

Department of Justice Criminal Division



Performance Budget
FY 2019 Congressional Submission

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- K. Summary of Requirements by Object Class
- L. Status of Congressionally Requested Studies, Reports, and Evaluation – N/A
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I. Overview of the Criminal Division

Mission Statement

The Criminal Division’s mission is to protect the American people from the most serious criminal activity, including transnational criminal organizations, violent gangs, cybercrime, child exploitation, corruption, fraud, and money laundering. The Criminal Division’s specialized prosecution units develop and enforce federal criminal laws that target complex, international, and multi-district crime. The Division responds to critical and emerging national and international criminal threats and leads a coordinated, nationwide response to reduce those threats.

To accomplish this, the Division joins with domestic law enforcement partners to pursue criminal investigations. The Division also partners with U.S. Attorneys’ Offices in investigating and prosecuting criminal matters, particularly in complex multi-jurisdictional or international cases. Moreover, the Division plays a critical – and unique – role in fighting transnational crime that endangers the American public. As the “central authority” for U.S. law enforcement interactions with other countries, the Division secures evidence critical to solving crimes against Americans and obtains the extradition of criminals from foreign countries to face justice in U.S. courts. No other organization within the Department or the U.S. Government is authorized or equipped to fulfill this international role – one that is more critical than ever considering the continually increasing globalization and sophistication of crime.

To sustain mission needs, the Criminal Division requests a total of 729 permanent positions (440 attorneys), 729 direct Full-Time Equivalent work years (FTE), and \$187,378,000 in its Salaries and Expenses appropriation for Fiscal Year (FY) 2019.

This request includes 72 positions and \$13 million to sustain the Office of International Affairs (OIA) base resources and Mutual Legal Assistance Treaty (MLAT) reform, which is imperative to avoid insolvency and further backlