request includes 24 agent positions and \$2.9 million. This would provide a third HRT unit which would better position us to handle several individual hostage rescue events simultaneously.

Backing up the FBI's field activities are a number of vital support programs. Within the "Salaries and Expenses" appropriation, the Technical Field Support and Equipment program has net increases totaling \$11.4 million and, within the \$80 million requested for the defense discretionary "Special Program" appropriation there is an increase of \$8.9 million for advanced digital telephony.

The greatest single dollar item requested for the FBI continues to be the Fingerprint Identification program. In a 1990 supplemental appropriation, \$185 million was provided to prepare for moving the Identification Division to Clarksburg, West Virginia. In 1992, \$48 million was provided to initiate development and acquisition of an Integrated Automated Fingerprint Identification System that will be located there. In addition, Congress approved our 1992 request to provide 487 positions and \$12.5 million so that we could begin to rapidly update records to aid in the identification of felons who attempt to purchase firearms. The 1993 request includes an additional \$103.4 million to acquire computer hardware related to the image transmission network, convert 32 million manual fingerprint images to digitized images, and develop a prototype system to identify felons who attempt firearm purchases.

DRUG ENFORCEMENT ADMINISTRATION

As the lead Federal drug enforcement agency, the Drug Enforcement Administration has the mission of controlling abuse of dangerous drugs and restricting their supply.

Our direct appropriation request of \$771.5 million is \$54.8 million over the 1992 appropriation. The budget will support 115 positions and \$15.5 million to cover program changes. The largest increase is the \$8.4 million slated to convert four provisional State and Local Task Forces to permanently funded task forces and to purchase vehicles, radios and other equipment to support existing task forces. The next largest increase is the \$5.9 million request to support Operations SNOWCAP and CADENCE, our drug suppression efforts in South America. In addition, program increases are requested to further improve the capabilities of the El Paso Intelligence Center and to provide additional agents trained as pilots to support both foreign and domestic operations.

ORGANIZED CRIME DRUG ENFORCEMENT

The \$399 million Organized Crime Drug Enforcement appropriation request for 1993 is \$35.8 million more than the direct appropriation for 1992. The budget request provides nearly \$20.6 million in program enhancements. Increases would be provided to nearly all the 12 participating organizations based on the mix of resources needed to pursue cases that warrant inclusion in the Task Force effort. The latest agency to join the ranks of participants is the Treasury Department's Financial Crimes Enforcement Network.

Because the Task Forces work in combination with State and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering operations, they are the frontline of many of our most important domestic anti-drug activities.

IMMIGRATION AND NATURALIZATION SERVICE

As discretionary spending has become limited, increasing attention has been given to identifying activities that might be continued and expanded if financing sources other than direct appropriations could be found. Within the Department, a number

of programs are being financed through the collection of fees, especially within the Immigration and Naturalization Service.

The 1993 budget request for the INS Salaries and Expenses appropriation is slightly over \$1 billion, an increase of \$96.4 million over the amount provided in 1992. In addition, INS's four fee accounts are expected to support spending of nearly \$463 million. Spending from the Immigration Examinations Fee account is expected to reach \$238.6 million for activities related to adjudication of applicants, naturalization, and the administration of asylum and refugee programs. Spending from the Immigration User Fee account will be \$216 million which will provide primarily for inspection of commercial aircraft and vessels. The Land Border Inspection Fee account provides accelerated inspection for frequent border crossers on a pilot basis, and the 1993 budget request reflects a phasedown the Immigration Legalization program.

Within the appropriation request are several programmatic increases of significance. An additional 200 Border Patrol agents designated to enhance a number of southern border sectors are budgeted at \$8.6 million in 1993. To address the growing criminal alien problem an increase of 94 positions, including 73 agents, and \$3.7 million will enhance INS's ability to identify and initiate deportation proceedings against criminal aliens living in the United States, and provide resources for a National Enforcement Operations Center to coordinate efforts with State and local law enforcement agencies to locate and apprehend criminal aliens. The largest budget increment, 249 positions and \$21.8 million, is requested for the Detention and Deportation program to staff a new joint INS-Bureau of Prisons contract facility in the Southwest, and allow safe operation at all INS Service Processing Centers. Other increases are requested to build support facilities necessary to accommodate the criminal alien population at the Krome Service Processing Center, to accelerate legal proceedings, and to enforce civil document fraud legislation. In addition to the increases included in the 1993 budget, full-year support for my recently announced enforcement initiative that provides an additional 300 Border Patrol agents and 200 investigators will be provided in 1993 through the permanent reprogramming of funds. This proposal was transmitted to you earlier this month.

U.S. MARSHALS SERVICE

The Marshals Service, in many ways, is the organization that links law enforcement with prosecution as well as providing specific services to the Judiciary. Therefore, as long as more persons are charged with crime, the Marshals Service responsibility for moving them through the justice system grows.

In 1993, the budget request totals \$341.5 million, or \$27.6 million over the 1992 appropriation enacted. After adjustments to base are covered, the net program increases total 113 positions and \$7.7 million.

As the judicial workload grows and judgeship vacancies are filled, there are increased requirements for court security, prisoner security and the transportation of prisoners. Outside these normal workload increases are significant increases for converting the Marshals Service to the Department's Financial Management System, improving its ADP and telecommunications system, implementing the Chief Financial Officers Act, and other administrative systems improvements.

Two significant offsets are made to the requested increases. One is the closure of the Special Operations Group Training Center at Camp Beauregard, Louisiana which has been underutilized and too costly and the other is to defer a portion of the funding available for the construction of holding cells.

SUPPORT OF U.S. PRISONERS

The Marshals Service has responsibility for administering a separate appropriation titled Support of U.S. Prisoners. For a number of years, there has been an unrelenting increase in the number of unsentenced prisoners who must appear before the courts, and daily housing costs of keeping prisoners in local jails have steadily risen. In 1993, we expect to house an average of 12,987 prisoners daily in 920 State and local jails at an average cost of \$49.09 per day. The cost is expected to be about \$261 million. In addition, \$7.4 million will be applied to the popular Cooperative Agreement Program to provide 250 guaranteed bed spaces on a long-term basis.

ASSETS FORFEITURE FUND

Like the Marshals Service, the Assets Forfeiture Fund is linked to both law enforcement and litigative efforts. The Fund was designed to take the resources of drug dealers and apply them back into law enforcement activities after the expenses of handling forfeitures were subtracted, and a determination was made that sei-

zures were legally transferred to the Government. In the 1993 budget, the discretionary budget authority associated with the Fund continues at the \$100 million level.

LEGAL ACTIVITIES

The litigation and other legal work of the Department is conducted by a dedicated staff supported from three appropriations—U.S. Attorneys, General Legal Activities, and the Antitrust Division. Witnesses who appear at trials on behalf of the Government are paid from the Fees and Expenses of Witnesses appropriation. In criminal cases, the vast resources applied to investigations are useless unless the Government is able to prosecute criminal offenses effectively in court.

The U.S. Trustees, who oversee bankruptcy filings, are also included within this section.

UNITED STATES ATTORNEYS

At the core of the Federal legal system are the United States Attorneys. In the 94 judicial districts, the U.S. Attorneys prosecute most criminal cases, represent the Government in civil actions, and initiate the collection of fines, penalties, and forfeitures. As the priorities of the Nation change, U.S. Attorneys are asked to take up new and stimulating challenges.

The Department's four priority initiatives of violent crime, drugs, white collar crime, and civil rights all require considerable resources from the U.S. Attorneys. These initiatives explain the thrusts of the \$813.5 million appropriation request, an increase of \$92.8 million over the amount appropriated in 1992, as well as the increases slated to be allocated to the U.S. Attorneys from the Organized Crime Drug Enforcement appropriation.

Mandatory increases and a transfer of 30 positions and \$3.3 million from the Civil Division to handle financial fraud investigations account for more than half of the increases.

Program enhancements over the base funding level net to \$39 million. The preponderance of the new funds, \$34.4 million, are for criminal litigation in two areas—violent crime and white collar crime.

Violent crime efforts will require \$25.8 million and 360 positions. Of this amount, the "Weed and Seed" initiative will require \$14.3 million, thus bringing 1993 resources for "Weed and Seed" to \$20 million. The remainder will be about equally divided between enabling the District of Columbia Superior Court to respond to the continuing wave of homicides and other violent crimes committed in the District of Columbia and a nationwide effort to use Federal laws to reduce firearm violence.

White collar crime will require an additional \$6.6 million, which will be applied to health care fraud, bankruptcy fraud, computer fraud, pension plan fraud, and telemarketing fraud.

Rounding out the criminal litigation initiatives is a request for \$2 million to use U.S. Attorneys more widely to enforce civil rights laws.

On the civil side, increases totaling more than \$5 million will be used for debt collection and to assist other Federal agencies recover claims in bankruptcy proceedings. The U.S. Attorneys will continue work in prosecuting drug offenses both from their direct appropriation and from the allocation they get from the Organized Crime Drug Enforcement appropriation. In 1993, all additional funds for drug prosecution will come from the Organized Crime Drug Enforcement Task Forces.

GENERAL LEGAL ACTIVITIES

The General Legal Activities appropriation funds 10 Washington based activities. Most of the resources vested in this appropriation are concentrated in the five legal divisions supported by this appropriations, but there are also sizeable requirements for the Legal Activities Office Automation activity and smaller amounts for the Solicitor General; the Office of Legal Counsel; the U.S. National Center Bureau, INTERPOL; and the Special Counsel for Immigration Related Unfair Employment Practices.

In 1993, the budget request for the General Legal Activities appropriation is \$419.5 million, or \$35.3 million over the amount enacted in 1992. The program increases are concentrated in five high priority areas previously addressed.

The largest increase for the Washington-based legal divisions is for the Civil Rights Division. These include program increases totaling \$3.7 million, all of which fall within the Administration's priorities to enforce the civil rights laws. In 1993, the Department's request includes approximately \$2.7 million that is needed to provide information to entities required to comply with the Americans with Disabilities

Act and to enforce compliance actions where it is clear that voluntary compliance will not be obtained. Additional resources are also needed to investigate police brutality and hate crimes and uncover housing discrimination by continuing a Housing Testers Program.

The Tax Division initiatives totaling over \$2 million have a link to white collar crime. More than half of the total relates to criminal prosecution and most of the remainder to civil litigation, where the emphasis will be to collect taxes from bankrupt corporations financed through high yield bonds. Within the white collar crime priority, we will focus on complex schemes devised to defraud the Government of excise taxes on motor fuels, increased fraud associated with electronic filing of income taxes, fraud associated with bankruptcy filings, and a general effort to follow through on the Internal Revenue Service's effort to reduce the tax gap.

The Criminal Division's program increase for \$1 million is mainly related to our white collar crime initiative, which specifically includes \$350,000 to combat pension plan fraud and another \$300,000 for health care fraud. Most of the remainder will be applied to the recently established computer crime unit.

The Environment and Natural Resources Division is central to the implementation of the President's environmental priorities. Increases total \$3.2 million, of which \$1.8 million will be used to develop standard protocols to help bring Federal facilities into compliance with environmental laws. The Government will also be required to defend cases protesting Clean Air Act regulations and enforce the final provisions of the Resource Conservation and Recovery Act. The remainder of the increase is the \$1.4 million requested for automated litigation support.

Aside from the various legal division requirements, the budget includes a \$43.4 million request for Legal Activities Office Automation, a \$12.7 million increase over the amount provided in 1992. This request, which is one of our infrastructure priorities, is a key factor in the Department's productivity and efficiency. Several legal divisions that entered the office automation era fairly early are now at the point where their systems are outmoded, and the basic equipment is obsolete. The request will allow us to begin to upgrade some of the earlier systems and allow the Department to comply with the mandatory requirements of the Government Open Systems Protocol.

ANTITRUST DIVISION

The appropriation request for the Antitrust Division for 1993 is \$54.1 million. Together with a fixed \$10 million estimate for premerger notification filing fees under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, the total amount available to the Division in 1993 will be \$64.1 million, an increase of almost \$5.9 million over the total amount available in 1992.

The Antitrust Division was the earliest legal division in the Department to install office automation equipment and automated litigation support. Consequently, the Division has a strong need to obtain automated systems that meet current security requirements, support management requirements, and meet special litigation requirements. In terms of new program initiatives, the Division is following up on its legislative proposal regarding joint production ventures and proposing to expand its role as an advocate for competition. The 1993 initiatives will require an additional \$2.6 million.

If legislation to transfer certain railroad related functions from the Interstate Commerce Commission is enacted, the Committee will need to consider a related budget request for \$850,000.

FEEES AND EXPENSES OF WITNESSES

The Fees and Expenses of Witnesses appropriation request for 1993 of \$81 million is \$11.8 million below the \$92.8 million enacted in 1992. The no-year mandatory portion of the account can absorb this reduction without difficulty because unexpected unobligated balances from 1992 will remain available to help support the 1993 expected program level.

This appropriation supports litigation efforts by paying witnesses who appear on behalf of the Government, either as fact or expert witnesses, as well as physicians ordered by the court to perform mental competency examinations. Persons admitted to the Government's witness protection program are maintained in safehouses or are permanently relocated at Government expense. Smaller programs have been established to compensate victims harmed by protected witnesses and to pay private counsel for Government employees sued for actions taken while performing their official duties.

Until 1993, this entire appropriation was classified as mandatory, but the pending request now includes a \$1.4 million to provide temporary protective services to ap-

proximately 50 witnesses who will appear before the D.C. Superior Court. Because this program has not been statutorily mandated, it has been classified by the Administration as a discretionary program.

UNITED STATES TRUSTEE SYSTEM FUND

Although the fees established for bankruptcy filings exceed the expenses of the United States Trustees, the basic enabling legislation made receipts unavailable for operations and specified that the program should be financed from appropriations. In the 1992 appropriations act, relief was provided to the extent that certain increased fees for Chapter 11 cases were made available for obligation. This allowed the 1992 program to be funded near the level of the request. The total funding expected to be available in 1993 is \$100.2 million, \$29.3 million of which is derived from Chapter 11 filing fees. This should support 1,308 positions, 198 positions more than in 1992. In 1993, the appropriation request is \$70.9 million or \$13.7 million more than in 1992. Even with these increases, the situation remains serious. The growing wave of bankruptcies demands a Federal response because bankruptcies are the Constitutional responsibility of the Federal Government. Over the past five years the caseload has increased by 82 percent. The U.S. Trustees Program has made great strides in bringing integrity, professionalism and uniformity to the system. Yet, thousands of old cases remain open, and there is a high risk that many private trustees who have not met fiduciary standards will go undetected. In addition, fraud by debtors appears to be extensive. Accordingly, we are now reviewing the steps that we must take to close cases that should be closed, to find and prosecute any private trustee or debtor fraud (including improved training of Assistant U.S. Trustees, FBI Special Agents and Assistant U.S. Attorneys), and to propose any legislation needed to ensure that we have all the necessary tools to accomplish these tasks.

FEDERAL PRISON SYSTEM

The Federal Prison System, it must be emphasized, is at the end of a long administration of justice pipeline where public attitudes about crime influence the Administration to propose and the Congress to act on the punishment of crime. These actions usually translate into decisions on investigative and prosecutorial resources to be applied. Ultimately, the courts are presented with criminals who require sentencing within guidelines. With a growing body of Federal offenses and the recent wave of violent crime, it is difficult to see an end to the growing population in Federal prisons.

At present there are over 65,000 Federal inmates in direct custody, about 40 percent more than there were in 1989. The average daily population forecast for 1993 is 74,500. Drug offenders make up 58 percent of this population, a proportion that has risen steadily since 1980.

For many years the Federal prison population has been well over the System's rated capacity. Within the last year, we have decided that we could safely accept more double bunking in correctional institutions, and we have urged the American Correctional Association to adopt similar standards. Even using our own upward revision in design capacity, we are still 50 percent overcrowded. From the policy perspective, our only option seems to be to construct more prisons to house the growing population.

In the 1993 budget for the "Buildings and facilities" appropriation, the \$339.2 million request includes program increases of \$172.1 million for new construction and \$67.3 million for modernization and repair of existing facilities.

The \$172.1 million construction request includes \$79.6 million to construct a 662-bed penitentiary in Yazoo City, Mississippi. Architectural, engineering, and site preparation work totaling \$39.5 million is budgeted for the construction of a penitentiary in Forrest City, Arkansas, which will have another 662 beds, a medical center and camp with 750 beds at an undetermined site, and detention centers in the Middle District of Florida and Sacramento, California with 500 beds each. Another \$33 million is included to expand projects at five existing facilities, adding another 408 beds. These specific construction projects will provide an additional 3,482 beds. Finally, \$20 million is included to acquire and renovate surplus facilities, such as former military bases or closed colleges, that would house an undetermined number of prisoners.

Under modernization and repair, an increase of \$67.3 million includes a number of projects that are needed to keep the older facilities fully functional. Substantial increases are needed to achieve utility and energy savings, life safety improvements, and hazardous waste removal.

For the "Salaries and expenses" appropriation, the request is for \$1.9 billion, nearly \$297 million higher than 1992. This is an 18.6 percent increase. Metropolitan Correctional Centers will be opened in Brooklyn, New York and Miami, Florida. The Federal Correctional Institution in Manchester, Kentucky and portions of the Correctional Complex in Florence, Colorado will be activated. In Allenwood, Pennsylvania we plan to open a medium security facility. Opening and staffing these facilities will require an additional 1,683 positions and over \$100 million in 1993, but these activations will make 4,640 bed spaces available.

The request for care and subsistence is \$13.5 million. Another \$19 million for 1,502 contract bed spaces should allow some relief from current overcrowding. The other major increase is \$22 million to provide a joint contract detention facility in the Southwest with 1,000 beds which would be shared with the Immigration and Naturalization Service.

Finally, the operation of a total system requires that we provide AIDS treatment, manage drug care, extend the use of contract medical care, and provide other correctional services.

OFFICE OF JUSTICE PROGRAMS

State and local assistance for law enforcement activities is being provided by a growing number of Justice components, but the major vehicle for providing law enforcement assistance grants is still the Office of Justice Programs.

The 1993 request for the three accounts administered by the Office are very similar to the 1992 proposals.

For the "Justice assistance" appropriation the request is \$588.5 million. Its largest component is the \$496 million drug control grant program. This includes \$22 million to be transferred to the Federal Bureau of Investigation to continue its work to implement the National Crime Information Center 2000 Project. The Administration also urges that the Regional Information Sharing System be incorporated into the drug grants and that the States should share more of the costs. Finally, our pilot "Weed and Seed" effort includes \$8 million in drug grants and another \$2 million from the Juvenile Justice request.

We continue to support the efforts of the National Institute of Justice, the Bureau of Justice Statistics and the Missing Children's program. The Bureau of Justice Statistics needs resources to survey offenders on probation and parole; to measure family violence, child abuse, and other injuries that warrant emergency room care; and to reinstate the Criminal Justice Employment and Expenditure Survey.

The 1993 budget request would terminate the \$5 million program to reimburse States for Mariel Cubans convicted in State courts. The Juvenile Justice program request for \$7.5 million will focus on High Risk Youth programs that deal with gangs and drugs.

For the "Public Safety Officers Benefits" appropriation we have been fortunate that death claims have leveled off but new legislation passed in 1990 will add costs for disability payments. The self-financed Crime Victim Fund requires no legislative action.

GENERAL ADMINISTRATION

The direct funding requested for the General Administration is \$132.9 million, or \$22.8 million more than in 1992. The request includes net mandatory changes of \$8.1 million and program increases totaling \$14.7 million.

An increase of \$6.5 million in no-year funding is requested to continue the implementation of the Department's Facilities Program 2000 initiative. The requested funding will support several planned projects, including the design and above standard construction for the Swing Space project, which is required to house the personnel that will be displaced during the planned renovation of the Main Justice Building.

A \$5.3 million increase is requested to begin implementing the Chief Financial Officers Act and to improve the Department's financial reporting system. Additional resources will also enhance the Department's ADP security through increased program coordination and oversight.

In addition, the request includes \$1.5 million to provide 20 additional immigration judges and 40 support staff needed by the Executive Office of Immigration Review.

The budget request also earmarks \$1.1 million to improve debt collection methods and increase information on the program's effectiveness.

QUANTICO TRAINING CENTER

In the 1992 appropriations process, the Congress provided \$3.5 million to begin work on an expanded law enforcement training center in Quantico, Virginia. The 1993 request provides \$31 million to construct the center. The center will be located on donated Marine Corps land and will serve the growing training needs of both the Federal Bureau of Investigation and the Drug Enforcement Administration. It is necessary that we proceed with additional facilities.

OFFICE OF THE INSPECTOR GENERAL

The Office of the Inspector General conducts audits, investigations, and inspections of Departmental programs and functions. The 1993 request for \$31.8 million and 358 positions includes 10 new positions and \$3 million to oversee audits of the Department's financial statements.

OTHER PROGRAMS

The Community Relations Service's 1993 request of \$36.6 million contains \$8.5 million in program increases over the base funding level. All of these initiatives relate to the Cuban Haitian entrant program. A major component is the \$4.9 million requested for halfway house outplacements of 360 Mariel Cubans from Bureau of Prison facilities. An additional \$3 million is needed to maintain beds at St. Elizabeths Hospital and for drug release cases. Accompanying these overall increases, the program requires more substance abuse and follow-up counselors as well as more mental health evaluations. Our goal is to get Mariel Cubans out of Federal facilities quickly and keep them out.

The U.S. Parole Commission continues to phase out its operations as it moves closer to its termination date of November 7, 1997 as directed by the Judicial Improvements Act of 1990. With sentencing guidelines applying to more prisoners, the number of prisoners eligible for parole declines.

For the National Institute of Corrections (NIC), the \$11 million request includes only one 1993 program initiative. As State and local correctional institutions are rapidly expanding, the need for technical assistance requests, training, and grants from the Federal Government grows.

Finally, the Foreign Claims Settlement Commission request provides for core staff and continued adjudicating claims against Iran.

CONCLUSION

Again, I want to express my appreciation to this Subcommittee for your support. I am hopeful that we can receive your backing for fiscal year 1993.

STATEMENT OF THE ATTORNEY GENERAL

Mr. BARR. I am pleased to be here today to present to you the President's 1993 budget request. It has been a privilege for me during my tenure at the Department to work with you, Mr. Chairman, and you, Senator Rudman, and the other members of this committee. In the past few months, as I have moved into the position of Attorney General, I have greatly appreciated the courtesy and the support that you have extended. I look forward to continuing that strong and positive relationship.

I think we all understand that the very first duty of Government is to protect the public safety, and that is the mission of law enforcement. It is the mission of the Department of Justice. In this town, we have this strange lexicon where almost all of this spending is called discretionary, but I can't think of anything that is more mandatory and more of an entitlement than spending on law enforcement, because it is really the foundation of everything else we do as a society.

I think you would agree, and the other members of this subcommittee would agree that now is not the time to be scrimping on law enforcement. It still must come first. As you know, the

President has been seeking substantial investment in law enforcement in the Department of Justice during his administration. He has sought substantial increases each year, and those increases are really necessary to meet the challenges that confront us.

I have to say that we are very grateful for the leadership role that this subcommittee played last year, in the appropriations process, to get us the increased funding that we were able to get. Without the role of this subcommittee we came dangerously close to ending up with no increase, but thanks to the work on the Senate side, we ended up with a significant increase; not as much as we would have liked overall, but still a significant increase. This year is no different. The President is seeking a substantial increase, and I know we can count on you, Mr. Chairman, and you, Senator Rudman, and the other members to support law enforcement as you have in the past.

As you say, we are seeking an increase, depending on how you measure it, between 9.3 and 10 percent. I have often said, that it is misleading to talk about priorities in the Department of Justice because our first priority is to cover the entire front of our law-enforcement responsibilities across the broad spectrum of requirements. I think you'll see from our budget request that we are going to remain committed to the full breadth of our responsibilities. Nevertheless, there are a few areas that warrant special emphasis, and I want to make some brief note of them.

VIOLENT CRIME

One of my top priorities is to do all we can at the Federal level to support our State and local colleagues in fighting violent crime and drug trafficking. In the violent crime area, we are dealing with an area of responsibility that lies primarily with State and local governments. Over 95 percent of violent crime falls within the jurisdiction of State and local governments. Nevertheless, there are some target areas where we can assist State and local governments, and have a significant impact at the Federal level.

Specifically, I think we can use our resources and our tough Federal laws in areas that have traditionally had a Federal nexus, and that is in attacking drug trafficking organizations, felons who use firearms in the commission of their offenses, and organized criminal activity, such as gangs.

It might be useful if I correlated some of what we have done recently by way of reprogramming requests, in which we are grateful for your support, and how those reprogramming requests correlate to what we are asking for in 1993.

Starting with the gang area, we, in our reprogramming, sought to shift 300 FBI agents from FCI work and put them into violent crime work in 39 cities. We established some joint FBI and ATF task forces in four cities; we are supporting a National Gang Analysis Center to support those FBI and ATF operations. In the immigration area, we have reprogrammed 150 INS investigators to target violent criminal alien gang members.

The second area that we are active in, as I said, is targeting violent offenders who violate Federal firearm statutes. That is our Project Triggerlock. That started last April. We have over 4,000 individuals charged under that statute. I think probably by the 1-

year anniversary, we are going to have about 6,000 charged. That represents about 10 percent of our Federal prosecution caseload right now.

Then the third area is the so-called Weed and Seed Program. We are pressing ahead, in 1992, with this innovative program to assist communities to reclaim their neighborhoods from crime. Working with community leaders, we are targeting high-crime neighborhoods and housing developments to weed out violent criminals, gang activity and drug-trafficking activity, and then working with those community leaders and State and local governments to seed those neighborhoods in a focused way to achieve economic redevelopment.

So, those are the three elements of our violent crime program, and we are seeking enhancements in all three of those areas. On the antigang activity, we are proposing to shift 58 more agents from FCI to violent crime in 1993; we are seeking an enhancement for the U.S. attorneys of 161 additional prosecutors in the violent crime area.

In addition, the President seeks a major increase in the Weed and Seed Program. There are really two options that are being proposed: One option would not require enactment of enterprise zones and that would be largely a Department of Justice program with \$30 million for weeding, essentially, law enforcement activities, and then \$80 million of earmarked money from other appropriations, social programs, and social spending, to be applied in those weed and seed areas.

The other option would require enactment of the enterprise zones and would be part and parcel of the enterprise zones approach. With the enterprise zones what is being proposed as a \$110 million program would go up to \$500 million, another \$390 million in social program targeting for those weed and seed areas.

DRUG ENFORCEMENT

On the drug front, the President's budget seeks \$12.7 billion for our total antidrug effort. Now, with this, \$4.7 billion would go to the Department of Justice. This is a \$411 million increase in our antinarcotics efforts, or an 8.8-percent increase. This represents 41 percent of all the financial resources included in the Department of Justice's budget, and that includes all of DEA and OCDETF, but also portions of other accounts that are attributable to our antinarcotics efforts. For example, for the Bureau of Prisons, we are allocating about \$1.6 billion to the antidrug account.

The two highlights in the narcotics area are obviously OCDETF, which is a principal program within the Department of Justice in the counternarcotics area. We are seeking \$399 million. This represents an increase of \$35.8 million. Of that, \$20.6 million would be enhancements, and basically what we are seeking is a total of 205 agents and 47 prosecutors. Sixty-six agents would be in the FBI, and would be part of our heartland strategy of putting agents out into level 3 and level 4 cities, smaller cities to work on drug problems in those communities; 47 would be DEA agents; 22 INS agents; and 44 U.S. attorneys.

In the DEA program we are seeking \$771.5 million in direct appropriations. This includes an increase of \$54.8 million over appro-

priations for 1992. Basically, what we are seeking is an enhancement of 93 new agents of which 53 would be for our South American operations. They would go into seven teams in South America: two to Bolivia, two to Peru, one to Guatemala, one to Ecuador, and one to Venezuela. In addition, of those 93 agents, 22 would go toward State and local task forces here in the United States, and 18 would be for pilots for both our domestic and our international operations.

WHITE-COLLAR CRIME

White-collar crime remains one of our top priorities, and we always have to bear in mind that with the stroke of a pen, a corrupt bank official can steal more money than 1,000 armed robbers, and that it is important to maintain the integrity of our whole economic system and to maintain confidence in our system. That requires strong white-collar enforcement. Obviously, a key concern over the past few years, and currently, remains financial institution fraud. We received a substantial infusion of resources, and you played a central role in that, Mr. Chairman, as well as the subcommittee, in 1990 under the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA]. We think those resources have been put to good use. Since October 1988, we have prosecuted more than 2,700 defendants in major financial institution fraud cases, and more than 1,000 of those defendants were in S&L cases. We are achieving over a 97-percent conviction rate, and 75 percent of those convicted are receiving jail sentences.

But, as we keep up the momentum in the financial institution fraud area, I think it is important that we move aggressively to deal with emerging problem areas, and one area of particular concern to us is health care fraud. In 1991, here in the United States we spent \$738 billion on health care. The Federal Government purchased over \$200 billion for health care services. The GAO estimates that fraud and abuse in the health care area is over \$50 billion a year.

Now, as you may be aware, we took some steps this year to step up our effort in the health care fraud area. We reprogrammed 50 foreign counterintelligence agents from the FBI to work on health care fraud. That gives us now a total of 96 agents working full time in 12 cities in health care task forces. We have set up a health care fraud unit in the Criminal Division with six prosecutors in that division. We have allocated approximately 100 assistant U.S. attorneys to deal with health care fraud and added 10 positions to support that effort.

Overall, for 1993 in the white-collar area, we are seeking \$640 million for our white-collar program generally. Of this, \$278 million is requested for financial institution fraud, so that shows the magnitude of the financial institution fraud effort. The overall program increase in the white-collar area is \$23 million and 388 positions. The bulk of these positions would go to the FBI in our request; it is 136 additional agents.

I would like to give you just briefly the breakdown where we would seek to allocate these resources: In the financial institution fraud area, 50 more agents; in health care, 35 new agents plus an additional reprogramming of 15 agents from FCI to health care for

a total of 50 new agents in 1993. That, joined with the 50 we are doing this year, would mean the augmentation of over 100 agents in 1992 and 1993. In wire fraud, 10 more agents; in bankruptcy, 16 more agents; and in computer crime, 25 agents.

In the U.S. attorney's offices, in the white-collar program, we are seeking 60 new prosecutors; 24 of those would be in the health care fraud area, and 36 would be distributed among other areas of white-collar crime. In the Criminal Division we are seeking 12 new prosecutors, and in the Tax Division we are seeking 19 new attorneys that would focus principally on bankruptcy fraud, tax, and excise fuel fraud.

CIVIL RIGHTS

The civil rights area remains a priority as well, and we are seeking a 13.8-percent increase in the Civil Rights Division, which is the highest increase of any of our litigating divisions. That would be from \$48 million to \$54 million, and would fund 14 new attorney positions in the Civil Rights Division. They would work principally on criminal litigation including hate crimes, employment discrimination, and the implementation of the Americans With Disabilities Act.

We are also seeking \$500,000 to continue our testers program in the fair housing area that we started this past year with the reprogramming of \$700,000. We are also seeking 20 additional prosecutorial positions for the U.S. attorneys offices to work primarily in the hate crimes area.

IMMIGRATION

I would like to run briefly through the immigration area, and then finally, I will end up with just a review of what we are doing and requesting in the prison area. It is important that we maintain the integrity of our borders in this country, and maintain the integrity of the immigration process. I think that requires strengthening INS. Earlier this month, we took steps to bolster INS in both the enforcement and the service side, using the fees, fines, and various reprogrammings. As you are aware, that involved adding 300 new Border Patrol agents for this fiscal year; 200 criminal investigators, and as I said earlier, 150 of those would be targeted to criminal aliens; over 700 new personnel would be on the service side, including 248 airport inspectors.

In 1993 we are seeking a total appropriation for INS of \$1.066 billion. That would be a 12.8-percent increase for that agency, and fund over 549 positions. That would include 200 additional Border Patrol, so our combined 1992/1993 augmentation of the Border Patrol would be 500 new positions. It would also fund, for 1993 with this request, 50 more investigators who would be targeted principally in criminal aliens, and 249 positions in our Detention and Deportation Program.

PRISONS

Finally, in the prisons area, we are pressing ahead with our commitment to substantially expand Federal prison capacity, that we believe is the precondition of all law enforcement. All our other ef-

forts go to naught if we do not have the prison space to incarcerate the people who have been convicted. Our 1993 request includes construction funds for a 662-bed penitentiary in Mississippi, and A&E funds for a penitentiary in Arkansas—that would be another 662-bed facility—a medical center with 750 beds at an undetermined site, and detention centers in the middle district of Florida and Sacramento, 500 beds each, and in addition, expansion funds to add another 408 beds in five existing facilities. Finally, we are requesting \$20 million to acquire and renovate surplus property, including military bases for detention space.

Our S&E request for the Bureau of Prisons is \$1.9 billion, which is nearly a \$297 million increase over last year. A large part of this is necessary to fund the activation for 1993 of 4,640 beds in facilities that have been under construction. Those facilities include metropolitan correctional centers in Brooklyn and Miami; an FCI in Manchester, KY; part of a complex in Florence, CO; and a medium security facility in Allenwood, PA.

So, that is an overview of our budget request. I would be glad to answer any questions that you and the committee members have.

HEALTH CARE FRAUD

Senator HOLLINGS. You said out of the approximately \$738 billion in health care costs spent in the United States, about \$200 billion is Government supported and about \$50 billion of that is in fraud and abuse?

Mr. BARR. The GAO estimates about \$50 billion is lost through fraud and abuse, and we have no basis for quarreling with that number. We don't always cite GAO as an authority.

Senator RUDMAN. Only when it is convenient.

Mr. BARR. When it is convenient, right. [Laughter.]

No; in this case, I think the FBI estimates are similar.

ADDITIONAL DRUG ENFORCEMENT ADMINISTRATION AGENTS

Senator HOLLINGS. The FBI's estimate is similar. That is a stunning statistic there of some \$50 billion in health care fraud.

On another matter, I question, from our experience here, the foreign assignments of the DEA. Of the 93 additional agents you just mentioned, you are going to send quite a few of them down to Latin America.

Mr. BARR. That is right.

Senator HOLLINGS. The only reason that I comment in that vein is that we started 20 years ago in the poppy fields of Burma, and we burned all of those up; and then we went to the laboratories in Marseille, and we destroyed all of those; and then we went to Bolivia; and then we jumped up to Colombia; then we went down to Peru and in between, Mexico. From personal experience out there in the Golden Triangle, we went up there into upper Thailand, Laos, and the old-time Burma, accompanied by the DEA, the State Department, and all the rest of the authorities. And, then they say, "By the way, Senator, you can't go in there right now; they have got their own armies."

I don't know about sending agents down to Latin America and question whether this thing works. It sure costs us with respect to our relations. It is the old "Gringo from the North," and it is a questionable foreign policy. I mean, you can't enforce the laws in other people's countries. I believe we are wasting money.

Then, of course, Senator Rudman and I go down and hold public hearings in my own backyard in South Carolina and find out the biggest cash crop in the State is marijuana. It isn't tobacco or cotton or poultry; it is marijuana. So we have got to have a better approach. With all the innovation and everything else that you have got in your budget here, which we commend, I just ask you to look closely at that request for increased drug efforts in Latin America. It sounds good and everything else like that, but it doesn't appear to be affecting production and we seem to be going backward.

Cocaine production is up; usage is up; and accompanying crime is also up. So with all the approaches that you are innovating here, I encourage you to think on that one a little bit.

WEED AND SEED PROGRAM

For example, weed and seed, how do you describe your social programs? We have all got ideas of how to get down into the inner city, the ghetto, the crime-infested area. You say weed out the criminals, everybody knows that: Arrest everybody you can get your hands on. But then how do you seed? What is your plan in Justice, as the Attorney General, for seeding?

Mr. BARR. I think the underlying philosophy in the program is that we have a lot of programs now in the Federal Government, so-called social programs, things like drug-prevention programs; job training; Head Start, community development grants; housing grants; spread around the Federal Government, each administered by a different agency. Historically, the coordination among those agencies, just on the social side, has not been that effective.

Senator HOLLINGS. So you are going to take it over?

Mr. BARR. Well, we are not going to take it over.

Senator HOLLINGS. Who is? You have pointed at the problem.

Mr. BARR. The second part of the problem is these programs haven't been coordinated with law enforcement. This is the concept of the program, if we spend some money in the inner cities that have been undermined because of the crime problem, we build housing projects, schools, and so forth that are then subsequently overrun by crime, the idea behind weed and seed is that the social programs have to be targeted and focused to work together in a reinforcing way, and have to work hand-in-hand with law enforcement.

The Attorney General can play a role by working with various Cabinet members, first, by earmarking some of the money in those other programs for these weed and seed communities, and second, by having the Attorney General work with these other Cabinet Secretaries to make sure that these programs are carried out in an effective, integrated way in those communities.

SPECIAL FORFEITURE FUND

Senator HOLLINGS. Let's see if maybe you can get the program coordinated, like you say, focused and operative. It hasn't been supported heretofore, and you seem to have a charm with OMB. Evidently you are getting through.

With respect to the special forfeiture fund, you are the authority in the Government on jurisdiction. How do you justify \$14.3 million from the Treasury-Postal Service appropriations in your particular budget? In fact, the numbers don't appear in the Justice portion of the President's budget. The President's budget request for Justice agencies does not include the transfer of this money from Treasury to you, but you have got it in your justification. I am not complaining, but we are going to have to rely on Senator DeConcini for the money when they mark up. Are you aware of that?

Mr. BARR. I am not exactly sure. In putting together our budget, the Office of Management and Budget informed us we could expect \$14.3 million coming out of the special forfeiture fund, so that was taken into account.

BUREAU OF PRISON'S UNOBLIGATED BALANCE

Senator HOLLINGS. On the prisons themselves, we find that the Bureau of Prisons has \$1.4 billion in unobligated balances. How do you justify asking for \$339 million when you have a \$1.4 billion backup in the Bureau of Prisons?

Mr. BARR. Are you talking about construction funds?

Senator HOLLINGS. Yes; "Buildings and facilities construction" account. I hope it is not for salaries—that they are holding back on their salaries.

Mr. BARR. As you know, the buildings and facilities appropriation are no-year funds. The bulge in the BOP's unobligated buildings and facilities balances occurred with the unexpected infusion of an extra \$1 billion in 1990. All of the funds have been allocated against specific projects.

Senator HOLLINGS. All \$1.4 billion?

Mr. BARR. Whatever the construction amount is. I am not sure what it is.

Senator HOLLINGS. Attorney General Barr, you have just found money. They have been building up this balance for 4 years. They are all empire builders. They have got \$1.4 billion. The richest thing you have got is Mike Quinlan in the Bureau of Prisons over there. They have got money to spend. I pick up the morning paper and read it, and I find out, "How in the world did that ever happen?" because we have pinched, conferenced, argued, and fussed, all trying to find more to support critical law-enforcement needs. "We need more money. We have got to get build more prisons." The Senator from Pennsylvania, he put in his amendment bigger than life, Senator Specter; he wants more prisons, and I have got prison money going bad, to the tune of \$1.4 billion.

ALLOCATION OF RESOURCES

Senator RUDMAN. Mr. Chairman, if I could interject a moment, maybe to get a truly definitive answer to this, because I think we need a very definitive answer in terms of our allocation. I think we

ought to ask the Attorney General, in consultation with his BOP people, to give us a rather specific report on how that money will be spent that is presently unobligated. Then we can make our own judgment about that, rather than try to get an answer today, since I am not sure that we have all the data in front of us. Can you respond to that?

Mr. BARR. I think that is a good idea. I would be glad to provide that report. As I understand, this is like a basketball swallowed by a snake. We got a substantial increase in, I think, 1988?

Mr. ROPER. 1990.

Mr. BARR. My chart shows that our unobligated amounts are dropping, and are now coming into line with our obligations. So, I think we are working this out, but I would be glad to provide a report.

Senator RUDMAN. I think the reason we want to know that, Mr. Chairman, is that I expect we are going to have an allocation problem this year. If it turns up that BOP is going to have a higher rate of unobligated funds toward the end of the fiscal year than we presently anticipate, I think your point is that we ought to know that so we can do some reallocating. Am I correct about that?

Senator HOLLINGS. That is right. But, let me also point out that the activation request you made for 1992 was off by \$24.4 million. And, you fell short of the projected inmate population by 1,226 inmates, or \$5 million. So you have got us appropriating \$30 million more than what you needed and that is a shame. I can tell you now, we are going to get into the conference over on the House side and with our colleagues here on the Senate floor, and it will be hard to justify cuts—they will be voting more money because everybody believes in prisons rather than schools in this day and age. We give goals to schools; we give money to prisons. That is the way it has been working.

[The information follows:]

UNOBLIGATED BUILDING AND FACILITY FUNDS

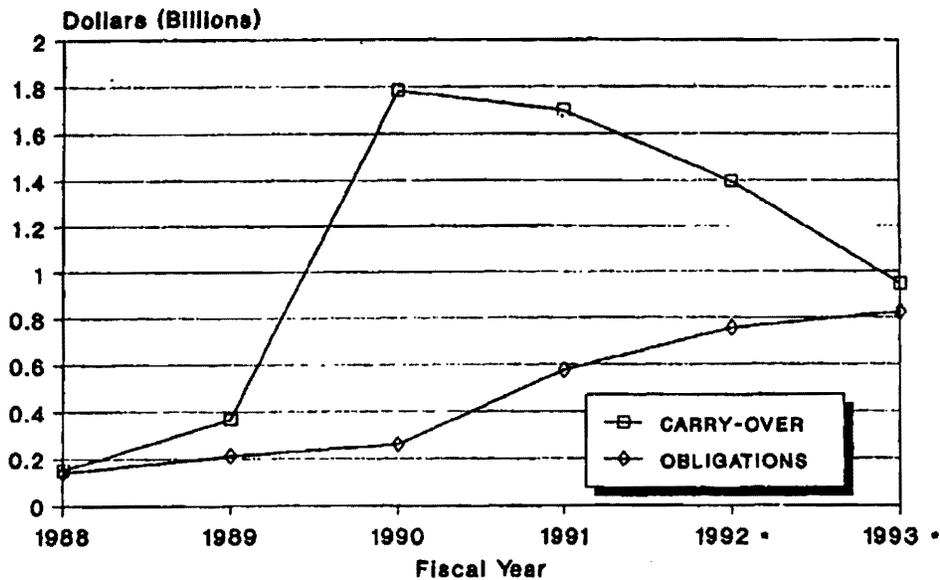
During fiscal year 1989 through 1992, the Bureau of Prisons was appropriated a total of \$2.95 billion in Building and Facilities (B&F) funds for capacity expansion, general improvements, major renovations, utility improvements, hazardous waste removal, life safety improvements and energy savings projects. Of this total, \$2.59 billion was for capacity expansion. Since B&F projects take several years to complete, B&F appropriations are specifically intended as no-year funds. This provides for funds to be allocated to specific projects but not actually obligated until the various contracts are awarded.

As the attached chart indicates, there was a surge in the Bureau's unobligated balances in 1990. This was caused by the unexpected additional appropriation of \$1 billion for new prison construction. The chart also reflects the Bureau's progress in substantially reducing the unobligated balances as the siting, design, and construction activities have increased in response to the additional funding received.

The capacity expansion funds have all been allocated toward projects which will add over 34,000 additional beds to the Bureau's capacity by the end of 1996. These projects are located in 23 States, the District of Columbia, Puerto Rico, and include 6 correctional complexes, 8 correctional institutions, 7 detention facilities and 34 expansion projects at existing institutions.

Since all of the B&F funds appropriated for capacity expansion have been allocated to specific projects, they will be needed for obligation at the appropriate time. Thus, it is imperative that the additional B&F funds requested by the Bureau for 1993 be provided in order for the Bureau to continue expanding its capacity to keep up with the relentless growth in its inmate population.

**FEDERAL BUREAU OF PRISONS
OBLIGATION AND CARRY-OVER COMPARISON
Buildings & Facilities Appropriation**



• Estimated

INMATE USER FEE

Senator HOLLINGS. Looking at your request to charge inmate fees for first-year costs of incarceration, I'm questioning how this is different from fines assessed by judges at the time of sentencing. I am a judge sitting there, and I have got to take the financial status of the defendant that I am about to sentence into account. So, I fine him heavy because he can afford it. Then I come around here and I find out that you are starting a fee schedule for inmates that can afford it. Is that going to be duplicative? Is that going to be constitutional? Has that been factored through and worked with the sentencing guidelines in the Federal judiciary?

Mr. BARR. Yes, sir; we have looked at the legality of it, and it is our view that this is not a punishment; this is a user fee. It is constitutional. We estimate that of the 30,000 prisoners we are projecting to be admitted in Federal facilities, 9 percent of them will have the resources to pay for their first year of incarceration, and so what we are proposing is a user fee that extracts this and would raise about \$48 million.

Senator RUDMAN. What is that fee per year?

Mr. BARR. The cost is approximately \$17,000.

Senator HOLLINGS. But if you are not able to charge that \$48 million, you see, then we are into another soup, because OMB and CBO on the scoring of the President's request, have automatically reduced our allocation by an estimated \$48 million. Well, we will know where to get it. We will go ask Mr. Quinlan for a loan. [Laughter.]

They talk about the House bank.

Senator RUDMAN. Let's not talk about that.

Senator HOLLINGS. Let's talk about the prison bank.

Senator RUDMAN. Let's get back to the subject.

Senator HOLLINGS. The prison bank. We have got a fellow who is really a banker. He is better than any bank I have got in my backyard.

General, I want to yield to the others, but let me commend you. I notice that you made a ruling here that registered lobbyists for foreign companies and governments cannot serve on Federal Government advisory panels. The U.S. Senate, and in this particular subcommittee, put riders on past appropriation bills along those lines. I am glad you picked this up.

SHERMAN ANTITRUST ACT

With the antitrust initiative that you put in, can you elaborate on that for us a little? Are we now going to enforce the antitrust provisions against these foreign entities the same as we do against an American manufacturer or corporation; is that right?

Mr. BARR. That is essentially right, Senator. Our international antitrust guidelines, in 1977, took the position that if foreign companies enter into an agreement, a cartel to restrict U.S. exports, that was covered by the Sherman Act and was actionable as an antitrust violation. That goes to the legal issue of potential read of the Sherman Act, and that was the rule followed by the Department of Justice until 1988.

In 1988, a new set of guidelines was issued and there was a footnote that said the Sherman Act would be applied only where you could demonstrate harm to U.S. consumers as a result of that cartel agreement. Our decision or recommendation is to knock out that footnote, that restriction, as not being required by the Sherman Act. So, the position that we are in now or proposing would go back to the rule that was in effect in 1977 to 1988, and say that where foreign companies enter into an agreement to restrict U.S. exports that there could be a violation of the Sherman Antitrust Act without having to show harm to U.S. consumers.

Now, there are a lot of practical difficulties that arise, as you are aware, in international or extraterritorial enforcement. Those are practical problems, questions of diplomacy, comity, enforcement problems, how to get evidence, how to prove an agreement. Our initiative really is to put the guidelines essentially back in the position they were from 1977 to 1988.

Senator HOLLINGS. As you know, this is a dramatic change, and we welcome it here at this committee for the simple reason that in years back the Justice Department was always appearing in the *Zenith* case, in Smith-Corona, and others, as a force de jour. The companies only did that as a requirement of their government and the government practices, and the Justice Department, in other words, was appearing on the side of the competition against the American entity. It was having to obey the antitrust laws and still being discriminated against, so we welcome it. Let me yield to Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. Senator Gramm has another hearing to go to, and I don't mind yielding to him and Senator Adams before coming back to my questions.

SUPPORT ON PRISON AND IMMIGRATION POLICIES

Senator HOLLINGS. Thank you. Senator Gramm.

Senator GRAMM. Thank you, Mr. Chairman. Mr. Attorney General, let me first say that I strongly support your prison construction program. I intend to support the \$339 million. In my State we have a situation where if somebody is sentenced to prison for 1 year in the State system, they serve, on average, 21 days. We have the lowest effective cost of being engaged in criminal activity in the country, and as a result, we have got a lot of crime.

One of the great gains that we have made in the past few years is imposing strict mandatory minimum sentencing in the Federal system. I think it is very important as we look at crowding. So far as I am aware, we have a great deal of crowding in my State in the Federal system. I don't want to ever get to a situation on the Federal level where we have got to start letting criminals out on the street because we don't have prisons, and so I strongly support your proposal.

Let me also say that I strongly support your action in terms of illegal immigration. Several years ago, Congress passed a bill granting amnesty retroactively to people who came to the country illegally. Part of that package was that we were going to begin to enforce employer sanctions and that we were going to gain control of our borders. That is something that we have not done. I think it is outrageous that we have got 7 million people that are waiting to come to this country legally and yet we are letting hundreds of thousands of people come to the country illegally and we are not doing anything to effectively enforce our laws.

Some would say that is an overstatement. As a person who is involved in border activities on a continuing basis I am not in any way being critical of people in the Border Patrol. We have very dedicated people. It is one of the most effective agencies in the Federal Government, and I am totally supportive of it, but we need to commit the resources to enforcing the law, to enforcing employer sanctions, to prosecute people who violate the law, and I think your proposal for 500 new positions is an important step in the right direction. I commend you for it. I intend to strongly support it. I think we need a greater degree of commitment to gaining control of our own borders.

CRIME CONTROL BILL

I wanted, in my only question, Mr. Attorney General, to give you a chance to talk about the crime conference report that will be voted on in the Senate probably today. The question will be whether we will invoke cloture, which would, in effect, send the bill to the President. I would like to just get a short summary from you about the bill and any concerns you might have about it and give you an opportunity to state your position and the administration's position.

Mr. BARR. We are opposed to the conference bill. We think it is a crime bill in name only; it will not be an effective anticrime measure. We think that it takes a number of steps backward for law enforcement, and erodes, and in some ways causes, reverses or jeopardizes some pro-law enforcement court rulings that we have

gotten over the last decade or so. So, we are opposed to the current conference version and would like to see a stronger crime bill, such as that initially introduced; I think you were involved in introducing the crime bill along with Senator Thurmond and others.

In a nutshell, that is our position on that crime bill.

Senator GRAMM. Thank you, Mr. Chairman.

Senator HOLLINGS. On that score, with respect to the financing of the crime bill, the Republican bill has \$3.55 billion in new expanded program authorizations. The Democratic one has got \$3.6 billion of the same. One way or the other, if it becomes law, and apparently some crime bill will become law, are you going to have to increase your request for 1993?

Mr. BARR. I guess my question all along has been where is this money going to come from?

Senator RUDMAN. The Japanese.

Senator HOLLINGS. No; the prison bank.

Mr. BARR. The first crime bill that was sent up to the Hill by the administration did not have additional authorizations included and it dealt chiefly with substantive changes to the criminal justice system. Senator Biden's bill added over \$3 billion in new authorizations. One of our concerns all along has been, we agree that law enforcement should have and can use all the resources that we can get, but the situation currently is we don't see where those appropriations are available for the additional authorizations in Senator Biden's bill.

I think the bill that was introduced to counteract Senator Biden's bill had substantial authorizations in it also. So that wouldn't be the issue, and the issue could focus on the substantive provisions. But, my concern all along has been that people shouldn't be waving phony money at State and local law enforcement. They deserve candor from Washington, DC, and unless we are ready to raise this money and appropriate it by cutting someone else's budget we really shouldn't be waving around authorizations we have no intention of funding. That is my position.

BRADY BILL/ASSAULT WEAPONS PROVISIONS

Senator HOLLINGS. Senator Adams.

Senator ADAMS. Thank you, Mr. Chairman. Mr. Barr, you commented that you were opposed to the bill that is presently being offered for cloture. Do you favor the Brady bill provisions and the assault weapons provisions, prohibiting the use of assault weapons, of that bill?

Mr. BARR. I said at my confirmation hearing, and it is still my position, that if we achieve a comprehensive antiviolen crime bill with the tough measures, such as those proposed by the President, then I would recommend including Brady in that proposal. I would support the President signing such a bill.

Senator ADAMS. You would support the assault weapons provision and the Brady bill provisions?

Mr. BARR. Only if they are part of a comprehensive tough crime bill.

Senator ADAMS. We could argue as to whether or not the present bill is comprehensive and so on. I happen to think that it is. As a former U.S. attorney I feel the provisions on habeas corpus and

so on adequately meet the objections of the President. That is an argument that will come up as Senator Rudman and others have indicated today, but I wanted to know what the administration's position was on that.

Mr. BARR. I think it is the same this year as it was last year.

Senator ADAMS. You support it?

Mr. BARR. No; our position this year is the same as it was last year, which is, we would give favorable consideration to the Brady bill if it were part of the President's comprehensive crime bill.

Senator ADAMS. It is part of one now, but what if it were part of one presently pending on the floor as an amendment?

Mr. BARR. As I said to Senator Gramm, that bill would be vetoed if it were presented to the President. We don't consider it to be a tough crime bill.

Senator ADAMS. Suppose there is another bill that comes up and that is added as an amendment? Would the administration and your position be to support that?

Mr. BARR. I will repeat the position, which is, if we can get a comprehensive tough crime bill that is consistent with the President's crime bill, and has measures in it like the President's proposed measures, then we would give favorable consideration to including Brady as part of that.

Senator ADAMS. And the assault weapons section?

Mr. BARR. I am not sure if the assault weapons section is in the current version.

Senator ADAMS. It is in one version; it is not in another.

Mr. BARR. I concluded that before, the DeConcini proposal.

FUNDING OF TASC OR IMPACT PROGRAMS

Senator ADAMS. I have two specific questions which you can refer to staff if you wish. We have tried various methods of fighting street crime in the State of Washington in addition to those that have been suggested in your written testimony. One is known as the treatment alternative to street crime, TASC, which is a joint effort of the State of Washington and one of its counties and the second is IMPACT, which is a Washington State Youth Substance Prevention Program. In the conference report last year we directed the Bureau of Justice Assistance to review these and other programs and report back to the Appropriations Committee on which of these programs it was intending to fund. If you do not have that before you, I would appreciate your submitting it to the committee so that we will know your decision. If you do know the answer, I would appreciate receiving it.

Mr. BARR. I do not know the answer, so we will submit it.

Senator ADAMS. Fine. Thank you, Mr. Chairman.

[The information follows:]

STATUS OF TASC AND IMPACT PROGRAMS

TASC.—A grant to improve drug testing laboratory services in the State of Washington. In discussions with project representatives, staff of the Bureau of Justice Assistance (BJA) advised them that the laboratory services would have to be a part of an overall criminal justice program to qualify for discretionary grant funding. Both TASC and drug testing services have received and are receiving extensive funding under the BJA Formula grant. Standing alone, such operations are no longer innovative and thus do not warrant support from the limited Discretionary

funds available. Such services, when incidental to the demonstration of an overall model program that could illustrate an innovative way to deal with criminal justice problems facing all States, could receive funding. Given the present circumstances, BJA is not planning to include this item in funding plans.

IMPACT.—A demonstration project in Washington State, which provides training and technical assistance to teachers, counselors, administrators, and community groups in youth substance abuse prevention. BJA included a program solicitation in the 1992 Discretionary Program Guide for the IMPACT program in the amount of \$200,000. A copy of the program solicitation is provided.

IMPACT

Purpose.—The purpose of this program is to demonstrate the effectiveness of the Impact program in assisting elementary and secondary schools to implement a drug and alcohol abuse prevention program.

Background.—The Impact Program of Spokane, Washington, is designed to aid schools in the development of a program which will deal effectively with the problem of drug and alcohol abuse by young people. "Impact" provides formal training programs on developing drug and alcohol prevention and intervention programs for school professionals. The objectives of the impact training program are:

- To heighten awareness of chemical dependency, including the impact in the school setting, and the role of school personnel.
 - To facilitate personal awareness of attitudes, feelings, and expectations, which impact school programming.
 - To offer practical skills for the school professional in identification, intervention, and referral for chemical dependency.
 - To propose effective school programming and successful implementation of components.
 - To stimulate discussion and action planning for school program implementation.
- "Impact" provides assistance to schools in completing a needs assessment as well as in developing and implementing a program.

Goal(s).—To expand the training and technical assistance activities of the Impact Program; and to assess the effectiveness of "Impact" in assisting schools to respond to the problem of drug and alcohol abuse.

Objectives.—To provide training and technical assistance to selected schools; to assess the effectiveness of the training and the technical assistance activities; and to refine the training and technical curriculum and related materials.

Program strategy.—This program will be implemented in two stages.

Stage I—Provision of Training and Technical Assistance

"Impact" training will be provided to a selected set of new schools in Washington State.

The products to be completed include: A plan for providing training and technical assistance; development of an assessment strategy; implementation of the training and technical assistance and the assessment; and a report on the results of the assessment and recommendations for revision of the training and technical assistance materials and/or format.

Stage II—Refinement of Training and Technical Assistance

The results of the assessment will be used to refine the training and technical assistance activities and related materials.

The products to be completed include: A plan for revising the training and technical assistance materials and delivery; and revised training and technical assistance curriculum and format.

Eligibility requirements.—To be determined.

Selection criteria.—The application will be reviewed in accordance with the Application and Administrative Requirements section of this document.

Award period.—The award period will be for 12 months.

Award amount.—Up to \$200,000 will be available for this program.

Due date.—The application must be postmarked no later than 60 days from the date of this publication.

Contact.—For further information, contact, Pam Swain, Director, Discretionary Grants Program Division.

PENDING PRESIDENTIAL DECISION ON ANTITRUST POLICY

Senator HOLLINGS. Thank you. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. I want to come back to something that Senator Hollings spoke about, the antitrust matter. I notice Mr. Rill is here, and it is a very interesting issue, one that I think you are on the right track on.

When Secretary of State Baker was before this committee about 1 week ago we had a hearing, and I discussed this issue with him. It wasn't St. Patrick's Day, but he proceeded to do one of the finest Irish jigs around the question that I have seen in a long time. I don't know really what he said, except I guess what he finally said was that this would have to be elevated to the Cabinet level. The policy disputes between State and Justice, if any, must be resolved and the President would review it himself because of the foreign policy implications to which you, of course, referred.

My question is: At what stage are we in the process in getting this policy implemented and approved by the President or disapproved by the President? The Secretary of State kind of indicated there could be some problems with it, as I am sure you are aware. So, I wonder if you, or Mr. Rill, might respond to that.

Mr. BARR. Sure. I think there are really two separate issues. One issue is: What is the potential reach of the statute—which is largely a legal question.

The second issue is: Once you have defined its potential reach, what are the considerations in applying it in a specific case? On the first issue, that is whether or not we should continue to have this restrictive footnote in our guidelines. Frankly, I think a consensus has emerged on that. I am not aware of any Cabinet Secretary who disagrees with the Justice Department on that issue, and I think that that position will be formally adopted imminently.

DAMAGE TO EXPORTERS AS CAUSE FOR ACTION

Senator RUDMAN. That footnote being that you do not have to show damage to consumers in order to proceed under your statute; you can just show general damage to an industry?

Mr. BARR. Right, to the exporters who were the target of the boycott.

Senator RUDMAN. Right.

Mr. BARR. So, I expect that to be formally adopted imminently; no Cabinet Secretary has raised an objection to that to me, and I think a consensus has emerged that is the proper legal call.

The next issue, which is one that really wasn't an issue before when we made this change in the footnote or proposed change in the footnote, is the considerations that come into play in a particular case. I have said all along—in fact, I said at my confirmation hearing; I think you may have been there at the time—that whenever you deal with extraterritorial enforcement of U.S. law, you have to take into account practical difficulties, questions of potential retaliation against American companies where we could end up in a worse position. So, you have to take a pragmatic assessment of the case and the consequences.

You can also look at other alternatives, other ways of achieving the same objective of prodding a particular country to enforce its own antitrust laws and, therefore, get the same result. You have to take into consideration whatever diplomatic factors may exist in a particular context. I have said all along, that in enforcing the

antitrust laws extraterritorial, I will consult with all the interested executive departments so that all relevant issues can be vented.

Obviously, if someone disagrees with what I want to do, and there is, in fact, butting on a particular application of it, then anyone is free to elevate it however far they want in the executive range.

CONSULTATION ON EXTRATERRITORIAL APPLICATION OF LAW

Senator RUDMAN. So if I understand your answer, there is consensus on the technical reach of the statute in terms of the footnote being removed. Rather than having a general policy approval now from the President on this proposal of the Justice Department's Antitrust Division, the policy would be considered on an ad hoc basis as each case came up that Mr. Rill and his people thought needed action; it would go up through the process and there would be consultation with State et cetera. Is that where we are?

Mr. BARR. That is essentially correct. I would have to approve an extraterritorial application of the law, and in doing that, I would consult with other interested agencies and Cabinet heads to find out what the impact of that may be.

For example, if USTR has an ongoing negotiation over the very same issue, and there is progress being made, I would want to know that. That is, I think, a significant factor. I shouldn't be coming in from left field without anyone else knowing what is going on.

Senator RUDMAN. I am just looking at the practicality of the procedure. So, take the case of a group of German companies or a group of Japanese companies who were doing something which met the test of violating a portion of our statute, your present policy would be that if you found a violation, then you would go forward unless there was objection from another part of the government that you either thought was valid or, if you thought it was invalid, it was then ruled to be valid by the President or people in the White House; is that generally how this works?

Mr. BARR. I wouldn't say up front that in every case where someone suggests there is a violation that I am necessarily going to be willing to go forward automatically.

Senator RUDMAN. No; I understand that.

Mr. BARR. I would consult with interested agencies, and we would also notify the country involved, and all the issues could be vented. I could then make my decision from the Justice Department standpoint, and if someone wanted to object to it, they could always do that.

Senator RUDMAN. I would just say, Mr. Attorney General, I think it is a very creative policy. We talk a lot on this committee about many issues that have to do with trade and competition. There is evidence abounding around the world on this issue, and the question is whether or not you are going to get by the State Department on some of these. That is the issue.

Senator HOLLINGS. If you can yield right now?

Senator RUDMAN. Sure.

REGULATION OF FOREIGN COMMERCE

Senator HOLLINGS. What happens on this is article 1, section 8 gives the Congress, not the courts and not the executive, but the Congress, the power to regulate foreign commerce. Then, when we put in a bill to regulate foreign commerce we get an opinion from the Attorney General that said we interfered with the foreign policy authority of the President of the United States. That is how far extreme we have gone. Not you, specifically, Mr. Barr. But I can show you those letters. It is absolutely ridiculous, in other words, the textile bill was an unconstitutional assumption by the Congress of the Presidential authority to make foreign policy.

That is why I am so interested to welcome you and help you in any way I can. Don't worry about the prison bank. I will help you in any way I can. [Laughter.]

You are the first breath of fresh air I have seen around this town in several years. Warren, you know that. There is no question about the fundamental fault in our dilemma right now. One-half of it is, of course, our own extravagance in not paying the bill, but the other is the lack of what you call a focus or coherence in our trade policy. While I am on that, if you will yield just one moment, our good friend Harry Truman, that couldn't operate a haberdashery, knew how to run Government. Old Bill Casey came up when Truman got in and said, "Mr. President, intelligence shows this, and you have got to do so and so," and the State Department said, "Oh, no. That is not the policy." The Defense Department Secretary said, "Huh-uh. Wait a minute. That is against our national security interests." So the President said, "I am putting you down underneath me in the White House."

ESTABLISHMENT OF THE NATIONAL SECURITY COUNCIL

By Executive order he instituted the National Security Council. He said, "You go downstairs and you beat it out and you give me a couple of alternatives, and I will make a decision." Out of that came the Marshall plan, the North Atlantic Treaty Order, the Atlantic Charter, the Truman Doctrine, the farsighted visionary policies that worked and helped to bring about our victory for capitalism—it was done by a fellow who knew how to run the Government.

We now have a similar situation. We have 28 departments and agencies in trade. If it is a farm product, you go to Agriculture. If it is the Export/Import Bank, I go over to the Treasury. If it is the Foreign Trade Administration, I go over to Commerce. They have got me dancing all around, and then the State Department comes in, and the Defense Department comes in on critical materials. So we need a correlation, a coordination and a focus, as you say, and you are now bringing it around, as I see it, to level that playing field. We are going to have to get in the game.

Our Government ought to be on the side of our own industry and our own manufacturers and, heavens above, quit representing the other side. It was good to do the Marshall plan. We were trying to spread capitalism. I have heard it many a time, "Governor, what do you expect them to do, make the computers, the planes? Let them make clothing and let them make shoes." Fine, that was a

good argument, but now they are making the planes and they are making the computers and we are going out of business running around here hollering, "Don't let us start a trade war when it is in the fourth quarter."

So keep going. Excuse me.

FOREIGN COMMERCE

Senator RUDMAN. That is fine. I would just finish up by saying that in economic history of the last 20 years there is evidence that abounds, egregious cases of groups of companies, foreign companies buying market share by price conspiracy, and essentially eliminating the entire American industry. There is plenty of evidence of that. I happen to believe that what you have here is a very sound idea. I think you are going to have lots of problems getting it implemented, but I hope you don't quit trying. I just wanted to commend you for that. In this particular subcommittee if anyone is ever so careless as to give you anything that is trade related, normally the entire pot comes off in the hearing. We have kept it moderately under control this morning.

QUANTICO TRAINING CENTER

Let me turn to the Quantico Training Center. Just a question for you; we have had a lot of discussions with you about this. You requested a little over \$31 million for that facility. Last year we put in \$3.5 million. Are the plans finalized? Are you going to have joint training and are you going to use the FBI Academy for some of the DEA, or just what are you going to do down there? Just give us something for the record on that.

Mr. BARR. Sure. Right now Quantico really is performing three functions. It has FBI agent training, DEA training, and what we call the National Academy, which is State and local training. The demands of those three operations are up against capacity. In fact, we have had to cut down on State and local training to accommodate our DEA and FBI training, and I think State and local training is very important. You know how much State and local law enforcement supports the National Academy.

So, what we want to do is build a joint-use DOJ facility on the new property that the Marine Corps has made available to Quantico. Its first priority will be for DEA basic training. That would relieve some of the pressure on the existing Quantico facility, but it would also be available for other Department of Justice training.

It is important to ensure that DEA continues to train in Quantico; it is important that FBI and DEA work more closely together. There are a lot of areas where we have to improve that cross fertilization. I think it has to start with training. We have done the A&E study. My decision was to request construction funds for that facility on the new Marine Corps property.

Senator HOLLINGS. Who is going to manage and control the facility itself?

Mr. BARR. Well, the Department of Justice will ultimately be responsible for it, but it is quite possible that would be delegated, perhaps to DEA, since they would probably have most of the training at the facility.

AMERICANS WITH DISABILITIES

Senator RUDMAN. We had a complaint from a very responsible New Hampshire group that works for disabled people that they are having difficulty in getting technical assistance on the Americans With Disability Act. I notice that you are asking for nine positions and \$2.6 million for technical assistance in public access litigation cases.

I just believe that fostering voluntary compliance through rendering technical assistance is very cost beneficial. I hope you agree with that. I hope you believe that this request for technical assistance is sufficient, because a lot of these folks out there need a lot of help in compliance. They really need the help, and they want to comply, but they are having a hard time getting answers. It is pretty tough to tell people, "Comply with the law," and then tell them, "We don't know how to tell you to comply with the law," when, in fact, it is so technical; they can't go to their local lawyer to find out. Do you think that is enough in here?

Mr. BARR. Given all our other responsibilities, I think that has to be enough for us. I agree that what we have to be putting emphasis on now is cooperation, technical assistance, working with State and local governments, trade associations, and others to give them the assistance they need to comply, because people want to comply with this.

Senator RUDMAN. That is right.

Mr. BARR. We are not going to be going out with a heavy-handed enforcement strategy.

Senator RUDMAN. Take a look at that, would you, please?

Mr. BARR. I have talked to John Dunne, and he has been very responsive. There have been some other cases up in New England where we have been slow in giving technical assistance, and we are turning that around, but we would be glad to get up and get John Dunne up there.

DEPARTMENT OF JUSTICE LAPSE RATE

Senator RUDMAN. I am going to have a question for the record on your lapse rates. I notice you have got your lapse rates in there at a 75-percent rate, which is kind of getting the camel's nose under the tent. We are going to pay for the nose this year and the rest of the camel is going to come by in 1994.

Mr. BARR. That is exactly what we are proposing. [Laughter.]

Senator RUDMAN. That was a fairly transparent strategy. I commend you for your honesty. But I just think, Mr. Chairman, we ought to have that question for the record with some detailed explanation so we can figure out what the lapse rate really ought to be around here.

Finally, a couple other things, Mr. Chairman. On RISS, let me just make an observation that you folks target it; we do it; you target it; we do it. I mean, why don't you give up after 10 years and agree that it really works? Because you know we are going to do it, and the fact is, the Department does a good job with it, and the local agencies do a good job. By your own statement a few moments ago—I forget the percentage—93, 94, or 95 percent of crime is local and enforced by local people. It is a pretty good system. It works.

I would love to see you come back in your budget next year and say, "We support this program." It is only \$14.5 million, but you propose to reduce it.

So I would just make that comment on RISS. I will give you a couple of questions for the record, and a last question, which is kind of back for your Antitrust Division, which, as you know, is a favorite subject of mine. I talked to you about this 1 month or so ago, and I am not sure exactly what the policy ought to be, so do not assume by the question that I am looking for a particular answer. I am not. I am just kind of curious.

FINANCIAL SYNDICATION INTERVENTION

There has been a great dispute between a whole bunch of people in our Government on the whole financial syndication question. The Department had a totally contrary view to what some people in the Commission did. You know, you well may be right. As this market is changing you may have been right. I have a contrary view. But I well could be wrong on this, but I am curious as to where this is going. It is in the seventh circuit. A lot of people are watching it to see what is going to happen out there. Someone told me, who was not unfriendly to your doing it, that the Department was going to intervene in the circuit as a legal curiae or as a party or whatever, since, of course, you have intervened in the Commission itself.

I find it interesting because then you get yourself interposed in a position where you are opposing an agency of the Government, an independent agency of the Government which has taken a point of view that if you do that, you are going to go in there and say, "Well, we think they are wrong." Well, that may be all right. Maybe that is what the Justice Department is supposed to do. I wonder if you or Mr. Rill would like to tell me where it is, if you can, and if you don't want to answer it today, I can understand that.

Mr. RILL. Senator, good morning.

DEVELOPING EXECUTIVE BRANCH LEGAL POLICY

Senator RUDMAN. Good morning, Mr. Rill. You have got the only job in the Justice Department other than his that I think must be very interesting.

Mr. RILL. I find it fascinating, sometimes more than others. The fact is that by statute the United States is a party. We have not taken a position on that issue in the seventh circuit nor are we required to do so.

Senator RUDMAN. I understand. But you are allowed to if you wish to.

Mr. RILL. We are certainly permitted to. I have not made a determination nor have I made a recommendation to the Attorney General at this time, so that is the status of the FCC matter.

Mr. BARR. I did say I didn't want anything filed in the seventh circuit unless I knew about it based on my last experience with this issue.

Senator RUDMAN. If you are going to say the United States is a party under the statute, well, the Justice Department is the United

States, but I imagine to some extent the various independent agencies think they are also the United States, so you get a case of the United States, upper case, against the United States, lower case.

Mr. RILL. We are aware of that situation, and I have not made a recommendation to the Attorney General at this point, and there are a variety of options that are available to us, Senator.

GENERAL COMMENTS

Senator RUDMAN. I appreciate that, and again, the question is just informational. Let me just commend you, Mr. Barr. I have been very interested in the Department for some time. I have sat on this committee now for 12 years. I have never missed a hearing with regard to this agency, and I join with what the chairman said. You are doing a good job getting a lot of things together that need to be put together. Even more important, I have the sense that if there is something you think is going to be a real problem for us, you are going to come and talk to us about it. That is the way it ought to be because we would rather work with you than go into some battle with you.

Mr. BARR. Thank you, sir.

LEGAL EDUCATION PROGRAM

Senator HOLLINGS. General, let me ask about the Department's legal education program. I worked with Attorney General Thornburgh in enhancing and expanding our legal education, and then we instituted the facility down there in Columbia, SC. Can you elaborate on that now: What the status of it is and what the Department intends for the National Advocacy Center?

Mr. BARR. I am committed to carry out Attorney General Thornburgh's decision to move the Department's legal education program down to the University of South Carolina. I think that was a good decision, and we are in the process of implementing it. We have submitted the report that was requested and required under the conference committee report, and we are now working to move some courses down there for this fiscal year, and some additional courses for next fiscal year. We are working with the university officials and the local officials to determine the best way of carrying that out.

CAMP BEAUREGARD

Senator HOLLINGS. Very good. On another matter, and we will yield then to Senator Lautenberg here—there was a reprogramming proposal that Senator Rudman and I approved of a long-term lease of the facility under construction down there at Camp Beauregard, LA, for the Special Operations Group Tactical Center in the camp. The lease was of the facility now under construction including the dormitory, warehouse, office, classroom space, all these other things, and then there is a sudden change in policy where you propose in the budget, as I understand it, and that is what I want to be corrected on if I am incorrect, a reduction of 14 positions and \$1.8 million less by closing the camp down there. Are you familiar with that?

Mr. BARR. Generally, yes. I think the function that is being carried out down there, which is a facility for the Marshals Special Operations Group and also training, international training under the State Department's ATAP Program, are important functions. I think that given the current fiscal constraints and the scrubbing of our budget to look for areas which we may be able to accommodate elsewhere at lower cost, that this is one of the casualties of the budget process. We are right now considering alternatives to maintaining Camp Beauregard to see whether or not we can provide those services within existing departmental resources and existing facilities.

Senator HOLLINGS. That translates into: OMB must have cut it.

GENERAL COMMENTS

Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Mr. Chairman. I don't want to delay the process. I know that you have been here for awhile, Mr. Attorney General. I am glad to see you. I want to have a chance to kind of see you face to face. I keep seeing your picture in the paper and this is a chance.

Senator HOLLINGS. He looks the same way. [Laughter.]

Senator LAUTENBERG. Frankly, I think he looks different.

Senator RUDMAN. He looks older.

Senator LAUTENBERG. When you get white hair like the chairman and I, everybody looks older on the other side of the table.

Senator HOLLINGS. When I get on TV, my wife says I look like a Q-Tip. [Laughter.]

Senator LAUTENBERG. Having too much respect for your rank and seniority, I won't comment. [Laughter.]

Senator RUDMAN. Ask your question, please.

FUNDING FOR STATE AND LOCAL TRAINING

Senator LAUTENBERG. Mr. Attorney General, I know that the administration has said that it wants to focus more on fighting violent crime, and it is a goal that I fully agree with.

I believe that one of the best and most effective ways to fight violent crime is by helping local law enforcement to get the training and the facilities that they need to do their job. I had a little discourse with your predecessor here last year about this issue. He had penned a letter to Chairman Biden explaining his opposition by saying that, and I quote from that letter, "The cost of dependency of State and local law enforcement was continuing infusions of enormous quantities of Federal cash." I don't think that that is necessarily the wrong kind of a facility.

I think that where the Federal Government can help it ought to because without expanding the discussion, there have been so many places where the Federal Government has cut back that this is one place that I had hoped that we could muster more support. I was disappointed that the administration was proposing a cut of \$115 million in aid to local and State law enforcement agencies down to \$589 million, in particular, the Byrne Memorial State and Local Law Enforcement Assistance Program.

So I just wanted to ask, and perhaps this is hypothetical because I understand that there was a discussion beforehand that said that the authorization level, it was your view that might not be the actual funding level; did I get it correctly?

Mr. BARR. I think we were talking about the crime bill.

Senator HOLLINGS. The crime bill, yes.

Senator RUDMAN. The one that is pending.

Mr. BARR. But even there, I am not sure about this, but I think there probably are. The authorizations for OJP programs probably substantially exceed what has been appropriated over the last several years, probably \$1 billion in authorization, probably \$500 million in appropriations.

Senator LAUTENBERG. Does the administration still oppose the \$1 billion for the Byrne program?

Mr. BARR. I don't think there is \$1 billion in that program. Our position on State and local assistance generally, the quantum is: Law enforcement can always use the resources. It is a question of what is available right now, and also where we spend the rest of the money out of the pot that is available. Last year, I mentioned this generally in my opening statement, the President asked for a 15-percent increase in the Department of Justice. We ended up not getting \$472 million that was requested, because that money was put into education and other budgets up here on the Hill.

Frankly, if it wasn't for the efforts of this subcommittee we wouldn't have had any increase in our law enforcement budget last year. So, when people start talking about, "Well, let us throw hundreds of millions of dollars more into State and local aid," my question is: Where is the money going to come from?

GRANT PROGRAM EFFECTIVENESS

Senator LAUTENBERG. What about the evaluation of the effectiveness of fighting violent crime in terms of local versus not?

Mr. BARR. That is a good question. Let me also say, that some of the cuts that you are talking about are similar to some of the cuts Senator Rudman was referring to. This yearly pirouette that we do where we zero out grant programs, and we know they are going to be put back in, so some of those cuts are part of the process. I think, probably, some of that money that you are talking about is the Juvenile Justice Program, the grant program. There is probably \$70 million in that program. I agree that it is important for State and local governments. I think that Federal and State and local government have to work together in a partnership, task forces, and other things like that, and it is important that we do provide some level of assistance.

I also agree, however, with Attorney General Thornburgh's position that we just can't become a funding mechanism for State and local law enforcement. State and local law enforcement has an obligation to provide resources. It is their first level of Government as well as ours, and we have some programs like the Weed and Seed Program where we are going to be putting more money into those communities.

WEED AND SEED PILOT PROGRAM

Senator LAUTENBERG. The Trenton Program?

Mr. BARR. The Trenton Program is a pilot, and I was just up there last week, and I think they are doing a tremendous job. I am very proud of what is going on there, and the job that the State and local people are doing is tremendous. But, I think you raise an interesting point which is a correlation. The financial assistance of State and local government, I think, has to be matched with the strengthening of criminal justice systems at the State and local level. I am not saying that one should be dependent on the other, but we have to keep a careful eye on that. We have to ensure that our money is not going into State systems that are largely dysfunctional.

For example, Senator Gramm was here this morning, and he pointed out that in Texas they serve only 21 days for each year of sentencing received, and that the system in Texas is largely broken down.

Well, how much sense does it make for us to spend a lot of money in that kind of State system? I think we can continue to do it, and a lot of our efforts now are in Texas, and some of our weed and seed sites are slated for Texas, or at least are under consideration. As we help State and local law enforcement we also have to be encouraging State and local law enforcement to adopt many of the reforms that the Federal Government did in the eighties to strengthen their systems.

WORKING WITH STATE AND LOCAL GOVERNMENTS

Senator RUDMAN. If I may interject. Some of the efforts, which I can understand, would reduce the match requirements. Then you fall exactly into the trap that the Attorney General is talking about. Then you have essentially Federal dollars funding State and local functions, so they don't fund them. We fund them. They don't get any better, and yet when you talk about raising the match, you get screaming of bloody murder. That is the issue.

Senator LAUTENBERG. Senator Rudman, the problem is that the States are being overwhelmed with new and broadened responsibilities. It is very, very tough. State budgets and today, George Will wrote about New Jersey and its tax requirement. We have become a euphemism for what happens when you have to reach in to pay old debts, and it is pejorative. It is not a compliment by a long shot.

The fact is that States are under assault by the expansion of criminality; by their lack of resources; by having to provide funds for programs that were taken away over these last years, this last decade, and the systems do break down because the States are beginning to search for the skills with which to manage these programs. They don't have the funds for them.

So they have fallen on hard times, and they do look to the Federal Government. Listen, no one suggests that you just throw money down the rat hole, but with those funds can come some education, some skills development that will be unique to the law enforcement agency like yours which is so large and has so many well trained managers and is skills-based that we can use that at the local level.

We can't do it; we can't punish these States, honestly, into getting better. That is not it.

Mr. BARR. As I said, I am not suggesting that, but I am all for working with State and local government and doing as much as we can to assist. If anything, some of these programs, such as setting up gang task forces, Triggerlock, and so forth, where we are prosecuting essentially 6,000 armed offenders, are leaning forward on the Federal Government's part to help State and local. But by the same token, I think that has to be matched by real reform of the criminal justice systems in the States and no slackening in the funding commitment of States.

Part of the problem is that we have to go back to the basics throughout the country, State and local government, but also the Federal Government. Law enforcement is one of the basics; it is one of the reasons we have Government, and Senator Rudman's article pointing out how this mandatory spending is squeezing out the discretionary spending, that is happening at the State level, too. What is happening, the foundation of society, law and order, which is necessary for all these other nice programs to succeed, is under a lot of pressure. I think we have to go back to basics and assure that the first dollar spent goes to providing an environment in which the rest of these programs can succeed.

Senator LAUTENBERG. I agree. We could have a good time talking about this for awhile, but Mr. Chairman, I promise the debate is over as far as I am concerned.

WASHINGTON, DC, CRIME PROBLEM

Senator HOLLINGS. One other thing, General, that comes to mind, and I go to our hearing in the subcommittee with the Secretary of State. He got \$1 billion more for peacekeeping everywhere; Cambodia, Angola. You pick a country, he is finding it; Yugoslavia. We are running around peacekeeping, peacekeeping. Here we have got the Capital City and we have got all of your programs, Triggerlock, weed and seed.

In the Capital City, every time you turn on the 6 o'clock news program we have bad problems: So many killed here; another stabbing there. And we are getting further and further behind. Literally, here is a good test area right in your own backyard. It is a tremendous Federal responsibility as well as for the city itself, and you know they run everybody out with the high taxes and everything else to afford the schools and all the services and everything else of that kind. It is a good place for the Attorney General to make history and be remembered that he cleaned up this Nation's Capital where you can walk the streets again.

You have got Senators being assaulted and this one getting shot; his wife being assaulted, everything else. I mean, every week it gets worse. So it is a good place to try to get that done, right here, along with outreach into my backyard and in Texas. Let's start those programs and see what we can do right here, too.

DRUG ENFORCEMENT ADMINISTRATION OVERSEAS PROGRAMS

Mr. BARR. Senator, it is hard for me to use that one to say what I wanted to say, but you talked about the DEA overseas programs,

and I didn't want to let these hearings conclude without saying something about that, because I think it is an important program.

We have to take the long view on the drug war in the sense that the real challenging part of the supply side problem is this production and distribution from overseas where it is produced and distributed in the United States like marijuana, methamphetamine. We have been making substantial progress on the supply side. The challenge is where it is coming from overseas, and I think by necessity it is going to take some time to gather the intelligence, and we have been doing that, but also to put in place the building blocks and the relationships overseas to start making an impact on those organizations overseas.

We are at the point where we are having an impact. DEA has good relations by and large with the law enforcement people overseas with whom they work, and I think that we have to.

Senator HOLLINGS. How is it then when you say that, and then turn on the TV and they have got armies organizing in Peru against us and the Government of Peru is now having a problem?

Mr. BARR. Peru is a difficult problem because they have these insurgent groups, these rebel groups.

PROGRESS IN COLOMBIA

Senator HOLLINGS. We had the same thing with the farmers in Turkey. That is why this is related. Wherever we go, we become the object of disaffection; it is sort of a catalyst to get the opposition to the particular government or the authority or whatever, and brother, "It is best then that we get out of Turkey," and, "Then it is best that we get out of here and get out of there."

Do you think we can get control down there in Colombia?

Mr. BARR. I think in Colombia we are making substantial progress, because in working with the Colombians we have decimated the Medellin cartel, and we are starting to hit the Cali cartel. A few months ago, you saw taking down two Cali cells in New York and then two simultaneous raids on the cartel, seizing documents and computer tapes. I think in the future, the Cali cartel will get hit harder and harder. We have spent several years putting in place intelligence; working with countries to put strike forces in place there; building up international agreements, and the building blocks are in place. Now is the time to go for the jugular on these organizations.

Senator HOLLINGS. I am willing to learn. Go right ahead.

Mr. BARR. Thank you, Senator.

ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. We appreciate what you are doing. There will be some additional questions from various Senators which will be submitted to you for your response.

[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 ERNEST F. HOLLINGS

Criminal Enforcement Priorities

QUESTION: In recent years, Congress has appropriated hundreds of millions of dollars for additional Drug Enforcement (DEA) and Federal Bureau of Investigation (FBI) agents, assistant United States Attorneys, United States Marshals and pre-trial detention, and prison construction and operations. These resources have been provided for the Department's priority efforts to combat violent, drug, and white-collar crime. The primary impact of these efforts seems to be a burgeoning Federal prison population.

The Department has said it is giving high priority to major drug trafficking, white collar crime--including financial institution and health care fraud plus environmental crimes--and violent crime (Operation Triggerlock, etc.). But actual priorities may vary considerably across the country, depending upon the local priorities and declination policies of the various United States Attorneys. Moreover, according to the Department's own budget justifications, the supply of drugs seem largely undiminished (though transportation routes and participants have shifted), and the supply of heroin is actually growing.

On what basis does the Department determine its national criminal law enforcement priorities? How does it monitor compliance with these priorities? How does it determine the effectiveness of its investigative and prosecutorial priorities?

What have been the Department's major criminal law enforcement priorities for the past 3 years? What have been the Department's major measurable accomplishments and its major disappointments? Why?

ANSWER: The Committee is correct in noting the priority that the Department has given to major drug trafficking, white collar crime (including financial institution and health care fraud), environmental crimes, and, more recently, violent crime. The 1993 President's budget addresses these priorities in a chapter titled "Ending the Scourge of Drugs and Crime" with environmental priorities being discussed in the next chapter.

As I said in my statement before the Committee "The mission of law enforcement is to protect the freedom and liberties of all Americans. Indeed, the first freedom of all who live in this country is the freedom from fear of crime. Adequately protecting this freedom and defending the blessings of liberty is an unending task, requiring both moral and financial commitment."

The Department has responsibility to administer the law across the board. Each Administration and each Attorney General must utilize available resources to respond to problems that are perceived to be the most serious and

request additional resources when necessary. When problems are anticipated or erupt and a response is made, the prioritization process starts.

Although the Department of Justice has used priority rankings in a variety of contexts as an aid in its internal decision-making process, these priorities are driven strongly by changes in the law, changes in the pattern of criminal behavior, changing values in society, and the need to maintain a balance of resources within the various organizations that participate in the administration of justice. As crime spreads increasingly across State lines and international boundaries, Federal responsibilities change and tougher Federal laws are enacted. Workload also varies as Federal and State prosecutors weigh the merits of prosecution and punishment under Federal or State laws. With so many outside factors bearing on the Department, the Attorney General often has very few options in establishing priorities.

Although the Department regularly prepares "ranking sheets" to reflect its own priorities, it must be remembered that the Administration has its own methods for establishing priorities, and the Congress expresses its own priorities through the authorization and appropriations process.

Once a basic set of priorities has been determined for a given year, the Department and its components have the capability to monitor compliance through the Department's accounting and auditing systems. In some cases workload data must serve as a surrogate measure of compliance. To the extent unexpected events occur, or better approaches are developed during the current year, the Department follows Congressional notification guidelines for reprogrammings and reorganizations.

Determining investigative and prosecutorial effectiveness is an ongoing process. The Department's management team has primary responsibility for assuring that resources are used wisely. At the State and local level, Law Enforcement Coordinating Committees have been very helpful in making law enforcement and prosecution respond effectively to local priorities. A number of task forces at various levels coordinate and prioritize specific law enforcement activities at the regional, State, and local levels. The Office of the Inspector General has authority to review activities and make suggestions to improve performance within the Department.

- The General Accounting Office may provide recommendations, particularly in areas where Congress has expressed concern.

Regarding the Department's major criminal law enforcement priorities over the last three years, the war against drugs remains high on the priority list. During my tenure as Attorney General, I have added violent crime because many of the gangs that were once associated primarily with drug trafficking are now into violent crimes where drugs may or may not be a major factor. White collar crime continues to be a priority. Within this broad category, financial

institution fraud remains a major concern; but there is now clear evidence that more resources must be applied to suppress health care fraud. We also face a major task in ferreting out computer crimes and fraud associated with bankruptcies, telemarketing, insurance, commodities and securities, and pension plans.

As to our measurable accomplishments and major disappointments, there are several significant observations.

In the war against illegal drugs, we are pleased that the number of people using drugs on a regular basis has dropped significantly, that we have achieved a high degree of international cooperation in controlling drug supply and money-laundering, and that drug barons have not gained political control over any of the drug producing countries. We are troubled that there remains a hard core of drug users who can obtain supplies and we fear the increasing violence of gangs.

In the white collar crime area, we have had marked success in gaining convictions. In the financial institution fraud area, the conviction rate has been remarkably high. We are troubled about the spread of fraud into other areas and worry that our resources will not be adequate to deal with the levels of fraud that may be uncovered.

On the whole, considering the level of resources available, our law enforcement efforts have been successful. This, in large measure, is because we have learned to work more effectively with other Federal law enforcement agencies as well as our State and local counterparts.

Department's Violent Gang Initiative

QUESTION: A lot has been presented in the media lately about the growth in the gang problem across the country. In January, the Attorney General announced that in 1992, the FBI would be committing an additional 300 agents (about a 20-percent increase) to address the problem of gangs and violent crime. In 1993, an additional 85 agents will be reprogrammed to support the Violent Gang Initiative. The Bureau of Alcohol, Tobacco and Firearms (ATF) is also increasing the resources it is committing to fight violent street gangs. Part of those resources were to be assigned to join ATF/FBI task forces. And, as part of its justification for budget increases, the United States Attorneys are requesting additional resources, in part, to prosecute Organized Crime Drug Enforcement Task Force cases involving violent gangs.

How many gangs has the Justice Department identified that fall within its purview, and how many members does Justice estimate these gangs have? What criteria is used to determine whether a gang's activities are of such scope or significance that they qualify for investigation by the Department of Justice? Are there gangs that do not meet the criteria for Federal investigation and, if so, how do they differ from gangs that meet the criteria?

ANSWER: For the investigative purposes of the "Safe Streets" initiative, the Department of Justice defines a gang as "an association of two or more individuals, the purpose of whose association is the generation of income through continuing criminal activity." Due to the generic nature of the definition that is used, it is difficult to determine how many gangs or gang members there are in this country. There are many other factors that affect the demographics of gangs, and these factors vary from community to community.

The criteria used by the Department to determine whether the gang's activities qualify for investigation include a thorough examination of the character, complexity, sophistication and organization of the gang. However, the primary consideration is the thorough identification of the gang's criminal activity. Gang criminal activity does not distinguish between Federal, State and local jurisdiction. In all cases where it is practical, and the gang activity involves a violation of Federal statutes within the Department's jurisdiction, the Department will insure that its investigation is coordinated with other Federal, State and local law enforcement agencies.

With the specific implementation of the "Safe Streets" initiative, many FBI field offices have or are in the process of establishing multi-agency task forces in order to address specific violent gang problems.

In announcing the Violent Gang Initiative, the Attorney General, Director Higgins of the Bureau of Alcohol, Tobacco and Firearms, and FBI Director Sessions estimated that there are between 300,000 and 350,000 gang members in the United States. Some specific examples include the following: 20,000 Jamaican posse members; 50,000 outlaw motorcycle gang members and associates; 26,000 Crips, 10,000 Bloods, and 64,000 other street members in the Los Angeles area alone; 34,000 Latin Kings and Black Gangster Disciples; 13,000 prison gang members; and an undetermined number of Asian gang members.

Due to the generic nature of the gang definition, it is likely that any gang that commits crimes could meet the criteria for Federal investigation. However, the overriding considerations as to whether an investigation will be initiated are discussed above.

QUESTION: Extensive FBI, as well as other Federal, State, and local resources, have been committed to the gang problem which encompasses a number of different Federal enforcement objectives including emerging organized crime syndicates, drug and weapon distribution rings, and violent criminals. How can we be assured that the Federal resources, as well as State and local law enforcement resources being devoted to investigating each of these areas, are being well coordinated and that overlapping investigations are minimized? What mechanisms are there to oversee and coordinate the direction of the Federal efforts among the various agencies involved?

Has a determination been made as to which agencies have the lead in the various criminal violation areas and, if so, which ones are they?

ANSWER: With the implementation of the "Safe Streets" initiative, the FBI is managing, coordinating, and investigating many multi-faceted and multi-jurisdictional investigations which include the coordinated efforts of other Federal, State and local law enforcement agencies. Mechanisms in place to oversee and coordinate the direction of these multi-agency investigations include the establishment joint task forces. These task forces are generally formalized, and include agreed-upon memorandums of understanding which define each agency's jurisdictional and investigative responsibilities. The Special Agent in Charge (SAC) of each FBI field office, heads of other law enforcement agencies, as well as the respective United States Attorneys oversee and coordinate the investigative focus of these many "Safe Streets" initiatives in order to insure that overlapping investigations are minimized.

In many instances, the Department's FBI is best suited to act as lead investigative agency in these multi-faceted and multi-agency task forces for several reasons. The FBI has extensive experience in developing and bringing to fruition many types of complex, long-term investigations. These investigations include organized crime, drug, white collar crime and other program violations, and have been successful to the point of decimating all levels of the organizations' hierarchy. In other instances, another agency, such as ATF is the lead agency, due to the nature of the suspected violations.

QUESTION: In making the decision to reprogram agents from the Foreign Counterintelligence program to the Violent Gang Initiative, what criteria were used to decide that this initiative was a higher priority or was in greater need than other priority areas? In making this decision, to what extent were other Federal, State, and local investigative resources already committed to this area considered? In addressing the gang problem, what unique investigative tools or expertise does the FBI possess that other agencies investigating this problem lack?

ANSWER: On August 11, 1991, the Uniform Crime Report (UCR) released the 1990 statistics for crime in the United States and revealed that violent crimes increased by 11 percent over 1989, 22 percent since 1986, and 34 percent since 1981. In response to the President's initiative to combat the spiraling incidents of violence plaguing communities throughout the nation, and in recognition of recent world developments which indicate a somewhat less hostile environment, FBI Director William S. Sessions established crimes of violence as one of the FBI's national priorities. The decision to reprogram 300 special agents from the Foreign Counterintelligence program to the Violent Crimes and Major Offenders program was made in order to assist Federal, State and local efforts and to facilitate the creation of FBI-directed Federal gang task

forces to combat the increase in violent street crimes. The FBI's "Safe Streets" initiative is designed to complement existing Federal, State, and local investigations that are already in place and additionally provide a vehicle for the initiation of an investigation where there are no current investigations being conducted and a need exists.

The FBI possesses the unique capability of attacking violent street gangs not only at the street level, but from an organizational perspective. The FBI's unique experience in dismantling organized crime and drug organizations, complemented by its extensive resources, working knowledge of complex organized groups and ability to conduct in-depth investigations utilizing sophisticated techniques, such as undercover operations and electronic surveillance, makes the FBI singularly qualified to address this problem.

Immigration and Naturalization Service

QUESTION: Your recent Immigration and Naturalization Service (INS) reprogramming and the 1993 budget focuses heavily on border patrol, investigation of criminal aliens, and detention and deportation. The Administration is pursuing an overall free-trade agreement involving Mexico, Canada, and the United States. There are concerns expressed by border State members that INS is woefully understaffed at its land border inspections posts. To encourage commerce and free trade, we need to move people expeditiously across our local borders.

Where does the local border inspections issue fit into your overall priorities?

Why haven't you made more rapid progress in the local border pilot user fee program?

Why haven't you gone beyond the one site in Blaine, Washington?

Are you dealing at a Cabinet level with Treasury on expanding this initiative?

ANSWER: Several initiatives recently undertaken in the land border inspections area will allow INS to address the dual requirements of law enforcement, and travel facilitation at all ports-of-entry. The addition of the 135 new positions approved by the Congress, as part of this year's appropriation, is now underway. This increase represents a significant improvement in the land border staffing structure, essentially a rise of 13-percent above last year's 1,033 authorized level. The addition of these new officers to the staffs of the larger urban area ports is expected to materially improve our ability to avoid the lengthy traffic delays that currently occur.

Additionally, progress is being made on the expansion of the dedicated commuter lane concept to new locations along the northern border. Plans call for this program, currently in

full operation at the Blaine, Washington facility, to be expanded to several locations during 1992 and 1993. The diverting of the vehicles of frequent travellers into specially-equipped processing lanes results in a net improvement of overall facility efficiency, and allows all applicants for admission to be more quickly processed.

The INS also is developing improved automated inspection tools, such as a fingerprint scanner and document readers, to allow for improvements in officer effectiveness through increased detection of fraud and deterrence of illegal entry.

An additional initiative involves the development of a comprehensive staffing model geared to the unique requirements of the land border facilities. Following completion of the model, the Service will be able to quantify the relationship between officer staff and workload at all border locations, and will be in a position to reallocate existing staff, if warranted, as well as define future resource requirements.

The Land Border User Fee Pilot Program, initiated in Blaine, Washington, presents the INS with an exciting and innovative opportunity not only to increase facilitation efforts, but also to enhance other inspectional services rendered at land border ports-of-entry. The INS was ready to proceed with additional Dedicated Commuter Lanes (DCLs) before the end of 1991.

After implementation of the initial DCL, the Service began work on plans for a southern border test at the Paso del Norte Bridge (PDN) in El Paso, Texas, initially scheduled to open in September 1991. Unfortunately, the United States Customs Service (USCS) has actively opposed this project since inception and continues to prevent its implementation.

In the current appropriations act for Customs, Section 532 states in its entirety: "None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fees at ports-of-entry along the United States-Mexico border." Based on this section, USCS will withdraw written authority for immigration inspectors to perform primary inspectional duties for USCS and will reissue such authority valid only for non-DCL lanes if plans for a southern border DCL continue, or actually come to fruition. In effect, this would mean that any vehicle using a DCL would be stopped twice, once for immigration inspection, and once for customs inspection, while all other vehicles entering through regular lanes would only be required to stop once, thus nullifying any gain in facilitation.

While USCS continues to cite supporting opposition to DCLs from the Border Trade Alliance (BTA), and other groups, experience has proven otherwise. Meetings with such groups, as well as with members of Congress, have resulted in increased interest in the testing of further DCL locations.

Although staff officers from both the Department of Justice and the Department of the Treasury have met to discuss this issue, no Cabinet level meetings between the Attorney General and the Secretary of the Treasury have, to date, occurred.

Increases in Fees for Nonimmigrant Visas for Artists,
Entertainers, and Athletes

QUESTION: On February 21, 1992, the INS adopted new fee schedules for work-related nonimmigrant visas, including the O, P and Q visa categories for artists, athletes, entertainers, and certain cultural exchange workers. The schedule dramatically increases fees for artists, entertainers and athletes, and imposes equally high fees on the Q category. For example, the initial application fee for a 200-member international orchestra was \$80 total under the old fees but will be \$2,070 under the new schedule, a more than 25-fold increase. If the orchestra were obliged to extend its stay, the fee increase would be from \$70 to \$10,070, because INS practice has been to charge a single extension fee for an entire group. These fee increases give rise to several questions:

Under 31 U.S.C. §9701(b), agencies are supposed to consider public policy in setting fees. In setting the fee schedule, did INS:

Consider the direct financial impact the fee schedule might have on not-for-profit arts presenters and their ability to continue to present the American public with the broadest possible access to international artists?

Consider the prospect that, if other nations retaliate in kind to the new fee schedule, American jobs and employers in our entertainment industry might be threatened?

Consider whether the fee schedule is consistent with United States obligations under the General Agreement on Tariffs and Trade (GATT)?

ANSWER: The amendments to the fee schedule are largely a result of the consolidation onto a single form of a number of forms and processes which were previously considered separately. In the example of an orchestra of 200-persons, under the old schedule the base petition cost was \$80. The new base cost has been lowered to \$70, but a \$10 charge for each worker has been added to cover the cost of additional biographic data entry and record maintenance. Changes in the level of review and amount of data required of individual foreign workers included in group petitions were mandated by the Immigration Act of 1990. This additional requirement has increased processing costs.

This "front-end" cost may be at least partially offset by a reduction in the cost for an extension of stay. Previously, an extension of stay cost \$70 per worker. This cost is reduced to \$50 per worker plus the base petition fee of \$70.

It should also be pointed out that in the example used, an extension for a 200-person orchestra, is a highly improbable scenario. It would be unusual for such an orchestra to extend for any significant length of time, since a major orchestra would inevitably be booked in advance elsewhere and could not simply pick up additional bookings on a United States tour.

In amending the fees, the INS reviewed the impact of the new regulations resulting from the Immigration Act of 1990 and assessed the processes and costs accordingly. The fee schedule is comparable to other nations' fees for similar petitions and applications, higher than some, lower than others. Therefore, the Service does not anticipate retaliation from other countries. The Service does not anticipate any conflicts with possible GATT agreements.

QUESTION: At the end of September 1991, Congress enacted, and President Bush signed into law a delay in the effective date of the new O and P visa categories from October 1, 1991, until April 1, 1992.

Why did INS publish a new proposed fee schedule on October 4, 1991, that included fees for O and P artists, entertainers and athletes, when the effective date of the new program had been delayed until April 1, 1992?

Considering the substantial changes in the O and P program from the 1990 Act, would it not be advisable and more consistent with the Administrative Procedures Act for INS to provide the affected industry with an opportunity to address itself to and comment on the relevant fee increases, rather than simply adopting them by final rule?

ANSWER: The O and P fee changes were published with all general temporary work category fee schedule revisions as a result of the Immigration Act of 1990.

The INS did not consider the adjustments in these fees as substantial. There have been statements from the entertainment industry that some INS offices in the past accepted a single fee for an entire group extension. If this occurred, it was in clear violation of existing regulations. The cost of data entry and file maintenance for a 200-person orchestra far exceeds \$70. A practice of allowing a single fee for a group application would cost the agency a considerable amount of lost revenues, which would have to be made up through other fees.

In meetings with the representatives of the entertainment industry, the INS has agreed to clarify certain procedures to minimize the need for large entertainment groups to have to file for extensions of stay. The proposed changes will eliminate the paperwork burden and fees required by the extension process in many instances, and will also eliminate associated processing costs for the Service.

QUESTION: Has INS prepared any cost studies which justify the dramatic fee increases for O and P visas? If so, have those studies been submitted to this committee and, if not, could you submit them? If no studies are available, how do you justify the fee increases?

ANSWER: The amendments to the fee schedule are largely a result of the consolidation, onto a single form, of a number of forms and processes which were previously considered separately. Changes in the level of review and amount of data required of individual foreign workers included in group petitions were mandated in the Immigration Act of 1990. As a result, charges for each worker in a group were added to the charge for a base petition to cover the cost of additional biographic data entry and records maintenance.

QUESTION: Did INS consult with representatives of non-profit arts groups or the entertainment industry in the process of determining the new fee schedule?

ANSWER: All new and revised immigration forms that resulted from the Immigration Act of 1990 were published in the Federal Register and were open for public comment. As with changes for all INS applications, the I-129 Non-Immigrant Worker form was published in the Federal Register. Consequently, the arts, labor and entertainment industries had a 30 day period on which to comment on the fees and regulations regarding O and P visas. These comments were incorporated in the final regulations for the new fee schedule.

QUESTION: Has INS consulted with the State Department or Office of the United States Trade Representative (USTR) regarding the fees set for O and P visas in the particular, or for nonimmigrant worker visas generally? If not, the Committee would benefit from such consultation and information regarding the position of State and USTR on this matter.

ANSWER: The INS did not consult with the State Department or the Office of the United States Trade Representative.

QUESTION: In the Federal Register notice of the new fee schedule, INS certified under 5 U.S.C. §605(b) that the fee schedule "will not have a significant adverse economic impact on a substantial number of small entities." However, in apparent violation of the requirements of that section, there appears to be no "succinct statement explaining the reasons for such certification." Please explain on what basis and evidence INS reached this conclusion.

ANSWER: Fees certified under 5 U.S.C. §605(b) are collected from individuals applying for immigration benefits. Therefore, it was concluded that the fee schedule had no economic impact on any small entity.

Inspector Staffing at Airports

QUESTION: Last year, this Committee was seriously concerned that delays in immigration processing of arriving airline

passengers often required passengers to wait several hours after arriving at the airport, primarily resulting from the fact that INS had not hired the authorized levels of staff. Unfortunately, it appears that this problem has not yet been solved.

Immigration staffing reports indicate that INS still has 83 vacancies for new inspector positions that were authorized for 1992, even though we are already six months into the fiscal year. Why are last year's authorized positions not yet filled, and when will they be filled?

ANSWER: INS monitors its major ports-of-entry for delays in passenger processing. Reports indicate that the 45-minute standard has been met at least 98 percent of the time. Of the seven major international airports which the INS has been monitoring, seldom is more than one flight a week reported as not having met the processing time standard.

The Service currently has filled 1,773 of its authorized 2,173 inspector positions. One hundred percent on-duty rates are not possible since attrition during the course of a year results in a net on-duty level several percentage points below full staffing. Although our goal is full staffing, the Service actually plans its budget based on an assumption that in practice 95 percent of the total authorized positions will be filled at any given time. It is anticipated that the INS will attain the 95 percent "full employment" level during the third quarter of 1992, in time for the summer high travel period. The filling of airport positions was accelerated last year when over 400 new inspectors were recruited and hired. The Service anticipates further progress this year and expects to end the year with 325 new hires.

QUESTION: Current delays and traffic projections indicate that even if authorized levels are attained, they will be inadequate to meet the passenger traffic expected at airports across the country. What is being done to evaluate whether the current authorized numbers of inspectors will be sufficient to meet the demand, or whether the authorized numbers of positions may in fact be too low?

ANSWER: The INS has undertaken a comprehensive review of staffing at all facilities to insure that proper resource levels are available to facilitate the arrival of all passengers within the 45 minute time frame. To obtain the best staffing analysis and model, the INS awarded a competitive contract during September 1991, to the Rail Company of Towson, Maryland, an operations research firm, to develop a staffing model to replace the models developed in previous years.

The models are tools for the Inspections program staff to use to evaluate every port-of-entry. The model being developed uses sophisticated statistical techniques to simulate mathematically the operation of each air inspection facility. This will enable the Inspections program to conduct simulations for each airport. These simulations will assist the

program's managers in determining an optimal staffing for every location through examination of operational assumptions, including traffic, for each location.

QUESTION: In light of the President's highly-publicized advertisements inviting foreign travellers to visit the United States, what is the Immigration Service doing to insure that lengthy delays travellers encountered last summer will not be faced again this year?

ANSWER: The Service has continued to take measures to do its best to meet the 45-minute standard for the inspection of a flight. Those measures include the expansion of the Advanced Passenger Information System (APIS) and the special "Blue Lane" processing. Most importantly, the Service is actively recruiting to fill all its current Inspector vacancies. Processes which previously had caused excessive delays in hiring are being removed or changed to further facilitate the hiring process. Despite these INS efforts, unless heavy peaking of arrivals within short time periods and facility constraints are addressed by the airlines and airport authorities, the INS cannot ensure that delays will not occur.

QUESTION: Last year, this Committee also expressed concern with the delays as high as six months in processing new personnel for available openings for Inspector positions. What has been done since last year to review the INS's staffing procedures that created the inordinate delays in hiring personnel to fill vacancies?

ANSWER: The Service has been aware of delays in filling Immigration Inspector vacancies and has taken a number of steps to change procedures to streamline and improve the hiring process. The agency has been successful in filling positions through a variety of staffing alternatives: internal merit promotion; the Office of Personnel Management's "Career in America" examination; the "Outstanding Scholar" program; and the appointment of bilingual candidates.

The INS Western Region has been delegated authority from the Office of Personnel Management (OPM) to administer the Administrative Careers with America (ACWA) examination, Test 6, which covers Inspector positions. Other regions are requesting OPM approval to administer the ACWA Test 6 as needed.

The Service is exploring other methods of improving hiring procedures and is working with the OPM to establish a separate inventory of candidates who are specifically interested in the occupation of Immigration Inspector, rather than continuing to use the current general inventory of candidates for law enforcement and law enforcement-type positions.

INS Detention Budget

QUESTION: In 1990, the INS detention budget was only \$13 million dollars. For 1993, the Department is requesting a budget of \$35 million for detention costs to be paid out of the user fee revenues. That represents a 270-percent growth in the detention budget.

Last year, in the Conference Report accompanying the Department's Appropriations bill for 1992, this Committee expressed serious concern over the fact that INS was increasing the amount of user fees spent on detention costs, but was slow in using the same user fees to hire necessary inspectors.

Now, several months later, the problem is still present. The inspectors have not been hired, but the detention budget continues to grow. What is the Department doing to ensure that sufficient funds are being made available to achieve inspector staffing plans?

ANSWER: The INS budget contains sufficient resources to support the Immigration Inspector staffing levels in the budget. The problem in hiring is not a resource problem. It is related to the recruitment and retention of qualified personnel. Considerable attention has been and continues to be given to filling vacant Inspector positions. The INS has taken steps to expand the number of staffing alternatives used to acquire applicants for vacancies. In addition, the agency is working with OPM to establish a separate inventory of candidates who are specifically interested in the occupation of Immigration Inspector rather than continuing to use the current general inventory of candidates for law enforcement and law enforcement-type positions.

The INS is addressing the Inspector retention problem in several ways. The work underway with OPM to establish a separate inventory of candidates interested in the occupation may assist in insuring that persons applying for Immigration Inspector vacancies are genuinely interested in that type of work. The Service is also taking steps to establish a GS-11 Special Operations Inspector position which will provide promotional opportunities for current Inspectors. Finally, Inspectors who are leaving their positions are being interviewed to determine their reasons for leaving. This information will be used by the Service to determine what can be done to address problems that contribute to attrition.

QUESTION: In light of the massive growth in the detention costs budget, and despite the language in the 1986 user fee statute that requires that the user fees will be used to pay for the detention costs, why does the INS continue to force the airlines to pay for the detention costs?

ANSWER: Pursuant to the provisions of sections 237(b), and 273(d) of the Immigration and Nationality Act (INA), transportation carriers are liable for the detention expenses of aliens whom they transport to the United States, and who,

upon inspection, are deemed to be stowaways as has been the case when persons have arrived at air ports-of-entry who are not in possession of travel documents or evidence of boarding.

In addition, pursuant to sections 238(c) and 238(d) of the INA, carriers have entered into contractual agreements with the Service to provide for the detention expenses of persons transported to the United States as transit without visa and are determined to be inadmissible at the time of inspection.

The statutes that established the Immigration User Fee Account in 1986 did not relieve the carriers from their legal responsibilities for detaining stowaways at their own expense, nor did it relieve them from their contractual obligation to incur the detention costs associated with passengers boarded as transit without visas and found to be inadmissible, as delineated in 8 CFR 238.3(c). That section states that alien custody and maintenance costs for transit without visa passengers are exempted from the provisions stipulated in sections 286(g) and (h)(2)(A) of the Act.

INS is responsible for costs related to detention of passengers using fraudulent documents, or who are determined to be inadmissible for other reasons as defined under the Immigration and Nationality Act. To enhance overseas deterrence activities, INS plans to detail officers to source airports to assist airlines in screening the travel documents of departing passengers. It is anticipated that the training provided by INS officers to airline personnel will eventually reduce detention-related costs of the airlines, as well as INS. In addition, the Department has submitted legislation designed to deal with the fraudulent document problem.

QUESTION: Last year, this Committee expressed its desire that the INS act on the industry petition for a rulemaking on the issue of fines, and to publish a final rule as soon as possible. What is the status of the final rule, and when will it be published?

ANSWER: On April 1, 1992, the Commissioner of the INS signed final regulation 8 CFR 270, which establishes the procedures for Section 274C of the Immigration and Nationality Act. The regulation was forwarded to the Department of Justice on April 2, 1992 for review. The regulation is in the clearance process, and publication is anticipated in the near future.

Immigration Judges

QUESTION: Last year you sought 20 additional Immigration Judges for the Executive Office for Immigration Review (EOIR). Though authorized in the Immigration Act of 1990, Congress did not fund these 20 Immigration Judges (IJ). You are requesting the 20 IJ's again in 1993.

Why do you need more IJ's to address criminal alien problems?

How does the request relate to your overall efforts against criminal aliens?

ANSWER: INS is increasing its focus upon the identification of criminal aliens as a top priority. When inmates incarcerated in Federal and State prisons are identified as criminal aliens, INS issues "Orders to Show Cause", the charging documents that initiate deportation proceedings. The judges must conduct proceedings before INS can deport the aliens.

In order to conduct these proceedings, judges and support staff must travel to Federal and State prisons nationwide. During 1991, for example, there were 78 active criminal alien hearing locations. The processing of this priority caseload, in mainly remote locations, is extremely resource-intensive in terms of judge and staff time, and travel expense.

When EOIR's judges are on detail, they are not available to adjudicate existing caseload in their home offices. The 20 additional judge positions requested for 1993 will allow the increased processing of criminal alien caseload while lowering the adverse impact these details have upon the processing of home office caseload.

Federal Jails

QUESTION: Federal jails typically are built in high-cost, downtown areas near the Federal courthouses. Because of increased criminal trials, often of a high-profile nature, Federal court houses have become high-security facilities with limited access to the general public. Has Justice approached the Judiciary to consider co-locating jails and courtrooms for criminal cases in outlying areas where costs are lower, security can be enhanced, and the Federal courthouse can be left for other activities?

ANSWER: The Department of Justice has not specifically approached the Judiciary regarding this idea. Although the Department is not opposed to exploring the idea, several potential concerns exist. A distant criminal courthouse would hamper interaction between criminal and civil case judges; impair ready access between the defendant and legal counsel; and impede family visiting (presuming the defendant's family would be further from where the courthouse is now located).

QUESTION: What are the advantages and disadvantages of having Federal jails located downtown?

ANSWER: The principal advantage to having Federal jails downtown is proximity to the courthouse. This reduces transportation costs and improves security. The principal disadvantage is that land is scarce and expensive, dictating a high-rise building, which is more costly to construct and operate than a traditional correctional institution.

QUESTION: Can the Bureau of Prison's (BOP) classification of jail inmates be strengthened to facilitate the double-bunking of inmates? How? If not, why?

ANSWER: The foundation of any objective inmate classification system is information. The more that is known about an inmate, the more precise his/her classification can be. The information available on a pre-trial inmate is, necessarily, very limited. Information which would be readily available from a probation officer preparing a pre-sentence investigation following conviction is deliberately withheld during the adjudication of the criminal charges.

Given the limited information available, the BOP feels it is classifying pre-trial inmates as well as possible. As you are aware, BOP currently double bunks pre-trial inmates extensively due to insufficient detention capacity. BOP's success in doing so does not diminish the validity of its goal of reducing detention crowding and its policy of rating the capacity of detention facilities at one inmate per cell.

Staffing Federal Prisons

QUESTION: BOP has hired thousands of new employees over the past few years, and plans to hire thousands more over the next four years in order to staff its new and renovated facilities. The increased number of employees has the potential of placing a burden on BOP and OPM to complete the required background checks for new employees within their first year of employment, as well as every five years for all employees. How many employees, if any, are past the probationary year, and their background checks are not completed? If the background checks are not completed, how does this effect BOP's retention of that employee, i.e., does BOP have to suspend or dismiss the employee's employment until the background checks go beyond the year?

ANSWER: According to the Department of Justice's Security and Emergency Planning Staff, 1,930 non-probationary employees in the BOP lack background clearances. A number of factors account for this:

-. Office of Personnel Management's role in the initial limited background investigation takes an average of over 7 months.

. Upon BOP receipt of OPM's background work, any derogatory information must be resolved. This resolution may take in excess of 3 months when such information as financial transactions or military records must be accessed.

. Once BOP's portion of the process is completed, the background must be reviewed and approved by the Department of Justice.

- This process does not affect the staff member's employment status. We perform an extensive pre-employment check that includes a panel interview, an "integrity" interview,

urinalysis, credit checks, NCIC, law enforcement and previous employer vouchering, and a fingerprint check. A recent audit conducted by the Department's Inspector General's Office stated that the BOP does more than any other component regarding pre-employment checks.

QUESTION: Is BOP in compliance with the 5-year reinvestigation of employee backgrounds? If not, why? And, what if any affect does this have on BOP operations?

ANSWER: BOP has made great strides in the area of 5-year reinvestigations of employee backgrounds. As of December 1991, 97.4 percent of all BOP staff were either within 5 years of clearance or had a reinvestigation already initiated. As of that date, only 2.6 percent remained to be initiated. Great emphasis has been placed on compliance with this program.

QUESTION: BOP faces critical problems in hiring and training qualified correctional staff for the prisons which will open in the coming years. At the same time, the Department of Defense (DOD) is attempting to cope with the scaling-down of the military and costly reductions-in-force. Have BOP and DOD considered any type of plan or program that would target recruitment of qualified military and civilian DOD staff for hard-to-fill positions, i.e., food service and health positions. For mid-level management positions? What have been the results to date? What more could be done to successfully recruit these people?

ANSWER: Since 1990, BOP has coordinated with the DOD to take advantage of outplacement programs, advertised in military magazines and newspapers, and conducted job fairs at military bases. These efforts have proven successful in helping attract candidates to a variety of positions. This recruitment source has great potential for locating candidates for hard-to-fill and mid-level management positions, and efforts will continue to utilize military and civilian DOD personnel in staffing our prisons.

QUESTION: In 1991, BOP delayed establishing some positions in order to allocate funds to pay for salary increases. What impact, if any, does BOP anticipate that budgeting for pay increases and locality pay will have on BOP's ability to establish new positions and staff facilities in the future?

ANSWER: In 1992, BOP received partial funding for both the law enforcement and general personnel costs of the Federal Employees Pay Comparability Act. During 1992, BOP will be able to cover pay related costs without negatively affecting filling of new positions. With the annualization funding requested in the 1993 budget, BOP anticipates no adverse impact in the future.

QUESTION: Overtime charges and costs have increased over the last few years from about \$8 million in 1985 through 1987 to \$20 million in 1988 and \$15.8 million in 1989. In 1990, \$32 million was spent when about \$11 million had been budgeted.

The \$32 million equates to about 800 positions. What were the overtime charges for 1991? How much is budgeted for overtime in 1992? 1993?

ANSWER: The overtime charges for 1991 were \$32 million. BOP, in an effort to better control costs, has revised the 1992 ceiling to \$28 million. In the 1993 budget, BOP originally budgeted \$38 million (based on 1991 actuals, 1992 estimates and inflationary factors) for overtime. However, if BOP is able to contain it at a lower spending level, the dollars not used for overtime could absorb higher costs of activations than permitted in the 1993 request.

QUESTION: Why have overtime charges increased? Was BOP unable to hire people? Were there delays in establishing positions at new facilities? What is BOP doing to reduce overtime costs?

ANSWER: Approximately one-third of BOP's overtime costs are a result of the need for correctional officers to escort inmates to hospitals outside the institutions for medical treatment. Over the past few years, BOP has had extreme difficulty in hiring medical professionals to perform in-house medical treatment.

In 1991, nearly \$4 million in overtime was incurred as a result of incidents, such as the Lompoc escape and the Talladega hostage situation. Incidents such as these are unpredictable but when they occur, BOP makes every effort to absorb these costs within existing resources. The growing population and pay increases have also affected the overtime costs related to inmate bus and airlift transfers.

BOP is making every effort to reduce overtime costs. We have set reduction goals for 1992 and plan to maintain the same level of spending in 1993, even though we are faced with growing staffing level, additional facilities, and pay increases.

BOP Specialty and Management Training

QUESTION: In order to stay current in their medical field, medical staff are expected to receive continuing medical education (CME). On average how many CME hours did BOP doctors, nurses, physician assistants, and dentists get in 1990? In 1991? What training criteria or standards do BOP medical staff follow to ensure that they are up to date within their respective medical fields? What evaluations are done to ensure that medical staff have received appropriate levels of training?

ANSWER: In order for BOP to provide quality medical care and to manage its varied medical facilities, all health services professionals need to stay abreast of current practices and procedures. This is done through an aggressive CME program that is available at all BOP facilities.

For CPE/CME funding, BOP allotted \$750,000 in 1990, and \$758,000 in 1991. These figures translate into the following average number of CPE/CME training hours for the following positions.

Average 1990 CPE/CME Training Hours Per Position

<u>Physicians Assistants</u>	<u>Dentists</u>	<u>Nurses</u>	<u>Physicians</u>
36	25	19	29

Average 1991 CPE/CME Training Hours Per Position

<u>Physicians Assistants</u>	<u>Dentists</u>	<u>Nurses</u>	<u>Physicians</u>
34	32	16	31

To insure that health services personnel receive the required number of CME/CPE training hours needed for certification/recertification, the BOP Mandatory Training Standards Program Statement addresses the needs of physicians, nurses, dentists, physicians assistants, medical records, chiefs of health programs, assistant health services administrators, health services administrators, psychiatrists, wellness coordinators, and medical dietitians. In addition, BOP adheres to the training guidelines established in the Standards for Adult Correctional Institutions (3rd Edition) published by the American Correctional Association.

To accurately assess the needs of all health services employees, an ongoing evaluation program is in place. The program starts at the grassroots level and generates into formal reviews that assess program effectiveness and the establishment of funding limits. Areas of evaluation include:

- Individual Employee Training Needs Assessments
- Institution/Regional/Central Office Medical Training Plans
- Institutional Operational Reviews (audits)
- Central Office conducted Medical Program Reviews (audits)
- Central Office CPE Coordinator Random Surveys (to confirm staff involvement, training completion, and program effectiveness).

QUESTION: In 1991, BOP spent about \$4.5 million for meetings and conferences, i.e., warden, associate warden, specific department head positions. BOP considers these as a way for employees to learn from each other and share experiences, i.e., a form of on-the-job training. What evaluations have been done to determine what kinds of information employees obtain at these meetings that can be applied to their jobs?

ANSWER: Each program area accomplishes a needs assessment prior to the conference that identifies the program goals for the upcoming national conference. In addition, the executive staff has identified Core issues that are instrumental in the development of managerial staff and are required to be presented during each National Conference. Core elements such as "wellness," "writing skills," "caring," "use of information," "leadership skills," "stress management," and "how to take initiative (without fear of mistakes)" are on the agenda of many conferences. At the conclusion of these conferences, evaluations are completed to assess the effectiveness of the conference.

QUESTION: As BOP increases its management ranks, does BOP anticipate using this type of forum more as a way to enhance management skills? If yes, has BOP estimated the costs associated with it?

ANSWER: BOP intends to use the current forum as a way to enhance management skills during future national conferences. The conference provides opportunities for information sharing, goal realignment and affirmation, and fellowship, all of which are essential for an efficient and effective organization. To address the concern of cost containment, BOP has rescheduled future national conferences on 2-year and 3-year cycles rather than annually.

QUESTION: BOP officials have informally been discussing a proposal to have a management training center located in the Washington, D.C. area. Is BOP's intent to expand its management training or relocate it? Would the BOP anticipate closing its management training center in Aurora, Colorado or would the facility in D.C. be an additional training center? Why is the BOP considering a training center in D.C.? Has BOP estimated the cost associated with this proposal?

ANSWER: BOP has explored moving the Management and Specialty Training Center from Aurora, Colorado to the Washington, D.C. area. No definitive cost projections or active site research have been conducted, and this proposal is not under active consideration.

Prison Alternatives

QUESTION: Since the mid-1980's, 26 States and BOP have begun prison "boot camps" as an alternative to prison. The goals of these camps are to reduce costs, recidivism, and crowding by offering short-term, military-style programs for young, nonviolent, first-time offenders. What has been BOP's experience, to date, with its Intensive Confinement Center (boot camp) at Lewisburg, PA, in terms of reducing costs and recidivism?

ANSWER: The Intensive Confinement Center (ICC) at Lewisburg, Pennsylvania, has been in operation for only 15 months. As such, it is much too early to assess its impact on reducing costs and recidivism. Our research department has in place

a comprehensive tracking procedure for each ICC graduate that will provide information on the offender while he is in the Community Corrections Center, home confinement, and ultimately when released from Federal custody.

QUESTION: When will BOP open its boot camp program for female offenders that had been promised for summer 1991?

ANSWER: The female ICC located on the grounds of the Federal Prison Camp, Bryan, Texas is currently scheduled for activation in July 1992.

QUESTION: Has BOP considered expansion of its boot camp program to include inmates beyond the minimum-custody level? What are the advantages and disadvantages of such expansion? What changes would be required in existing law?

ANSWER: At present, we have not considered expansion of the ICC program to include inmates beyond the minimum security level. We originally are targeting younger, more impressionable offenders; and, if research shows this to be a viable alternative to traditional confinement methods, we may explore the possibility of expanding the concept to older, more criminally sophisticated inmates. The advantages to expansion of this program would be minimal at this time. We would see a slight reduction in population at our existing facilities, and some participants may actually benefit from the program. However, the disadvantages of such expansion far over-shadow the positive effects. First, we would be expanding a program that has yet to show whether there will be results in terms of reducing costs and recidivism. Secondly, we would need to increase security to house older, more criminally sophisticated inmates. This would require additional funds for secure construction as opposed to minimum security which has no physical barriers, non-secure housing, etc. Additionally, older offenders who have exhibited a pattern of deviant behavior over the years would most likely be harder to work with and would require more time before achieving the desired result.

The existing statute that speaks to shock incarceration does not specify any age requirements. However, it does limit participation to those offenders serving sentences of less than 30 months. This provision would require modification if we were to include more sophisticated inmates with longer sentences.

QUESTION: In its report, Prison Alternatives: Crowded Federal Prisons Could Transfer More Inmates to Halfway Houses (GAO/GGD-92-5, Nov. 14, 1991), GAO pointed out that BOP is not taking full advantage of the halfway house program as a less costly alternative to prison. What actions have you taken to increase the number of inmates being placed in halfway houses? What is the impact of this on your construction costs? On your operation costs?

ANSWER: To be responsive to the recommendations of the General Accounting Office (GAO) report, BOP initiated a

review of national guidelines for Community Corrections Center (CCC) placement. Also, efforts continue to ensure greater consistency among like institutions in CCC utilization rates. An agency task force has been established to review pre-release programming, including CCC placement issues. The task force is reviewing CCC referral procedures to ensure that existing policy allows for expeditious referral of appropriate cases for CCC placement. BOP has increased the number of inmates in CCC's to over 4,300, an increase of about 18 percent since the time of the GAO review.

In discussing operational and construction costs, the GAO report draws an inaccurate conclusion that there would be a cost savings to BOP if empty CCC beds were utilized. If additional inmates were placed in CCCs to fill empty beds, the majority would come from minimum security facilities throughout the country. The average institution would lose 20 to 25 inmates and would realize almost no financial savings, given BOP's current level of crowding nationwide. While the average level of overcrowding would diminish slightly, there would be no concomitant financial savings since the level of staffing, utilities, and other fixed operational costs would effectively remain the same. Marginal savings on food and other inmate care items would approximate only \$3.00 to \$5.00 a day per inmate.

Additionally, GAO erroneously reports that if BOP would have used the empty CCC beds, a total savings of \$43 to \$59 million in prison construction costs would have been realized. Again, if BOP filled all CCCs to capacity, the average institution would lose 20 to 25 inmates, really a very negligible impact on our overall institutional capacity expansion plan. The impact would clearly not be to lessen BOP's need for planned construction, but only to slightly decrease the margins of our 150-percent overcrowding. However, CCC capacity has been formulated into BOP's capacity expansion plan.

QUESTION: Is there an opportunity to make greater use of halfway houses as a "front end" alternative to prison? If not, should there be?

ANSWER: Halfway houses continue to be available to the courts as a "front end" sentencing alternative. Since the GAO report was published in mid-November, the number of offenders admitted to halfway houses directly from the courts has increased by 100, and they continue to account for about one-third of the CCC population.

Confinement in a CCC is limited by BOP policy to those with sentences of one year or less. However, not all of those with sentences of one year or less serve them in CCC's, for a variety of reasons. First, the sentencing court may feel that the sanctioning of the criminality is most appropriately accomplished by removal from the community, even for a short period. Additionally, public safety may be better protected by placement in an institution. BOP reviews all cases at the

time of initial designation to determine if community placement would be appropriate. Prior to any such assignment the United States Probation Officer is contacted to determine how the court and the United States Attorney would react to such a placement.

QUESTION: Currently, the Federal Government contracts with over 270 halfway houses to provide transitional services to Federal inmates. Halfway house operators include such groups as the Salvation Army and the Volunteers of America. Until 1982, BOP directly operated halfway houses but withdrew from direct operation in favor of contracting with private groups. What are BOP's plans or proposals for direct operation of halfway houses?

ANSWER: BOP does not foresee any changes in the concept of contracting for the vast majority of our halfway house needs. We currently contract for halfway houses in approximately 260 locations, 198 with private vendors and the remainder with intergovernmental agreements with State and local entities.

BOP does intend to pursue the concept of a Federal correctional facility that meets three distinct population demands: housing for United States Marshals Service inmates in pre-trial and pre-designation status; inmates with sentences less than three years who have substantial security needs; and inmates needing traditional halfway house programs.

Seattle, Washington is the only identified site for a BOP operated halfway house. We are in the site selection phase and do not expect this 500-bed facility to be operational until 1995. The halfway house component of this facility is not expected to exceed 100 beds. As individual population demands for these combined populations are identified in other metropolitan areas we will consider the expansion of this concept. These are the only plans we have for direct BOP operation of halfway houses.

QUESTION: What are the advantages and disadvantages of direct BOP operation of halfway houses instead of private operation?

ANSWER: The only situations where it appears advantageous for direct operation are locations like Seattle where there is a combined population need of approximately 500 beds. Of the 260 contract facilities, only 4 are for over 100 beds. We stopped operation of our own community facilities because it was not a prudent use of resources. The situation has not changed.

We have found that through contracting for this service, with stringent monitoring techniques, we are receiving quality community programs at a reasonable cost.

QUESTION: What are the costs of operating halfway houses through BOP--both in terms of initial construction costs and recurring operating expenses--instead of contracting for these services?

ANSWER: There are no current figures available to answer this question accurately. Most of our contractors have been long established in their communities, and it is improbable that BOP could construct and operate a community facility significantly cheaper than we are now contracting for that service. The average expenditure for a halfway house bed is approximately \$32.00 per day. The average cost in one of our minimum security camps is \$40.15 per day. With camp populations averaging over 400, the economy of scale keeps the costs down. We would not have these advantages in operating halfway houses in urban areas with average populations of under 20.

QUESTION: How would construction of halfway house beds affect BOP's current prison construction plans in terms of budget? Would these proposals be reduced or increased?

ANSWER: Any construction costs of halfway house beds would have to be added to current construction plans. Our construction needs are for secure beds. Building halfway house beds would in no way affect our current overcrowded conditions.

QUESTION: Would BOP build and operate halfway houses in locations where existing private operators have facilities? Is there a need for additional halfway house beds that the private contractors could not satisfy at a lower cost?

ANSWER: We have no plans to operate halfway houses anywhere other than in Seattle, where we intend to combine United States Marshals Service detainees, sentenced short-term inmates with high security requirements and traditional halfway house prisoners. This is a rare example of a situation in which a contract halfway house would be inappropriate.

Overall, there is not a need for additional halfway house beds that cannot be met by private contractors.

QUESTION: Prior to 1984, BOP had the flexibility to use home confinement as a means of serving a Federal sentence because the law allowed for BOP to find a "suitable facility" for service of Federal sentence which could be an inmate's home. However, a 1984 law changed the wording to "any penal or correctional facility" which eliminated home confinement. To what extent would BOP be able to reduce overcrowding and the cost associated with keeping someone in prison if it had the flexibility to place inmates under "house arrest"? Approximately what percent of inmates might qualify for this type of program?

ANSWER: Present law permits the use of home confinement for "the last 10 percent of the sentence not to exceed 6 months." The limitation of 6 months corresponds with professional correctional judgment that the demands of the program are such that longer periods increase the probability of failure.

Under the sentencing guidelines, the courts have the flexibility to sentence offenders to "house arrest" or home confinement as a condition of the sentence.

There are approximately 300 inmates on some form of home confinement as a transition from traditional confinement. We hope to double that figure during the next year, but beyond that, we see only slight increases in the use of home confinement for inmates.

Considering these factors, it is not currently realistic to conclude that the use of home confinement will ever have a significant impact on BOP's overcrowding rate.

QUESTION: Besides boot camps, halfway houses, and home confinement, what alternatives to traditional prisons are you currently involved in? What is their potential for safely reducing the Federal prison population and Federal prison construction and operation costs?

ANSWER: In addition to the above listed programs, BOP has established a "Halfway Back" program, which places parole, mandatory release, or supervised release violators in a halfway house rather than returning them to an institution. BOP has also instituted specialized female program components that are composed of programs for the placement of pregnant offenders in CCCs, keeping them together with their infant for a specified period of time.

The Urban Work Camp is a new program in which low-risk offenders spend the last 18 months of their sentences at a CCC. During the first 12 months of that period, offenders work for another Federal agency such as the National Park Service, the Veterans Administration, or the Department of Defense. During the last 6 months of the sentence, offenders move into the pre-release component of the CCC for transitional pre-release programming.

The impact of these programs on reducing the Federal prison population and prison construction and operation costs will be insignificant. Given BOP's level of overcrowding nationwide, the reduction would be minimal, and there would be no concomitant financial savings since the level of staffing, utilities, and other fixed operational costs would effectively remain the same.

Inmate Education and Training

QUESTION: An inmate confined in a Federal institution who does not have a verified General Educational Development (GED) or high school diploma is required to attend an adult literacy program for a minimum of 120 calendar days or until a GED is achieved, whichever occurs first. According to BOP, their literacy standards reflect those in the communities to which Federal inmates will be released and are intended to help inmates to compete for available jobs and to cope with post-release community, family and related responsibilities. On the surface, this initiative appears to be a significant

step towards increasing inmate literacy levels. A closer look at the requirement raises a number of questions. Will the literacy requirement increase the number of offenders that receive a GED, or will it just increase attendance of GED classes and offenders will ultimately drop out after the required 120 days? Since this requirement is intended to better prepare inmates for employment upon release, should BOP provide post-release employment assistance?

ANSWER: The number of Federal prisoners who have taken the GED since 1981, the first year of mandatory literacy in the Federal Prisons System, has increased over 229 percent compared with a corresponding increase in the average daily prisoner population of 146.3 percent. In the most recent year, 1991, the number of Federal prisoners who took the GED test was 7,886, an increase of 22.7 percent over the preceding year's total of 6,426. The corresponding increase in the average daily population was 10.6 percent (61,404 in 1991 compared with 55,542 in 1990). We estimate that the current drop out rate is approximately 25 percent after the required 120 days.

Statutorily, BOP has no authority to provide direct post-release employment assistance. This is the job of the Probation and Pretrial Services Division of the Judiciary.

With respect to whether BOP should provide post-release employment assistance, modest efforts are currently in place. Institution based pre-release programs include guidance and counseling focused on individual aptitudes and interests, extensive vocational training options providing assistance to prisoners in the preparation of employment resumes, and identification of potential employers in the labor market to which they are returning. In addition, employment in UNICOR (Federal Prison Industries) and institution work assignments provide many prisoners with on-the-job training, live work opportunities, and the chance to develop positive attitudes toward work and good work habits. These latter qualities are those sought by outside employers.

In addition, job placement assistance is provided to prisoners released through community corrections centers. On balance, BOP sees a need for more intensive job placement efforts. Not all Federal prisons have employment counselors, and current resources for counseling and pre-release programs are spread thin. Intensifying post-release employment assistance above current levels would require additional positions and resources.

QUESTION: Considering the unprecedented growth expected in Federal prisons over the next five years, how will the increased population affect BOP's ability to implement the mandatory literacy requirement? What plans have BOP developed to address this issue?

ANSWER: It is unlikely that with current resource levels, the Federal Prison System will be able to absorb completely the increased mandatory literacy requirements stimulated by

continued population growth over the next five years. We are currently running into classroom space shortages, student waiting lists and related scarce resource issues. BOP is expanding the use of computer assisted instruction, mobile classroom space, inmate tutors, community volunteers, free services and additional contract teachers to meet these increasing needs. In addition, we anticipate that some of the growth can be accommodated by restructuring and redesigning current facilities. However, absent additional space, education positions and related resources, waiting lists may increase and meeting mandatory literacy requirements may be deferred over time.

BOP is also examining the benefits of restructuring the delivery of education services so that not all programs will be provided at all institutions. This stratified approach to the delivery of education services may make better use of resources to meet increasing population needs.

QUESTION: Hard data is only available for the GED program. Are trends in other BOP educational, as well as vocational programs sufficient for planning and assessing program success? What is the best way to measure the success of educational and vocational training programs? Are enrollment and completion rates the best performance indicators?

ANSWER: Post-release employment is considered by some a measure of program success. However, there are many impediments to post-release employment even for those prisoners who successfully complete an academic or vocational program. This is particularly true during periods of high unemployment and few job opportunities. Widespread discrimination still exists with respect to released offenders; they are often the last to be considered by employers. However, from a post-release success point of view, BOP's recent Post-Release Employment Project study indicated that inmates who participated in work and vocational programming during their imprisonment showed better adjustment and were less likely to recidivate by the end of their first year back in the community. Similarly, research studies are beginning to show that prisoners involved in education and related programs have a lower than average rate of recidivism.

Absent hard post-release data, the best way to measure the success of educational and vocational training programs continues to be the enrollment and completion rates, including completion of certificate and credential programs.

Special Needs Populations

QUESTION: The sentencing guidelines and mandatory minimum sentences virtually guarantee a large number of elderly inmates in Federal prisons in the coming years. In this regard does the Department maintain statistics on and prepare population projections for elderly inmates? What are the growth rates projected?

ANSWER: Statistics and projections for elderly inmates are not currently maintained. A method for forecasting this population is under consideration.

QUESTION: What are the special needs of elderly inmates? To what extent are they more costly to house because of special facilities, more health care, etc.? Are they isolated from other inmates? How?

ANSWER: Elderly inmates are not isolated from the general population, unless they require hospitalization. Within BOP's elderly population, we see a much higher incidence of cardiac disease and hypertension. In January of 1989, BOP's Office of Research and Evaluation published a bulletin on "Looking Ahead -- the Future BOP Population and Their Costly Health Care Needs." At that time, it was estimated that treatment of elderly inmates' health care problems consumed about 33 percent of BOP's budget for outside medical treatment, even though they account for only 12 percent of the inmate population. BOP defines an elderly inmate as being 50 years or older due to the fact that health problems occur much earlier in the inmate population.

QUESTION: What is the Department doing to provide for the special needs of elderly inmates? How is this expected to change?

ANSWER: Where possible, elderly inmates are handled at their home institution. When this is not feasible, they may be transferred to our Medical Referral Center in Fort Worth, Texas. Fort Worth has a long-term care unit that was originally planned to provide care for 207 inmates. Currently, that facility is providing care for 393 long-term care inmates, of whom approximately 50 percent are elderly inmates. In December 1990, BOP held an issues forum on "Long-Term Confinement and the Aging Inmate Population." A component of this forum was dedicated to the issue of aging inmates and their health care needs. As part of its strategic planning process, BOP is considering a variety of options for providing health care to elderly inmates.

QUESTION: How have medical costs increased for Federal prisons over the past 5 years, and what are the projections for the future? What are the reasons for the increase? General inmate population growth? Substance abuse? AIDS? An aging population? Other?

ANSWER: Health care costs have increased substantially from approximately \$1,600/inmate/year in 1985 to \$2,800 in 1992. Based on a linear regression analysis beginning in 1983 (Index=100) and using the CPI-U (Hospital and related services) the index in 1995 is projected to be 233.0, which equates to \$3,303/inmate/year. This increase is based on the rapid rise in the inmate population; costs associated with HIV positive/AIDS inmates; escalation in cost of outside medical care; new technology; costs associated with an increasingly aging population and an increase in the number of substance abuse inmates.

QUESTION: Given the high costs of prisons, and the trend toward longer prison sentences, would it be feasible and advantageous to build and/or operate some prisons jointly with one or more States, particularly for inmates in high-security facilities or for inmates with AIDS? Asking this from another perspective, is there a way to better use the resources of the 50-plus prison systems in this country to cut the nation's prison costs in general and Federal prison costs in particular with respect to the housing of particular types of offenders? Are there legal or administrative barriers to join Federal/State facilities? If so, what are they and can they be removed?

ANSWER: The option of joint construction and/or operation of a correctional institution has been considered. Conceptually it is appealing, but it presents many practical difficulties. Issues which would need resolution include, but are not limited to, differences in legal authority, staff training, use of force, inmate discipline, command authority, application of policy, and budgeting procedures.

The most practical way to house prisoners from more than one jurisdiction in the same facility is for one entity to run the facility and contract with other jurisdictions, who for varying reasons, would prefer not to house a particular inmate themselves. These reasons could include budget restrictions, inability to manage difficult inmates, and the expense of providing specialized care to certain inmates.

QUESTION: BOP's growing inmate population is composed of a significant number of substance abusers. Substance abusers will have their own special needs as evidenced by the new drug treatment program established in Federal prisons. Has BOP identified and estimated the costs for other special needs of substance abusers, such as an increased demand for kidney dialysis resulting from kidney failure related to drug use?

ANSWER: The number of inmates requiring kidney dialysis has increased from 9 in 1979, to 27 in 1989, and is presently at maximum capacity at 36 patients. Since there is a strong relationship between kidney disease and the use of drugs, with the increased emphasis on drug enforcement, it is expected the number of inmates requiring kidney dialysis will increase substantially. At the present incidence rate, the projected demand for dialysis service is 65 to 70 by the year 1995. BOP is considering the establishment of a 12-patient dialysis unit at USP Terre Haute.

QUESTION: What action has BOP taken to address the shortcomings noted in the recent GAO report (GAO/HRD-91-116, September 16, 1991) on the drug treatment program for Federal inmates?

ANSWER: The GAO report noted a number of shortcomings that they believed BOP had not adequately addressed in its drug abuse treatment programming. While the GAO did not take into account the program development stage of the BOP's implemen-

tation of drug abuse treatment programs, they noted several items that, in the course of normal program development, have been addressed.

1) GAO's greatest concern was its perception that there is an inadequate "outreach" effort to encourage inmates to participate in drug treatment programs. BOP has been working on this issue. The elimination of parole and the potential loss of pay during enrollment may reduce the incentive for participating in treatment programs. To encourage greater inmate participation, BOP recently approved several incentive programs. These include:

a) Extended CCC placement. Inmates who complete a residential treatment program and are otherwise eligible for a Community Corrections Center (CCC) placement, will receive extended placements (120 - 180 days) in a CCC.

b) Small monetary awards. A small monetary achievement award will be paid to inmates for each quarter completed in a residential drug program.

c) Special clothing. Special clothing will be provided to inmates who participate in a residential drug treatment program. Items will include sweatshirts and sweatpants printed with the local drug program logo.

d) Motivational programs. A Motivational Program has been developed for those inmates who have a moderate to severe substance abuse problem, are between 24 and 30 months from release, and have not volunteered for a residential drug treatment program. This 4-hour program includes video presentations and interactive instruction.

2) GAO noted that BOP's drug treatment strategy did not include a post-release component. In April 1991, BOP created a Transitional Services Program to fill this gap. There is now a structure in place to ensure that the inmate who completes a residential treatment program will be provided with substantial treatment upon his/her release. The Transitional Services Program provides the inmate in a CCC or under the supervision of a United States Parole Officer access to community-based treatment providers, frequent drug testing, contract monitoring, and individualized treatment planning.

3) Another shortcoming noted by the GAO report was inadequate communication between BOP and United States Probation staff. In response, the Administrative Office of the United States Courts and BOP developed a Memorandum of Understanding that details the communication required between BOP staff and United States Probation staff across the country.

QUESTION: The demand for medical care will increase with the growing inmate population and the special populations needs. Has BOP done or considered doing a cost benefit analysis of various alternatives for providing medical care? For example, using mobile units, contracting with doctors or

private sector hospitals, consolidation of medical facilities either within BOP or with States?

ANSWER: BOP is in the process of soliciting bids for a Fiscal Intermediary (FI). Ultimately, as part of this process, the contract FI would work with the BOP and community health care providers to monitor and pay claims for outside medical care at the Medicare rates for reimbursement. Several BOP Health Services Units have taken the initiative and have already negotiated to reimburse the local community hospital for services provided based on prevailing Medicare rates. We have increased the capabilities of our BOP laboratories at our Medical Referral Centers in Springfield and Rochester, so that a greater portion of laboratory tests are being processed at the Referral Centers instead of being sent to an outside lab. Abt Associates, under the auspices of National Institute of Justice, prepared a study entitled "Privatize Federal Prison Hospitals?" Basically this study found that it would not be feasible to contract for medical care.

Criminal Aliens

QUESTION: What efforts are being made to get the countries of origin to agree to incarcerate convicted criminal aliens to reduce the Federal prison population? What legal or other barriers exist to such an agreement? Realistically, about what percentage of the Federal criminal alien inmate population could BOP expect to return to their home countries to serve out their sentences?

ANSWER: The United States currently has treaty transfer agreements for the voluntary repatriation of imprisoned nationals with a substantial number of countries, either through multilateral conventions or bilateral agreements. The statutory authority for voluntary transfers is contained in 18 U.S.C. §§ 4100-4115.

The Office of Enforcement Operations in the Criminal Division reports that efforts are being undertaken to increase the number of nations that will accept prisoners who wish to return to their home countries. In this regard, an ongoing initiative at the Organization of American States (OAS) is aimed at producing a multilateral convention for prisoner transfers among member nations. This project is currently before an OAS committee and would require United States Senate approval if ultimately adopted by the OAS.

Current statutory authority only provides for the voluntary transfer of alien offenders to a foreign country. Therefore, the consent of the inmate is required before any transfer can occur. In addition, the United States is constrained by the fact that it does not maintain treaty transfer agreements with all foreign countries.

QUESTION: Each year, how many criminal aliens are returned to their countries of origin through the prisoner exchange

program? What could be done to make this program more useful in reducing our own prison crowding?

ANSWER: Listed below are the number of returns over the last four years. An average of 58 criminal aliens were returned annually over this period of time.

1988	-	51
1989	-	40
1990	-	61
1991	-	81

We believe 1992 will most likely exceed all previous figures since 58 have already been returned this year.

The program could be improved further if treaties were signed with additional foreign countries. This action would be initiated by the State Department. New treaties have been signed with Germany and the Bahamas. It would be extremely beneficial to have treaties with additional South American countries, i.e., Colombia, whose inmates account for nearly 5 percent of the BOP population. BOP institution staff are doing their part in advising foreign nationals (aliens) of the Prisoner Exchange Program during local programming. This is evidenced by the increased number of transfer referrals to the Central Office.

QUESTION: How does the Department learn of and maintain oversight of criminal aliens being housed in State prisons and jails? How many such criminal aliens are currently in prison or jail in the State systems? How does the Department coordinate the release of such inmates?

ANSWER: Local Immigration and Naturalization Service (INS) offices have developed, through liaison with State Departments of Corrections (DOC), various methods of notification when suspected aliens enter the State correctional systems. INS focuses limited resources on identifying criminal aliens at DOC intake centers, locations through which inmates pass for initial processing. For those facilities where INS is unable to have personnel on-site to identify aliens as they enter the corrections systems, INS is notified of suspected aliens in the form of hardcopy printouts, received weekly or monthly, or through access to the DOCs' inmate tracking networks.

Maintaining oversight of the numerous local jails is more difficult due to limited INS enforcement resources, the number of jail locations, and the short time inmates are detained. As with the State institutions, INS identifies aliens at many large county jails by either frequent visits to interview new inmates suspected of being criminal aliens shortly after they enter the facility, or by on-site personnel working in the facility to screen aliens as they enter the correctional system. Through liaison between local jails and nearby INS offices, the Service has established similar mechanisms of notification with the local jails. In many

instances, INS is unable to oversee the local jails due to their number and locations throughout the country.

There are currently approximately 41,184 foreign-born inmates housed in State correctional systems. Each of these cases requires investigation in order to determine which inmates are naturalized citizens, lawfully-admitted permanent residents, or criminal aliens subject to deportation on the basis of their criminal convictions. It is not known exactly how many foreign-born inmates are incarcerated in the country's local jails. The results of a 1991 INS jail survey are still being collated and analyzed.

INS uses detainers to coordinate the release of inmates from correctional facilities. Detainers placed on suspected aliens request the correctional facility to notify INS 30 days prior to the release of the inmates. The 30-day notice is necessary to allow time for INS to make available alternate detention space to hold the aliens in INS custody. Advance notice also permits INS to coordinate the location of the inmates' release with the location of INS records (A-files) and prevents the release of criminal aliens into the community due to lack of detention space or detention funds.

INS has also implemented an Institutional Hearing Program (IHP) under which deportation hearings are held and proceedings completed in State correctional facilities prior to the completion of aliens' sentences. The program is a cooperative effort undertaken by the INS, the Executive Office for Immigration Review, and States with large enough incarcerated criminal alien populations to justify the costs associated with the implementation and maintenance of the program. By using the IHP, the Federal Government avoids costs associated with the detention of criminal aliens after their release.

In addition to these efforts, the recently-approved reprogramming adds 150 Immigration agent positions to address criminal alien problems. In 1992, INS will also begin establishment of a National Enforcement Operations Center, which will assist Federal, State and local criminal justice agencies in the identification of criminal aliens. When fully implemented in 1993, this Center will be available to respond to inquiries regarding apprehended criminal aliens on a 24-hour-a-day basis.

Fraud

QUESTION: We had almost 1 million bankruptcies in 1991, and are likely to have more than a million in 1992. The bankruptcy program area is called a High Risk area by the Administration. Can you describe your overall bankruptcy fraud program effort?

ANSWER: The Internal Revenue Service is one of the nation's largest creditors in bankruptcy. Taxes were owed in approximately 262,000 of the 783,000 bankruptcy cases filed in 1990. The influx of bankruptcy cases into the Department's Tax Division's civil litigation program is itself proof of the

increasing importance of tax claims in the bankruptcy courts: civil bankruptcy receipts grew from 6,954 cases in 1987 to 26,869 cases in 1991 and may reach the 40,000 case level this year.

While we have no reliable statistics on the losses suffered by the Internal Revenue Service due to bankruptcy fraud, the available evidence indicates that its losses are substantial. If, as they claim, VISA and Mastercard lose over \$1 billion annually to bankruptcy fraud, we believe that the IRS losses could be at least as much.

The Department's Tax Division is currently investigating or prosecuting 20 bankruptcy fraud cases where taxpayers have attempted to use the bankruptcy laws to evade the collection of taxes.

The Tax Division is working with the United States Trustees, the United States Attorneys and the Internal Revenue Service to develop a coordinated effort to identify and prosecute these violators. Our initial focus is on abuses that have occurred in Chapter 13 debt reorganizations.

Criminal cases stemming from tax fraud in bankruptcy will add to our criminal docket, rather than replace other criminal tax referrals. Therefore, it is critical that we have the additional resources needed to prosecute these cases, because it is only through successful prosecutions that we can deter those who might consider committing bankruptcy fraud in the future.

QUESTION: You are also seeking resources for health care and insurance fraud. What is the level of criminal activity in these areas that warrant such increase initiatives?

ANSWER: The Justice Department is not a newcomer to the battle against health care fraud. In 1986, the Department's Economic Crime Council designated health care as one of the Department's three top white collar crime priorities. The FBI reports that fraud affecting the costs of health care are prevalent in every geographic area of the United States, and health care crimes have expanded beyond single health provider frauds to organized criminal activity affecting public and private health care programs. The General Accounting Office has recently reported that health industry officials estimate that health care fraud and abuse costs approximately \$70 billion each year.

A study conducted by the FBI in the area of insurance company insolvencies concluded that the business of insurance is uniquely suited to abuse by mismanagement and fraud. Moreover, the National Crime Information Bureau has reported that losses due to fraud in the property/casualty segment of insurance are estimated at \$17 billion annually. The National Council on Compensation Insurance (NCCI), which represents workers' compensation insurance carriers, has indicated that for the two months ending March 1, 1992, they have identified over \$40 million in fraudulent activity. The

NCCI has reported that the involuntary workmans' compensation market lost in excess of \$2.4 billion in 1991. The NCCI estimates that as much as \$1.3 billion of the loss is related to fraud on the part of employers. The General Accounting Office has indicated that it has received reports that within the reinsurance industry losses due to fraud are estimated between \$10 and \$20 billion.

In the area of health care, single defendant prosecutions have given way to multi-defendant conspiracy indictments; and, rather than "reacting" to isolated complaints, the current initiatives include the deployment of unique and sophisticated proactive investigative techniques. The FBI's efforts now focus on the larger crime problems and are evidenced by recent successes in: pharmaceutical frauds and diversions; medicare frauds; and, medicaid clinic fraud. The FBI has also taken a broader approach to health care provider fraud cases. While it has been recognized that Government funded health care frauds are significant criminal problems, it has been repeatedly shown that providers who defraud the Government also defraud commercial insurance carriers.

Field offices will be able to address Government frauds more effectively by investigating the same provider for commercial insurance fraud. This approach not only addresses significant financial ramifications of health care fraud on the commercial insurance industry, but also the inherent difficulties in investigating many medicare cases.

QUESTION: You're seeking more agents for financial institution fraud -- what is your assessment of progress to date with the over \$200 million a year in base resources?

ANSWER: The following information describes prosecutions of "major" frauds against financial institutions covered by FIRREA and the Crime Control Act of 1990¹, for the period October 1, 1988, to February 29, 1992.

(Dollars in millions)

<u>Description</u>	<u>S&Ls</u>	<u>Banks</u>	<u>Credit Unions</u>	<u>Total</u>
Information/Indictments:	644	1,217	71	1,932
Estimated loss:	\$10,662.0 ²	\$2,818.0	\$83.2	\$13,563.2

¹ This information was supplied by the 93 offices of the United States Attorneys and from the Dallas Bank Fraud Task Force. Numbers may be adjusted due to monthly activity, improved reporting and the refinement of the data base.

² This figure contains a double-count of the loss in the Lincoln S&L case. That change, as well as a considerable store of new information, will be set forth in our soon-to-be-published second quarterly Report to Congress entitled "Attacking Financial Institution Fraud."

(Dollars in millions)

<u>Description</u>	<u>S&Ls</u>	<u>Banks</u>	<u>Credit Unions</u>	<u>Total</u>
Defendants charged:	1,093	1,694	90	2,877
Defendants convicted:	797	1,368	79	2,244
Defendants acquitted:	58 ³	26	1	85
Conviction rate:	93.2%	98.0%	98.8%	96.3%
CEOs/COBs/Pres.				
charged:	124	123	8	255
convicted:	87	110	8	205
acquitted:	8	1	0	9
Conviction rate:	91.6%	99.1%	100%	95.8%
Directors/other officers				
charged:	180	392	46	618
convicted:	151	343	44	538
acquitted:	5	3	0	8
Conviction rate:	96.8%	99.1%	100%	98.5%
Sentenced to jail:	490	849	60	1,399
Sentenced w/o jail:	138	276	9	423
% sentenced to jail:	78%	75.5%	87%	76.8%
Fines Imposed:	\$14.867	\$5.084	\$12.250	\$19.96
Restitution Ordered:	\$394.413	\$322.472	\$11.883	\$728.768

Note: "Major" is defined as (a) the amount of fraud or loss was \$100,000 or more, (b) the defendant was an officer, director, or owner (including shareholder), (c) the schemes involved multiple borrowers in the same institution, or (d) case involved other major factors.

The above-cited accomplishments would not have been possible if resource enhancements had not been received as requested. Rather, the workload would have been impeded, with the result being an unacceptable level of underaddressed or unaddressed work, or at a minimum, a lengthening of time in bringing these cases to a conclusion. This would be further complicated by a greater dissipation of any remaining assets that could be seized and forfeited as part of the investigative process and by endangering successful prosecutive results because of dated evidence and deteriorating recollections of witnesses. The past and current enhancement requests are necessary for the proper investigation of financial institution fraud cases.

QUESTION: How long will we have to continue this significant level of investment in financial institution fraud?

ANSWER: The Attorney General has designated financial institution fraud as a top priority for the Department of Justice in the white collar crime area. We will devote all available resources to this most important investigative and prosecutive effort as long as the need exists and referrals of these types of matters continue. There is no way to

³ Includes 21 borrowers dismissed in a single case in a District Court.

predict how long the need for resources at present levels will exist, although in 1990 then-Attorney General Thornburgh predicted a 5 year period would be needed to resolve the then-existing caseload -- a caseload that continues to grow.

United States Trustee Program (Bankruptcy)

QUESTION: The Department has identified and ranked white-collar crime as a priority. Where does bankruptcy fraud rank within white-collar crime?

ANSWER: The Department has clearly emphasized the importance of detecting and prosecuting those individuals or entities that attempt to defraud the bankruptcy system. The significant increase in the number of bankruptcy cases filed nationwide over the past decade has had a correlative effect on the opportunity for bankruptcy fraud by private trustees who do not meet their responsibilities as fiduciaries as well as fraud committed by, or on behalf of debtors.

Bankruptcy fraud not only severely impairs the integrity of the system, but also impacts the return of estate monies to creditors, of which the Federal Government is the largest. The FBI is placing additional emphasis on bankruptcy fraud based on the increasing number of filings, and fraud associated with those filings. The Department has established the aggressive prosecution of bankruptcy fraud as a special emphasis area. The Attorney General has given a high priority to those efforts that the Department can make against white-collar crime operations that significantly affect the economy, as well as those efforts that may result in substantial gain to the Federal Government. The program's efforts to address the serious problem of bankruptcy fraud meets both of these important precepts.

QUESTION: Describe the Department's response to the growing wave of bankruptcies in terms of (1) steps to improve and (2) efforts to find and prosecute the private trustees or debtors?

ANSWER: The Department has implemented a myriad of initiatives to confront the significant challenges imposed by the escalation in the number of bankruptcy cases and instances of bankruptcy fraud. These initiatives include the development and implementation of uniform reporting requirements on private trustees in their administration of cases as well as legislative proposals to strengthen the enforcement of the Nation's bankruptcy laws.

The Department has steadfastly taken the position that under the Bankruptcy Code, the private trustee is a fiduciary, with wide-ranging responsibilities to effectuate the goals of the particular chapter under which the case is filed. Consequently, there is a concomitant need to be able to require the private trustee to adhere to basic standards. It is from this premise that the United States Trustee program has implemented policies in supervising private trustees.

The program has sought to impose accountability on the bankruptcy system. The bankruptcy oversight methodology includes conducting audits on private trustee operations, establishing uniform reporting requirements relating to the private trustee's administration of cases, and examining the manner by which a trustee has administered each case. One of the results of the new standards of accountability is that 28 private trustees, or their employees, have been prosecuted for embezzling estate funds.

Establishing standards of accountability and confronting those who embezzle estate monies only touches the surface of what must be undertaken to uphold the integrity of the bankruptcy system. The law requires that the administration of an estate be performed expeditiously and in a manner that maximizes the return to creditors. Bankruptcy estates must not be administered so that the private trustee and the professionals that perform services for the estate are the sole recipients of funds.

Regrettably, despite the establishment of standards and the substantial efforts undertaken to require those who administer estates to meet these standards, the bankruptcy system continues to suffer from individuals who evade the law's mandates. Therefore, to realize the desired effect of the broad reforms in the system mandated by the Congress in the 1978 and 1986 bankruptcy acts, the Department has proposed a draft bill to strengthen the program's supervisory and enforcement efforts. The draft bill, the Fiduciary Standards in the Administration of Bankruptcy Estates Act of 1992, would enhance significantly the ability to supervise properly the increasing number of bankruptcy estates filed nationwide.

The proposed legislation will amend the existing legislative structure to provide the program with the tools necessary to impose reform on the bankruptcy system in the near term. Currently, the program has no unilateral authority to enforce compliance with its policies or procedures, nor can it rectify departures from the law, unless it goes to court. All the program can currently do is confront these trustees. Deterrence is undermined not only by time consuming litigation, but by the vast range of decisions emanating from the courts. The ability of private trustees to ignore, and ultimately escape from departures from their responsibilities as fiduciaries, undermines the bankruptcy system.

The draft bill proposed by the Department will enhance the supervision of private trustees and their administration of cases as well as strengthen the ability of the Government to prosecute bankruptcy fraud. The draft bill includes three direct enhancements to the supervision of private trustees. First, present law will be clarified to require a private trustee to maintain records and to make them available to the United States Trustee. Second, the draft bill will authorize the Attorney General to establish the standards for the proper administration of bankruptcy cases and to remove trustees who depart from those standards. Third, civil penalties would be imposed upon those trustees who depart

from the established standards. The proposals to enhance the prosecution of bankruptcy fraud include the creation of a new bankruptcy fraud offense, modeled after the mail and wire fraud statutes, which will eliminate serious gaps in the coverage of existing statutes. In addition, the draft bill contains amendments to clarify the definitions of the individuals and entities covered by existing statutes to better ensure the honest administration of bankruptcy estates.

The amendments proposed in the draft bill will allow the program to ensure that those who administer bankruptcy cases adhere to fiduciary standards. Moreover, in the event that circumstances arise that demonstrate a failure to adhere to the law, those responsible for the deficiency can be held accountable. In addition, these legislative proposals will enhance dramatically the ability to maximize the money returned to creditors, the largest of whom is the Federal Government.

QUESTION: What additional FBI and United States Attorneys resources are planned for the bankruptcy area?

ANSWER: The Department's 1993 budget request includes 16 FBI agents to address bankruptcy fraud matters. These agents would be assigned to field offices that have identified a bankruptcy fraud crime problem. These additional agents would permit increased contact with the United States Trustees to better coordinate and expand bankruptcy fraud investigations.

The United States Attorneys are planning an additional four bankruptcy fraud conferences this year to train civil and criminal Assistants United States Attorneys, Assistant United States Trustees, FBI agents, and some investigators from other interested agencies, such as the Postal Service, IRS, and the Department of Agriculture. The United States Attorneys are also seeking additional resources to address bankruptcy fraud in the 1993 Budget request for the White Collar Crime program.

QUESTION: We understand that you have bankruptcy task forces set up in Chicago and Los Angeles. How effective have these task forces been? What agencies participate in them? Do you think the task forces could be effective in other parts of the country?

ANSWER: The Bankruptcy Task Forces that are established in Los Angeles and Chicago are a cooperative effort by the United States Trustee's Office, United States Attorney's Office, the Federal Bureau of Investigation (FBI), and other law enforcement agencies. The role of the United States Trustee is to detect the fraudulent activity, reconstruct all of the cases of the private trustees suspected of embezzling estate monies, and building the case to the point of referral to the FBI and the United States Attorney. The task forces have been effective in the detection, investigation, and

prosecution of fraud committed by private trustees and debtors in bankruptcy in their respective cities.

The efforts of the Bankruptcy Task Force in Los Angeles have resulted in the detection and prosecution of a significant number of instances of bankruptcy fraud. As the Central District of California is the largest single district in the number of bankruptcy case filings, and one where sizable assets are involved, the dollar amount of fraud is substantial. The problem is that few, if any, of these cases are prosecuted.

The dramatic increase in the number of bankruptcy filings over the past decade has been accompanied by an increase in the number of fraudulent bankruptcy schemes by, or on behalf of, debtors. The types of schemes uncovered by the program include: 1) the concealment of assets; 2) repeated bankruptcy filings in which debtors make false declarations on their petition such as denying previous filings; 3) planned bankruptcies which occur in the traditional "bustout" scenario in which a company obtains merchandise on credit with the intent to sell it and keep the proceeds without paying suppliers; and 4) "petition mills" which lure customers with promises to solve their credit problems, charge them hundreds of dollars while inducing them to sign documents they often don't understand, and then improperly file for bankruptcy on behalf of the unsuspecting debtors.

In addition to detecting and rectifying instances of debtor fraud, it is a major responsibility of the program to confront those individuals who do not meet their responsibilities under the Bankruptcy Code. The process of detecting instances of fraud and building the case to the point of referral to the FBI and ultimately the United States Attorney for prosecution is time intensive. The 1993 budget attempts to establish the foundation for enhancing the United States Trustee's efforts in confronting bankruptcy fraud throughout the system. A commitment of resources in the near future is vital to the ultimate success of this effort to sustain the integrity of the bankruptcy system. The significant number of bankruptcy cases currently active in the system and the continual escalation in bankruptcy filings, enhances the opportunity for fraud to occur. The United States Trustees must be able to send the clear message to private trustees who do not carry out their duties as fiduciaries and to debtors who attempt to defraud the system, that fraudulent activity will not be tolerated.

QUESTION: What kind of system did you inherit from the courts when you took over the program nationwide in 1986? What effect has it had on your progress in instituting your program?

ANSWER: The Bankruptcy Judges, Family Farmer, and United States Trustee Act of 1986 (Pub. L. 99-554) expanded the United States Trustee program on a nationwide basis effective July 25, 1987. The program completed the expansion in 1989 under the transitional provisions in the Act. The legacy

inherited by the United States Trustees may be characterized as a nationwide patchwork of practices lacking any semblance of uniformity and steeped in local customs and procedures.

At its best, the previous system basically focused on two phases of the bankruptcy, the time following the filing of a bankruptcy petition and the time at the close of the case when it reviewed the manner in which the private trustee proposed to distribute the estate funds. Little guidance or oversight was provided during the intervening and most important periods of the case administration.

Under the previous system, deficiencies were either not discovered, or were revealed only when a case was about to close and there was inadequate money to distribute. In general, the system lacked institutional standards of accountability for its own oversight responsibilities, and in turn failed to hold those involved in the process accountable for theirs.

When the nationwide expansion began in 1987, the United States Trustee program encountered circumstances in the supervision of private trustees far beyond departing from fiduciary standards. Vast numbers of dormant bankruptcy cases were allowed to languish on the court's dockets for years. In fact, some trustees were unaware of cases being assigned to them and, in at least one judicial district, trustees had never been appointed to administer the cases. Reporting requirements regarding the administration of estates were virtually non-existent, as were the maintenance of record-keeping procedures. Trustees were underbonded and, in some cases, not bonded at all. Bankruptcy estate funds were often commingled and were not required to be placed in an interest bearing account, as cash or checks were usually maintained in the trustees file cabinets. Little or no guidance was provided to private trustees and chapter 11 debtors-in-possession regarding what was expected of them. Appointments of private trustees were made without any review of their backgrounds. Moreover, audits of the private trustees were not performed in order to obtain an independent assessment of whether adequate internal and financial controls were instituted and maintained. Far from having any ability to approach a structure of accountability for those purporting to be fiduciaries, the previous system symbolized clearly the immense discrepancy from what the law demanded and reality. Most dramatically, since the program expanded, 28 private trustees or employees of trustees have been prosecuted for embezzling estate monies.

Beyond the lack of any supervisory process was the fact that the system had been committed to those who strayed far from their fiduciary responsibilities. Thus, when the program began its expansion effort in 1987, there was not a clear understanding of the degree of effort necessary to implement those mandates. Consequently, the personnel resources required by the program were severely under-estimated when the initial staffing allocation was developed for the implementation of the nationwide program. Moreover, the

immense deficiencies of the previous system delayed the progress of the program in its oversight responsibilities. The United States Trustees had to perform background reviews of the private trustees, train the trustees on how to maintain records so that they were auditable by the Department's Inspector General and by private accounting firms. The program has made significant strides in the past several years to enhance its oversight responsibilities of private trustees and their administration of cases. However, there are serious challenges that still face the bankruptcy system. The 1993 President's budget reflects the Department's commitment to continuing to enhance the oversight of bankruptcy administration that the Congress has mandated to the United States Trustee Program.

Funding from National Drug Control Policy Office

QUESTION: Justice has been receiving about \$28 million, for its own use, from the Drug Czar for the High Intensity Drug Trafficking Areas initiative. Your 1993 budget doesn't reflect a continuing receipt of these funds.

Assuming the Drug Czar receives High Intensity Drug Trafficking Area funds in 1993 and the Department receives its share, please explain what the Department does with \$28 million each year and how the High Intensity Drug Trafficking Areas initiative relates to and supplements the Organized Crime Drug Enforcement Task Force program.

ANSWER: The funding level provided to the Department for the metropolitan HIDTA areas is dependent upon the total HIDTA funding Congress provides. Initial planning guidance for the program with respect to 1993 is based on the assumption that funding levels will at least remain the same as 1992, if not increase slightly. The metropolitan HIDTA Coordinators are currently basing their initial 1993 requests on a \$28 million total for the four metropolitan HDTAs. Generally, these resources would be used to expand existing HIDTA initiatives.

Funds made available to both Federal and State and local law enforcement agencies in the metropolitan HDTAs are used to supplement a variety of multi-agency task force type operations. Emphasis has been placed on efforts that focus on money laundering, intelligence, and drug-related violent gang crimes. HIDTA funds have permitted the expansion of investigative efforts resulting in more OCDEF quality cases being prosecuted in the four metropolitan areas.

The Department proposes initiatives in each of the four metropolitan HDTAs that respond to the Administration's policy guidance and at the same time address the strategy developed for each HIDTA. These individual initiatives consist of multi-agency proposals that focus on dismantling major drug organizations. A review of the funding requested for each initiative is conducted by ONDCP. Once ONDCP reviews the initiatives as being consistent with the National Drug Strategy, funding is transferred to the Department of Justice.

The \$28 million in Federal funding is specifically used for various operational support needs and equipment. HIDTA funding is not used for salaries of Federal agents or attorneys, but permanent change of station and transfer costs have been funded, as have administratively uncontrollable overtime (AUO) costs.

Within the Department, the HIDTA program is actually a funding mechanism that augments the OCDETF program. HIDTA funding can make a difference by providing operational support to task force operations that focus on major drug-related organizations and offenses. Virtually all cases developed as a result of the infusion of HIDTA resources will be prosecuted as OCDETF cases. HIDTA funding has given the Department's successful OCDETF program an added boost, allowing proven techniques to be applied to major drug organizations in the key HIDTA areas.

050 Funding for Justice Accounts

QUESTION: I see that you are requesting about \$250 million in 1993 under the defense discretionary area. Over \$170 million is related to the Radiation Compensation Trust Fund and its administration and \$80 million is labeled the Special Program of the FBI.

How were you able to convince the Administration these initiatives fall under the defense versus domestic discretionary category of spending?

ANSWER: A decision was made, during the 1993 budget process, to realign resources among budget functions, where appropriate and when in compliance with the Budget Enforcement Act.

Funds were appropriated through the Department of Defense (DOD) in 1992 for the Radiation Exposure Compensation Trust Fund because the actions of DOD created the need for the program. Therefore, although Justice administers the Fund, it remains appropriate for it to be funded from defense discretionary resources in 1993.

Historically, all of the FBI's resources have been included under the Domestic Discretionary Category, or the 750 (Administration of Justice) budget function. A portion of the FBI's Foreign Counterintelligence Program can, categorically, be defined as supporting national security. In addition, with the changes taking place in the geo-political world, the FBI is in the midst of a realignment of Foreign Counterintelligence program resources focusing on new and revised strategies that support national defense goals and objectives.

A new initiative, called the "Special Program", is being established under the Defense Discretionary Category, or the 050 budget function to capture the national defense-related resources within the FBI. It consists of a base adjustment of \$71,100,000, 578 positions (including 354 agents) and 565 workyears from the 751 budget function to the 050 budget

function. In addition, a program enhancement of \$8,900,000, 5 positions (including 4 agents) and 1 workyear is requested for the Advanced Telephony Program, now located in the 050 budget function. In total, the 1993 request for the "Special Program" in the 050 budget function is \$80,000,000, 583 positions (including 358 agents) and 566 workyears.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

Redress Questions

QUESTION: In its 1993 budget, the Department proposes to eliminate the education component of the Civil Liberties Act of 1988 (Public Law 100-383).

What is the Department's justification for the elimination of the education component, especially in light of anti-Asian American sentiments?

ANSWER: There are three reasons underlying our recommendation for the elimination of the educational component of the Act. First, the size of the Federal deficit constrains our ability to provide funding for this program. Second, we believe that the Federal Government has supported, and will continue to support, activities that serve to educate Americans about the internment. For example, the Smithsonian Institution has established a permanent exhibit at the National Museum of American History on the internment of Japanese Americans. In addition, on March 3, 1992, President Bush signed legislation to designate the Manzanar Relocation Center as a National Historic Landmark and to establish a series of other landmarks of historic interest to Japanese Americans. Finally, there have been a number of private efforts, largely within the Japanese American community, to present information about the internment through forums, films, publications, and the like.

QUESTION: The Department's budget proposal requests an additional \$250 million to address the estimated 12,500 increase in eligible recipients. In addition, the Department proposes to terminate the Civil Liberties Public Education Fund to the date by which all funds have been expended or by September 30, 1994.

How confident is the Department that the projected number for the increase will not extend beyond the 12,500 eligible recipients?

ANSWER: The Office of Redress Administration has not completed the verification process for all potentially eligible individuals. Thus it is important to remember that our estimate of 75,000 is just that -- an estimate. We expect to have a more accurate estimate within the next few months, as our verification process nears completion.

QUESTION: If an accurate figure is difficult to obtain at this point in time, would the Department want Congress to au-

thorize additional funds (above the \$250 million) to ensure that all eligible recipients are covered under the program.

ANSWER: We do not recommend amending our request at this time. However, if we determine that additional funds are needed, we will notify Congress after clearing the request through the Office of Management and Budget.

QUESTION: What is the Department's justification for terminating the Civil Liberties Public Education Fund by September 30, 1994?

ANSWER: The Department believes that its outreach programs have been quite effective and that all eligible individuals have been located and paid more quickly than was anticipated at the time the Act was passed. A related proposal in our draft legislation will allow the Department an additional 180 days after the final payment from the Fund to complete phase-down activities of the Office of Redress Administration (ORA), which was established to implement the 1988 Act. These activities would include archiving case files, as required by the Act, inventorying equipment, and securing the computer system operated by ORA.

Current law requires that the fund terminate the earlier of August 10, 1998 or when all funds have been disbursed.

QUESTIONS SUBMITTED BY SENATOR DALE BUMPERS

Immigration and Naturalization Service

QUESTION: Mr. Attorney General, the current controversy over the stream of Haitians attempting to make their way to the United States has generated much debate over the proper definition of a refugee. How much is the processing of all these people costing? How much will it cost to admit and process those who are deemed to be true refugees under your current reading of the standard? If they are true refugees, what role should cost play in determining whether to admit them?

ANSWER: The Haitians who are being intercepted at sea and brought to the Naval Base at Guantanamo Bay, Cuba, are being processed as applicants for political asylum. Both refugees and asylees are defined as persons who are unable or unwilling to return to their country of nationality, or to seek the protection of that country because of persecution or a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion. The distinction between a refugee and an asylee is that an asylee is one who is physically present in the United States or at a port-of-entry. A refugee is any person who is outside his or her country of nationality, but not in the United States when they make their request for refugee status. As of June 30, 1992, political asylum pre-screening interviews were completed for some 38,007 Haitians at a cost of approximately \$3.10 million. This is the INS's cost

including personnel and support costs at Guantanamo Bay, Cuba.

As of June 30, 1992, some 11,119 Haitians had been able to demonstrate a credible fear of persecution if they were to be returned to Haiti. The approximate cost of processing these individuals' political asylum cases once they arrive in the United States is an additional \$1.90 million.

Cost is not a consideration when determining whether an individual with a valid asylum claim should be admitted to the United States.

Violent Crime Initiative

QUESTION: Many of the agents involved in counterespionage activities are to be moved to anti-gang activities in cities around the country, including Little Rock. I welcome the added attention to the pressing problem of gang activity, but I am concerned that there isn't some element of trying to find something, anything for these people to do to avoid budget cuts in these tight budgetary times. Would you comment on that?

ANSWER: In response to the initiative of President Bush and Attorney General Barr to combat the spiraling incidences of violence plaguing communities throughout this Nation, Director William S. Sessions established crimes of violence as one of the FBI's national priorities and made the assessment that a reprogramming of 300 special agents from the Foreign Counterintelligence (FCI) program was appropriate.

On August 11, 1991, the Uniform Crime Report (UCR) released the 1990 statistics for crime in the United States, which revealed that violent crimes increased by 11 percent over 1989, 22 percent since 1986, and 34 percent since 1981.

According to the FBI Training Division's National Center for the Analysis of Violent Crime, in 1960 there were over 8,000 homicides in the United States. In 1991, we experienced over 23,000 homicides. While the drastic increase in homicides is nearly three-fold, what is alarming is the overall declining solution rate. That is, the percentage of cases that are cleared by law enforcement. In 1961, the solution rate was 93 percent. In contrast, the solution rate in 1991 declined to 67 percent, and is expected to be even lower in 1992. Nearly 7,000 homicide cases from calendar year 1991, remain unsolved.

The decision to reprogram 300 special agents from the FCI Program to the Violent Crimes and Major Offenders Program in 1992 was based on a current assessment reflecting these increases in crimes of violence and changes in the national security threat resulting from recent world events. This reprogramming decision will enhance the FBI's Violent Crime and Major Offenders Program efforts to assist Federal, State and local efforts and will facilitate the creation of FBI-directed Federal gang task forces to combat the increase in violent street crimes. The FBI's "Safe Streets" initiative

is designed to complement existing Federal, State and local investigative resources that are already in place and, additionally, provide a vehicle for the initiation of an investigation where there are no current investigations being conducted and a need exists. In summary, the need for an enhanced effort against violent crime existed far before the reprogramming was contemplated.

War on Drugs

QUESTION: Where do we stand on the "War on Drugs"? What are we getting for all the billions we are throwing at this problem? Don't we need to direct more of our resources toward curbing demand in the United States?

ANSWER: The scope of this Nation's "War on Drugs" is one that cannot be won overnight but through a sustained and comprehensive attack on many fronts. The President's 1992 National Drug Control Strategy emphasizes a balanced, integrated strategy focusing on both supply reduction through law enforcement, and demand reduction through prevention, education, and treatment. The Strategy states that "treatment and education stand little chance of succeeding if they must compete in a neighborhood where drug dealers flourish on every corner."

The overall objective of the President's strategy is to reduce drug use. This can be accomplished by reducing both the supply of and demand for drugs. Reducing the demand for drugs can be accomplished by preventing and deterring new and casual users as a primary objective, and by treating existing users. Reducing the supply of drugs can be accomplished by sharpening the focus of the attack on drug trafficking organizations, first by identifying the principal organizations and then by developing and implementing specific plans to dismantle those organizations.

Progress continues in this "war." For example, between 1988 and 1991, the following accomplishments have been achieved:

- Current overall drug use dropped 13 percent; current adolescent drug use dropped 27 percent.
- Occasional use of cocaine dropped 22 percent; adolescent cocaine use dropped an astounding 63 percent.
- Current users of marijuana dropped by about 2 million since 1988, a drop of over 16 percent.
- Among persons 12 to 17 years of age, current use of any illicit drug is down more than 25 percent since 1988, and, according to the High School Senior Survey, drug use by high school seniors has dropped to its lowest level since the survey began in 1975.
- Student approval of occasional marijuana and cocaine use dropped by 29 percent and 47 percent respectively.

- Federal drug seizures in 1991 continued to be substantial, with figures totaling several hundred thousands of pounds of cocaine, heroin, and marijuana seizures.

Simply put, our efforts have been reaching the casual user and overall drug use is down. However, because the hard-core addict is harder to reach, this is not the time to reduce our efforts. As was mentioned earlier, only through collective efforts by the Government, private sector, families, churches, and communities can we continue to reduce drug use in this country in the future.

In summary, supply reduction through law enforcement is obviously not the only answer to this Nation's drug problem. Drug demand reduction through treatment, education and moral suasion is an essential part of the solution as well. Enhanced resources are justified on both fronts for 1993.

Mississippi River Delta

QUESTION: Mr. Attorney General, two years ago this Subcommittee asked the Bureau of Prisons to consider the benefits and impact of locating Federal prisons in the lower Mississippi River delta area. As a result of the BOP's study, a decision was made to locate two prisons in the delta. Since the real economic benefit to the delta won't be felt until construction begins on the facilities, would you estimate when construction will begin? Will the Department of Justice and the Bureau of Prisons make every effort to get these facilities completed as quickly as possible? Are there plans to locate more facilities in the delta, or to increase the size of the facilities that are now under consideration?

ANSWER: Actually, the Bureau of Prisons, pursuant to the Delta study, made a commitment to move forward on the environmental impact statement (EIS) for correctional facilities in three sites: Yazoo City, MS; Forrest City, AR; and Pollock, LA. The EIS process has already begun at the first two sites, and we have conducted the initial site investigation on the third.

The Bureau of Prisons anticipates that site preparation at Yazoo City and Forrest City can begin in mid-1993 with major construction commencing in the Fall of 1993. The Department of Justice and the Bureau of Prisons will make every effort to complete these facilities as timely and cost-effectively as possible. We are currently reviewing our capacity needs by security level and geographic distribution.

QUESTION: The two facilities in the lower Mississippi delta areas are the same size, 662 beds, but the construction request for one is double the amount of the other. Would you please describe what is planned for the two facilities and briefly explain why one is so much more expensive than the other?

ANSWER: Our 1993 request includes full funding for the Mississippi facility and funding to initiate design and site work for the Arkansas facility. The balance of the Arkansas

funding will be included in future budget requests. The full funding cost for Yazoo City, Mississippi, is \$79,603,000 and the full funding cost for Forrest City, Arkansas, is \$76,603,000.

QUESTION: The Bureau of Prisons is planning a medical center and camp with 750 beds at an undetermined site. When selecting the site for that facility, will BOP take into consideration the cost benefits that would be derived from obtaining an existing medical facility?

ANSWER: When planning the development and activation of new facilities, the BOP always weighs the options of acquisition, conversion or new construction. Where a viable, cost-effective acquisition or conversion exists, it has been the BOP's historic practice to utilize these alternatives instead of new construction. Due to the unique combination of security and medical requirements of a correctional medical institution, the acquisition or conversion options are necessarily limited, especially in the geographic portions of the country where our greatest need exists, the northeast and west. Several of the military properties on the base closure list have hospitals that may provide conversion alternatives, and the BOP is actively exploring these with the Department of Defense.

QUESTION: I am pleased to see that the Bureau of Prisons is planning to acquire and renovate surplus facilities such as former military bases. What criteria will the BOP take into consideration in selecting which bases to acquire?

ANSWER: We have applied our standard site selection criteria to bases on both base closure lists 1 and 2, and selected approximately 39 bases for further consideration. At this time, we have targeted bases in those areas of the country where projections indicate the greatest number of inmates will come into our system in the future, and in those areas where our existing facilities are experiencing overcrowding.

Additionally, our selection criteria identified bases with existing correctional facilities and hospitals which are of the size that could be considered for cost-effective conversion to Federal correctional use.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Weed and Seed Program

QUESTION: How will localities be selected to participate in the Administration's proposed Weed and Seed Program? Who will make the selection decisions? What criteria will be used?

ANSWER: In 1992, the Department will fund Weed and Seed demonstration projects in 16 cities. Factors that were considered in selecting the 16 cities invited to participate under the limited competition included: the existence of a

severe crime problem within the city; a demonstrated presence of successful Department of Justice and/or other anti-drug programs; the potential for strong and active community group participation; a geographic diversity of sites; and a balance of large and mid-size cities. For 1993, the Department is considering holding a National Competition.

For 1993, the President's budget proposes a substantially-expanded program. Under the Attorney General's leadership, the Office of National Drug Control Policy and the Departments of Labor, Education, Health and Human Services, Transportation, Agriculture, and Housing and Urban Development will coordinate social services and community assistance programs. The Attorney General will solicit plans from State and local governments to revitalize neighborhoods using programs administered by these agencies and will review and approve these plans in consultation with the Federal agency to which the funds are appropriated.

Pursuant to program guidelines promulgated by the Attorney General, local applicants will submit proposals to the Department of Justice. The precise criteria that will be used in the 1993 selection process is currently undergoing refinement by representatives of the involved Federal agencies but the final criteria can be expected to include the following factors:

- Identify existing Federal, State and local resources for the targeted community that will be dedicated to the Weed and Seed effort.
- Demonstrate a working partnership among law enforcement agencies, including local prosecutors, and between law enforcement and community service providers.
- Identify private sector resources, including corporate contributions and individual commitments, to be included in the Weed and Seed effort.
- Demonstrate a balanced, comprehensive plan that addresses getting violent offenders off the streets, supports drug and crime prevention, and includes other efforts at neighborhood revitalization through strategies to create jobs and opportunities.
- Target previously-designated Enterprise Zones with documented drug, gang and violent crime problems.

QUESTION: I understand that this program has already been implemented in Trenton, New Jersey. Do you anticipate that any other New Jersey localities would benefit by the funds requested for 1993?

ANSWER: The Weed and Seed project in Trenton, New Jersey, is targeted at four neighborhoods. This project is proceeding with very good results. If competition for 1993 funding is open nationwide, other cities in New Jersey would be eligible to compete.

QUESTIONS SUBMITTED BY SENATOR WARREN RUDMAN

Weed and Seed Initiative

QUESTION: In 1991, the Department began a Weed and Seed Initiative at three sites (weeding out crime and seeding the community to revitalize the economic structure of the neighborhood). Last year, the Subcommittee approved \$9 million to expand this initiative. The 1993 budget requests a total of \$30 million for Weed and Seed -- \$20 million for United States Attorneys' law enforcement efforts and \$10 million in the Office of Justice Programs for community policing efforts. However, this is small potatoes compared to the \$470 million in "seed money" requested through other Departments and agencies.

Are Secretaries Alexander, Sullivan, Martin, and Kemp fully committed to this initiative?

ANSWER: All Federal agencies participating in the Weed and Seed program are committed to making this effort a success. The Secretaries of the Departments of Education (DEd), Health and Human Services, Labor (DOL), Housing and Urban Development (HUD), Agriculture and Transportation are fully committed and enthusiastically supportive of the Weed and Seed program. A Weed and Seed interagency working group composed of representatives from each of these agencies meets on a weekly basis with representatives of the Department of Justice to discuss and develop the Weed and Seed implementation strategy and procedures for 1993. Further, many of these agencies are working aggressively with their grant recipients in an effort to encourage them to target resources to the pilot sites funded by the Department of Justice in 1991 and 1992. These resources include Public Housing Drug Elimination Grants at HUD; Job Training Partnership Act resources and Youth Opportunities Unlimited demonstration grants at DOL; and Chapter 1, School Improvement, Vocational Education, Impact Aid, and Even Start resources at DEd. Additionally, both of the pilot sites funded by the Department of Justice in 1991, Trenton, New Jersey and Kansas City, Missouri, are working with regional offices of Federal agencies to secure resources for their Weed and Seed projects.

QUESTION: Are you aware of any opposition to the "Seed Component" of the initiative?

ANSWER: The Office of Justice Programs (OJP) has been working with national organizations to address issues they initially raised regarding implementation of the program and the selection of cities for Weed and Seed funding. Those issues were fully addressed by OJP and the organizations are now supportive of the program. At all levels of government -- Federal, State and local -- there is full recognition that success of the Weed and Seed program can only be achieved by linking social service programs with law enforcement efforts.

QUESTION: Can the initiative succeed if the "seed" monies are not provided?

ANSWER: Seed programs are essential to the success of the program. The Weed and Seed program includes four elements: (1) Suppression -- which builds on a partnership among law enforcement agencies and consists primarily of enforcement, adjudication, prosecution and supervision activities designed to target, apprehend and incapacitate violent street criminals who terrorize neighborhoods; (2) Community-Oriented Policing -- which operates in support of intensive law enforcement suppression and provides a "bridge" to the prevention, intervention and treatment as well as neighborhood reclamation and revitalization components; (3) Prevention, Intervention and Treatment -- which focuses on providing activities such as youth services, school programs, community programs, and support groups designed to develop positive community attitudes toward combatting narcotics use and trafficking; and (4) Neighborhood Restoration -- which consists of programs that bring about economic development and provide economic, educational, recreational and other vital opportunities along with enhanced living conditions and long-term neighborhood revitalization. The effectiveness of Weed and Seed is dependent on a coordinated effort by law enforcement, community groups and social service agencies, government and private, to work together to revitalize distressed neighborhoods in a fully comprehensive manner. Resources provided by the Federal Government are important in the early stages of Weed and Seed implementation; however, the ultimate responsibility for long-term economic and social improvements rests with State and local governments and the communities, churches, schools, and families.

QUESTION: The bill language giving the Attorney General authority over Weed and Seed monies appropriated to other departments is liable to be controversial. Is the bill language necessary or can you work at a cabinet level to carry out the initiative while leaving administration of specific programs to the Departments which would otherwise run those programs?

ANSWER: An interagency working group has been established at the Federal level to determine and establish procedures for the operation and implementation of the Weed and Seed program. At this time, it is envisioned that each Federal agency will be responsible for the administration of its own grant programs.

Gasoline Excise Tax Avoidance Schemes

Question: Your 1993 request for the Tax Division includes an increase of 10 positions and \$431,000 to support a criminal enforcement initiative directed at investigating and prosecuting individuals and corporations engaged in motor fuel excise tax evasion. You cite the involvement of the four New York organized crime families in evasion schemes such as a "daisy chain" where a bootlegger purchases gasoline and moves it on paper down a chain of dummy corporations.

The examples cited in your justification took place in the early to mid-1980's. The 1986 Tax Reform Act changed the collection point for gasoline taxes. That Act required gasoline excise taxes to be collected upon removal from the refinery. In your view, has the change in the collection point made by the Tax Reform Act put an end of the schemes described in your justification which occurred in the early to mid 80's, or are there recent examples of evasion schemes as well?

ANSWER: The 1986 Act had little or no impact in stemming gasoline tax evasion. Although that statute generally imposed the tax on the removal or sale of gasoline by refiners, importers or terminal operators, it exempted from taxation all bulk transfers of gasoline within the terminal to holders of registration certificates. Thus, the 1986 statute permitted the tax-free transfer of gasoline not only between terminals, but also among registered sellers prior to the gasoline's leaving the terminal at the rack.

The exception applicable to transfers between holders of registration certificates was exploited by criminals, who used forged, stolen, or fraudulently-obtained registrations to facilitate the tax-free transfer of gasoline. These tax-free transfers allowed for the continued use of "burn" companies and daisy chain schemes.

Nor have the 1988 statutory changes prevented evasion schemes. They continued the system of exemptions from taxation that had been exploited by criminals under prior law.

The 1988 rules added an exception that permits the tax-free transfer of diesel fuel among registered sellers, and many of the schemes employed to evade taxes on gasoline are now being used to evade taxes on diesel fuel. In addition, a substantial portion of diesel fuel tax evasion is attributable to the fraudulent mislabelling of certain kinds of petroleum products -- for example, we have uncovered schemes in which sellers have labeled diesel fuel as home heating oil (which is tax-exempt) -- or outright smuggling. Still other schemes involve "splash blenders," who dilute No. 2 diesel fuel with substances like mineral oil or flammable toxic waste and then sell the increased volume of diluted fuel without paying the applicable taxes.

We do not have sufficient data to determine whether the 1990 statutory amendments changing some collection procedures are likely to have any effect on reducing evasion. These amendments did not, however, change any of the rules regarding diesel fuel. With 54 criminal investigations pending concerning post-1986 Act violations of the gasoline excise tax provisions and more investigations being initiated each month by the IRS and the FBI, we believe that the modest increases we have requested are required to deal with the expected inventory involving both pre- and post-1990 Act cases.

Facilities 2000

QUESTION: You are requesting an increase of \$6,357,000 to continue implementation of the Facilities 2000 program which will consolidate the Department's components, acquire new space, and renovate the Main Justice Building over a 10-year period. Your budget submission indicates that the total estimated cost of this program, subject to GSA's prospectus process, is \$850 million to \$1 billion over the ten-year period. It further notes that Justice's share of those costs is estimated to be \$125 million, subject to further negotiation.

What kinds of things are included in your share of these costs, and is it reasonable to expect Justice, rather than GSA, to pay for them?

ANSWER: The Department's estimated costs are for those items which GSA, according to the Federal Property Management Regulations, requires the component occupying the space to pay. The majority, though not all, of these costs are related to replacement of technology-driven systems such as telecommunications, security, automated data networks and emergency power systems. In replacing these systems, there is frequently an upgrade to the current technology. Requiring agencies to fund these items places their approval with the agency's authorizing and appropriation committees which have specific oversight as opposed to the GSA committees. This reinforces the oversight of the appropriate committees, and, therefore, the Department considers this a reasonable method of funding.

Parole Commission -- Alternative Sanctions Demonstration

QUESTION: The Parole Commission's request includes \$72,000 for a pilot project in the Washington, D.C. - Baltimore area to be developed in conjunction with the United States Probation Office and the Bureau of Prisons to identify technical parole violations (defined as mostly illegal drug use violations) and develop sanctions, other than parole revocation.

Specifically, what kind of technical violations will the project address?

ANSWER: The technical violations addressed by the project include the following: substance abuse problems, marginal offenses such as traffic violations or petty theft, failure to report as directed by the United States Probation Office, failure to obtain or maintain employment, leaving the district without permission, non-payment of fines, restitution or child support.

QUESTION: What kinds of alternative sanctions are envisioned?

ANSWER: Technical Parole Violator Sanctions Centers are live-in centers that function much the same as "halfway

houses" do for prisoners being released from incarceration. The sanctions center provides a final opportunity for the parolee to remain out of prison and maintains a high level of control.

QUESTION: With drug abuse being the driving force of the violent crime in this city, are there implications for the community of alternative sanctions for these violators?

ANSWER: Substance abuse problems yield the largest number of technical violations among the potential subjects. It is believed that the intensive supervision and control exercised by this program would lead to long-term reductions in drug abuse violations among those on parole with a corresponding reduction in the level of violence. However, since violent parole violations do not qualify as technical violations, the impact of this program on the level of violence is not great. The real benefits of this program are families preserved, recidivism rates lowered, cost reductions from a lowered rate of re-incarceration, and a focus on treatment and rehabilitation for non-violent offenders.

QUESTION: From a policy standpoint, are we establishing a different standard for parolees who abuse drugs than for those who are subject to the sentencing guidelines and new mandatory minimums?

ANSWER: The technical violations criteria are not designed to establish a different standard between parolees and those subject to the sentencing guidelines. The types of violations that will be referred to the Sanctions Centers will be technical and/or minor law violations which would not be comparable to the types of offenses punishable under the sentencing guidelines or subject to a mandatory minimum prosecution. The philosophy of this program is quick treatment of problem parolees in the community rather than returning these non-violent persons to prison.

Lapse Rates -- AKA Camel's Nose Under the Tent

QUESTION: The new positions requested in your budget, with few exceptions, are lapsed at a 75-percent rate. It's a classic case of getting the camel's nose under the tent. The Subcommittee pays for the nose this year and the rest of the camel in 1994. For the record, please provide the following on an agency by agency basis:

The costs associated with the same number of new positions at a 50-percent lapse.

The 1994 costs which will be incurred as an "adjustment to base" if the Subcommittee were to approve all of the new positions included in the 1993 request.

ANSWER: Attached is a chart (Column A) depicting the costs associated with the same number of new positions in 1993 at a 50-percent lapse. As you indicated, most of the Department's positions were lapsed at a 75-percent rate; however,

for those organizations that did not use a 75-percent lapse rate the adjustment has been made from the lapse rate shown in the budget request. Using a 50-percent lapse results in an increased 1993 funding need of \$38,679,000. Please note that this chart does not include the anticipated 1994 pay raise.

Column B depicts an estimated 1994 cost that may be incurred as an "adjustment-to-base" if the Subcommittee were to approve all of the new positions included in the 1993 request at the 75-percent lapse rate. This results in a 1994 cost of \$714,681,000. The largest part of this increase, \$605,612,000, is associated with the remaining construction and activation costs for the Federal Prison System. These amounts also exclude the anticipated 1994 pay raise.

DEPARTMENT OF JUSTICE
(DOLLARS IN THOUSANDS)

APPROPRIATION	Column A			Column B
	TOTAL REQUEST AMOUNT	REVISED REQUEST (50% LAPSE) AMOUNT	INCREASE OVER 1993 AMOUNT	ESTIMATED 1994 ADJUSTMENT TO BASE AMOUNT
DISCRETIONARY				
FUNCTIONAL CODE 750				
GENERAL ADMINISTRATION	14,875	18,252	1,577	4,216
OFFICE OF THE INSPECTOR GENERAL	477	659	182	454
QUANTICO TRAINING CENTER	0	0	0	0
WORKING CAPITAL FUND	0	0	0	0
U S PAROLE COMMISSION	(406)	(406)	0	0
GENERAL LEGAL ACTIVITIES	22,759	25,303	2,544	7,668
ANTITRUST DIVISION	2,601	2,757	156	511
ICC TRANSFER	0	0	0	0
U S ATTORNEYS	39,006	49,045	10,079	26,300
U S MARSHALS	7,652	10,127	2,475	8,840
SUPPORT OF U S PRISONERS	49,356	49,356	0	0
FEES AND EXPENSES OF WITNESSES	0	0	0	0
COMMUNITY RELATIONS SERVICE	0	0	0	0
U S TRUSTEES	0	0	0	5,613
ASSETS FORF FUND CURRENT BUDGET AUTHORITY	0	0	0	0
ORGANIZED CRIME DRUG ENFORCEMENT	20,563	26,349	5,826	8,840
FEDERAL BUREAU OF INVESTIGATION	150,099	155,825	5,726	11,217
DRUG ENFORCEMENT ADMINISTRATION	15,456	18,605	3,149	4,843
IMMIGRATION AND NATURALIZATION SERVICE	35,514	42,479	6,965	19,757
FEDERAL PRISON SYSTEM				
SALARIES AND EXPENSES	179,041	179,041	0	330,000
NAT L INSTITUTE OF CORRECTIONS	500	500	0	0
BUILDINGS AND FACILITIES	239,432	239,432	0	275,612
TOTAL FEDERAL PRISON SYSTEM	418,973	418,973	0	605,612
OFFICE OF JUSTICE PROGRAMS				
OFFICE OF JUSTICE ASSISTANCE	(81,008)	(81,008)	0	0
PSOB	2,000	2,000	0	0
SUBTOTAL DOMESTIC DISCRETIONARY	677,717	716,398	38,679	703,873
FEDERAL BUREAU OF INVESTIGATION	8,900	8,900	0	198
SUBTOTAL DISCRETIONARY AUTHORITY	686,617	725,298	38,679	704,071
MANDATORY				
FUNCTIONAL CODE 750				
IMMIGRATION USER FEE	15,179	15,179	0	5,122
IMMIGRATION EXAMINATIONS FEE	35,726	35,726	0	5,468
FUNCTIONAL CODE 800				
CIVIL LIB PUB EDUCATION FUND	250,000	250,000	0	0
SUBTOTAL MANDATORY AUTHORITY	300,905	300,905	0	10,610
TOTAL DEPARTMENT OF JUSTICE	987,522	1,026,203	38,679	714,681

Assets Forfeiture Fund Capital Surplus

QUESTION: You are projecting a capital surplus in the Assets Forfeiture Fund of \$49.9 million for 1992.

How confident are you that the projection is accurate?

Are any of the requests funded with the surplus of sufficient priority to require appropriated funding if a capital surplus is not available for them?

ANSWER: Through February 1992, income to the Fund this year is down from original projections. Fortunately, expenses are also lower than projected. As a result of this slowed cash flow, the Department has delayed its first quarter transfer to the Office of National Drug Control Policy's Special Forfeiture Fund until such time as estimates indicate that a surplus will be available for transfer. As you know, the Department had estimated that it would transfer \$28 million to the Special Forfeiture Fund before any funds were set aside as the 1992 capital surplus. We are confident that a capital surplus will be available. However, we are not assured that the surplus will reach the \$49.9 million in funding needs identified as advance appropriations.

The purposes identified for use of this capital surplus are high priority items. The Administration made the decision to meet these budget needs with the potential \$49.9 million in Fund surpluses in lieu of new appropriation requests to improve the chances that these items would be funded in 1993. Therefore, if capital surplus funds do not materialize, the organizations' budgets would be reviewed in 1993 for possible reprogramming action. If the Administration concludes that these items are of higher priority than items for which appropriated funding has been provided, the requisite reprogramming notification will be prepared and forwarded to Congress.

Civil Liberties Public Education Fund

QUESTION: The 1993 request of \$500 million to continue reparation payments to Japanese-Americans interned during World War II exceeds the amount authorized for the permanent-indefinite appropriation by \$250 million. Your estimate is based on a revised eligibility level of 75,000 eligible individuals, 12,500 more than estimated by the original Act.

A change in the authorizing statute would be required to extend this program. Have you discussed this issue with the Chairman and Ranking members of the appropriate authorizing committees?

ANSWER: Draft legislation, which included an increase in the authorization and several other amendments to the Civil Liberties Act, was submitted by the Department of Justice to the House and Senate on February 25, 1992. Hearings on the proposed legislation were held on March 26, 1992, before the Administrative Law and Governmental Relations Subcommittee of the House Judiciary Committee; hearings in the Senate have not been scheduled.

QUESTION: Because this program is an entitlement, changes in it would be subject to the PAYGO provisions of the Budget

Enforcement Act. Have you identified offsets for the proposed increase?

ANSWER: The President's 1993 budget includes several proposals that are subject to pay-as-you-go requirements. Considered individually, the proposals that increase direct spending or decrease receipts would fail to meet the Omnibus Budget Reconciliation Act of 1990 (OBRA) requirement. However, the sum of all of the spending and revenue proposals in the President's budget would reduce the deficit. Therefore, this proposal should be considered in conjunction with the other proposals in the 1993 budget that together meet the OBRA pay-as-you-go requirement.

Automated Litigation Support

QUESTION: Your 1993 request includes \$10,653,000 to begin an upgrade of the AMICUS office automation system. The current contract expires in January 1994. What is the basis for the \$10.6 million estimate? What do you anticipate the total cost of this upgrade to be?

ANSWER: The 1994 estimate for conversion of AMICUS assumes that the AMICUS organizations (Civil, Civil Rights, and Environment Divisions, and the Department's senior management offices) will begin to replace "dumb terminals" with personal computers during 1993, in anticipation of a new uniform office automation contract in 1994, which will be based on personal computer local area networks. The total cost of replacing the AMICUS II system in the 1993 to 1995 timeframe, at the end of its eight-year system life, is expected to be approximately \$30 million.

Antitrust Merger Fees

QUESTION: The Department is requesting reduced reliance on the Hart-Scott-Rodino premerger notification filing fees from \$13.5 million to \$10 million.

Last year, the Subcommittee reduced the fee component of the Division's funding to \$13.5 million. Your budget request indicates that \$13.25 million is projected to be collected in 1992. What is the basis for your 1993 estimate? Is there a further decrease in fees projected?

ANSWER: Hart-Scott-Rodino (HSR) fee collections continue to be of great concern and remain below authorized funding levels. At the time our 1993 budget request was submitted for consideration by the Congress, fee collections of \$13.25 million were anticipated. Taking collections received to date into account, however, we now estimate that only \$12.8 million may be collected this year, or \$450,000 less than our currently-authorized level of \$13.25 million. This estimate may again change significantly, as the fee collection process does not permit accurate, long-range projection. In 1992, Congress exempted the Division from the provisions of the Antideficiency Act so that the Division's total revenue authority was available for obligation despite any shortfall in fee collections. In 1993, no such authority has been

provided, and we must therefore limit spending to stay within actual collections.

It is impossible to predict with any certainty what the Division will receive from HSR fee revenues until the last day of the year. Without increased certainty in our funding levels, it is difficult to manage division operations prudently within available funding. History with collections indicates that at least \$10 million in fees will be collected each year. Therefore, we have requested that our reliance on fees be reduced to \$10 million in 1993, with any surplus to be deposited in the Treasury.

INS Inspections

QUESTION: Last year's Senate report directed INS to hire and maintain sufficient Inspectors to comply with a 45-minute inspection standard for passengers arriving at airports. Where are you in terms of meeting that 45-minute standard?

ANSWER: The INS has been successful in meeting the 45-minute standard, except in a few instances when heavy peaking or facility constraints resulted in reported delays. For example, at the John F. Kennedy International Airport's Trans World Airlines' terminal on February 29, 1992, 1,284 passengers arrived during a one-hour period. A subsequent arrival of a Boeing 747 flight resulted in delays despite the Service's staffing of all available booths.

Federal Prison System - Salaries and Expenses

QUESTION: The cost of operating the Federal Prison System in 1983 was just under \$400 million. For 1993, you are requesting nearly \$1.9 billion. This is a 375-percent increase over the last ten years, most of which is directly related to the drug problem. Do you have a five-year projection beyond 1993 for operating costs for the Federal Prison System?

ANSWER: Yes, preliminary Salaries and Expenses projections for 1993 through 1997 are estimated below, but are subject to revision:

	<u>In Billions</u>
1993.....	\$1.9
1994.....	2.5
1995.....	3.0
1996.....	3.4
1997.....	3.9

Prison Construction

QUESTION: Your budget includes \$172 million for new construction. Yet, this year's request represents a shift in the way you budget for the costs of Federal prisons. In the past, we have provided the full construction cost of the prison up front. This year, you are requesting only the architectural, engineering and site work for four of the

planned facilities. What can we expect in terms of out-year costs for these four facilities?

ANSWER: The cost of completing these facilities are:

Forrest City.....	\$68,000,000
Northeast Medical Center.....	108,000,000
Middle District/Florida Detention Ctr.	50,000,000
Sacramento Detention Center.....	<u>60,000,000</u>
TOTAL.....	286,000,000

QUESTION: Are we buying into new facilities that we may not be able to afford a year from now?

ANSWER: The continued funding of additional capacity is imperative if the Bureau of Prisons is to be able to manage the projected inmate population increases. The "split funding" approach is intended to reflect the pattern in which construction funds are actually obligated. The future years costs, while occurring later in this method of appropriation, will, nonetheless be needed to complete the projects.

QUESTIONS SUBMITTED BY SENATOR MARK O. HATFIELD

National Alzheimer's Patient Alert Program

QUESTION: It is estimated that there are over four million persons in the United States currently suffering from Alzheimer's Disease and related dementia. One of the most alarming and potentially life-threatening behaviors which accompanies memory impairment is wandering. With memory impairment, wandering puts the patient at risk of becoming lost, unable to request or seek assistance and unable to find his/her way home. Equally important, the potential of wandering is very frightening to family members and other caregivers. Research studies have estimated that 59 percent of Alzheimer's sufferers wander and that wandering is seven times greater in disabled older individuals than in the general population.

Several States across the country have developed localized identification and safety networks for Alzheimer's patients. Each one of these is heavily dependent upon local law enforcement authorities to find lost patients. Existing local wanderer's programs do not duplicate the efforts or interfere with the work of local officials. Instead they attempt to facilitate the work of local law enforcement agencies by providing information, training and additional human resources.

In recognition of the strong role the law enforcement community can play in this problem, this Committee provided \$500,000 in 1992 to the Department of Justice for the development of a National Alzheimer's Patient Alert Program. It is my understanding that the Department has been working with the National Alzheimer's Association to establish a central registry of information to assist in the identifica-

tion and location of missing memory-impaired persons, a national toll-free hotline to access the registry and a Fax Alert system to set the search process in motion.

Please update the Committee on the Department's work in this area. Please also comment on the role of local law enforcement personnel in this endeavor.

ANSWER: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded the \$500,000 grant to the Alzheimer's Disease and Related Disorders Association for the National Wanderers Program on March 23, 1992.

The Association is focusing on the following design and developmental elements of the program:

- Development of a national registry toll-free hotline, Fax Alert System, and label and bracelet identification program;
- Determination of data elements for the registry and ID items for registrants, as well as beginning the registration system;
- Development of curriculum guides and educational materials for law enforcement and emergency health care personnel, utilizing a Train-the-Trainer model;
- Development of a national awareness program on wandering;
- Development of a resource kit for caregivers; and
- Creation and initial implementation of Area Resource Centers as a prototype for future national expansion. The Centers will provide training for trainers, assist in the development of new local outreach programs, and increase the effectiveness of existing programs.

Local law enforcement agencies will play an important role in the program since in most cases it is local law enforcement officers who make the initial contact with missing Alzheimer patients. The program will provide Alzheimer patients with several means of identification, such as bracelets and labels bearing an 800 number, and will train police to look for these items when they observe a disoriented person. A central registry, which will be reached through an 800 number, is part of the planned program and will enable the police to learn the identity of an Alzheimer patient very quickly. The project also includes the production and dissemination of brochures and training videos for police in handling Alzheimer patients. OJJDP will assist the grantee in developing and implementing the training program for police and security personnel and will serve as a source of information and liaison for cooperation with law enforcement agencies, emergency personnel, and private security firms.

The Department has no problems with the merits of the proposal, but the Administration believes that it may be more

appropriately administered by another Federal agency, such as the Department of Health and Human Services.

Immigration and Naturalization Service

QUESTION: I understand that there has been a considerable increase in passengers destroying passports and other travel documents in order to resist exclusion from the United States and to conceal travel identity. Aside from seriously burdening airlines with the assessment of additional fines, what has the INS done to alleviate this problem?

ANSWER: The INS has actively sought to provide training to airlines in the detection of fraudulent documents at various sites overseas. For example, the Service completed a joint training project with other members of the International Air Transport Association-Control Working Group (IATA-CWG) at Singapore and Malaysia. The INS's National Fines Office has conducted a number of seminars on fines for carriers to help the airlines avoid situations that result in fines. The agency also plans to provide "carrier consultants" at overseas sites in the near future, in addition to the ongoing training that is provided by the INS's overseas officers. In addition, the Department has proposed legislation to address this issue.

QUESTION: At least one airline has felt forced by the INS fine policy to photocopy, and to even hold, some travel documentation. In fact, I am told that this airline's efforts to detect fraudulent documents have, in some cases, resulted in physical threats against its employees. I am advised that the airlines have repeatedly requested help in the form of INS "advisors" at key airports in the Pacific. What has INS done to provide such assistance and to take some of the burden off the carriers?

ANSWER: Funding has been provided in order to conduct a 60-day test period of assignment of Immigration Officers at selected overseas locations. The officers' primary duties will be to act as consultants, advisors, and training resources to members of the passenger carrier industry. Specifically, duties would entail:

- (1) providing training on fraudulent and counterfeit documentation, liquidated damages and fines issues;
- (2) examining travel and related documents in order to detect fraudulent and counterfeit documentation presented to airlines agents prior to boarding a flight destined to the United States;
- (3) advising carriers, upon request, of the possible risks involved in boarding certain profiled passengers; and,
- (4) providing the foundation for a direct, responsive link between the industry and the various enforcement activities of the INS.

Results of the test will determine whether the assignment of personnel could be made on a permanent basis if funds and positions become available.

QUESTION: With regard to the issue of fines, I understand that the airline industry filed a petition for rule-making with the INS last April seeking a cooperative program which would waive or mitigate fines for carriers that take certain precautions to prevent the boarding of undocumented or inadequately documented passengers. What action has the INS taken with respect to this petition?

ANSWER: On April 1, 1992, the Commissioner of INS signed final regulation 8 CRF 270, that establishes the procedures for Section 274C of the Immigration and Nationality Act. The regulation was forwarded to the Department of Justice on April 2, 1992 for review.

QUESTION: It is my understanding that in 1986, the airlines agreed to support INS efforts for a \$5 inspection fee with the understanding that the proceeds of the fee would be used in part to support all alien detention. With this in mind, why has the INS reversed itself by causing the airlines to bear the burden of detaining certain classes of aliens -- specifically, those who have destroyed their documents and those who are in transit without visa (TWOV)?

ANSWER: The INS has been using the Immigration User Fee Account for detention. However, under the agreement between the Service and the carriers for transit without visa passengers, carriers remain responsible for the custody of the passenger in immediate and continuous transit (without visa) through the United States. Therefore, if a passenger who was boarded by a carrier as a transit without visa passenger destroys his documents enroute to the United States, the carrier remains responsible for the custody of that passenger until departure.

QUESTION: Last year, a 45-minute clearance standard was set for the INS. What efforts have been made by the INS to meet that standard and to work with both the airport authorities and the airlines to ensure agreement on that measurement?

ANSWER: The Service continues to work closely with the airport authorities and the airlines to measure the Service's achievement of the 45-minute standard. Major airports report daily to INS Headquarters so that compliance with the 45-minute standard can be closely monitored. The few reported recent delays have been due to heavy peaking of arriving flights and severe facility constraints. Several measures have been undertaken to further our progress in consistently meeting the 45-minute goal. Those measures include the expansion of the Advanced Passenger Information System (APIS) and the special "Blue Lane" processing. Most importantly, the INS is actively recruiting to fill all its current inspector vacancies. Processes that previously had caused excessive delays in hiring are being removed or changed to further facilitate the hiring process.

QUESTION: Several carriers are involved in a test to provide both Customs and INS with advanced passenger information (API). What incentives is INS offering to encourage greater API participation?

ANSWER: The INS encourages carrier participation in API by continuing to offer expedited inspection processing through special dedicated booths referred to as "Blue Lanes" for those who are API passengers. INS inspections processing of air passengers arriving in the United States is expedited by eliminating the need to perform a computer query at the United States port-of-entry, given that such query had been performed prior to the passenger's arrival.

QUESTIONS SUBMITTED BY SENATOR WYCHE FOWLER, JR.

Justice Training Center

QUESTION: What is the Justice Department's position on consolidated law enforcement training at the Federal Law Enforcement Training Center (FLETC) at Glynco, Georgia?

I understand the Attorney General signed the Memorandum of Understanding which established the FLETC in 1970. Doesn't that action commit the Justice Department to have all of its agencies, except the FBI which already had its own facility in 1970, carry out their training at FLETC?

ANSWER: The Department of Justice supports consolidated law enforcement training at FLETC, and is, in fact, the second largest user of this training facility. However, it is problematic that FLETC has not and can not accommodate all the DEA agent training requirements, especially follow-on and in-service training requirements for DEA agents and support personnel. This, among other factors, drove the Department to collocate DEA training with FBI training at the Quantico facility.

QUESTION: The President's budget proposed for 1993 contains a request for \$31.075 million to construct a new law enforcement training center at Quantico, VA, to meet the training needs of the Drug Enforcement Administration (DEA) and the FBI. This in addition to the \$3.5 million that was appropriated in 1992. Are you aware of the Congressional language which restricts the acquisition of land and construction of redundant law enforcement training facilities without prior approval? What is the rationale for creation of new or expanded training facilities for DEA's purposes?

ANSWER: The referenced Congressional language only restricts the acquisition of land and construction of redundant law enforcement training facilities if such facilities are built on land which is not contiguous to a current law enforcement training center. As concerns the Justice Training Center, land for the training academy expansion is, in fact, contiguous to the FBI Academy and is not, therefore, in violation of any Congressional legislation. In addition, to avoid

duplication, DEA will continue to use common facilities with the FBI including Hogan's Alley, firing ranges, and physical fitness facilities.

QUESTION: For the record, would you please submit a complete construction prospectus which provides a detailed explanation and justification for this expenditure. Also, I am interested in information you might provide identifying the portion of the workload, funding, and facility construction that relates to each agency -- FBI and DEA.

ANSWER: A contract for the architectural and engineering (A&E) study was signed during the second quarter of 1992. DEA estimates that work on the A & E study will commence the latter part of 1992. A construction prospectus for the training facility will be available upon completion of the A & E study. At such time, DOJ will be prepared to provide the prospectus and any other information requested concerning facility construction and costs.

QUESTION: Do you expect additional requests for construction and expansion at Quantico in future years? Does the Justice Department have a long-term utilization plan for the Quantico facility? If so, please supply it for the record.

ANSWER: At this time, the Department anticipates that the \$3.5 million appropriated in 1992 combined with the \$31.1 million requested in 1993 will be sufficient for training construction at the Quantico facility. The Department's intention is that DEA will share costs with the FBI for the upgrade of shared Quantico facilities including firing ranges and Hogan's ally. Upon completion of the study referenced to above, the Department will be in a position to present a master utilization plan for the entire Quantico facility.

QUESTION: The FLETC submitted to the Congress in 1989 an extensive facilities expansion plan. Assuming the funding request for 1993 is approved, Congress will have appropriated over \$48 million in new construction at FLETC, which is about half the total amount estimated to pay for the expansion. Assuming that FLETC is willing to make reasonable modifications to its facilities plan to accommodate DEA, why wouldn't DEA take advantage of this opportunity? Would you agree that there are some significant benefits to DEA to training along side other law enforcement agencies at the FLETC, many of which have drug enforcement responsibilities?

ANSWER: In order for FLETC to accommodate the needs of DEA, substantial costs would have to be incurred over and above the planned enhancement of the Glynco facility. To quote FLETC Director Charles F. Rinkevich in his testimony before the House Appropriations Subcommittee, "If DEA were to come to us, we would need to revisit the (FLETC) master plan. And I know that we would probably add some to it to account for their needs." Studies have indicated that due to the expected increase in costs associated with further expansion of the FLETC, it would be just as cost-effective for DOJ to continue current plans for expansion of its Quantico training facilities. More importantly, FLETC's entry level training

is too general to meet the needs of DEA's new agents. Altering FLETC's basic training program runs counter to FLETC's training philosophy, which is to provide a common core curriculum for all participating agencies. Finally, the staffing upheaval caused by a DEA move from Quantico to FLETC the third relocation within a decade would cripple DEA's training program.

QUESTION: In your opinion, wouldn't the dollars requested for construction of what might well be considered redundant facilities at Quantico be better invested for the completion of the expansion plan at Glynco where all of the participating agencies could utilize the facility?

ANSWER: The requested Justice Training Center is not redundant since it will be contiguous to the existing FBI facilities and both agencies will continue joint use of certain common areas. The requested construction dollars would not, in the Department's opinion, be better spent at FLETC because of FLETC's limited capacity and difference in training philosophy. FLETC's planned expansion as currently conceived will not be able to provide all of DEA's entry level and advanced training needs. The expanded training facilities at Quantico will be fully utilized to meet DEA and FBI's training needs, and the Department anticipates no excess capacity. Furthermore, FLETC training does not meet the specialized needs of DEA's agents. Rejecting the current DEA/FBI training plans and agreements would, in fact, send the wrong message to these two law enforcement agencies.

SUBCOMMITTEE RECESS

Senator HOLLINGS. The subcommittee will be in recess until next Wednesday, March 25, when we will hear from the Federal Communications Commission and the Securities and Exchange Commission.

[Whereupon, at 11:39 a.m., Thursday, March 19, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 25.]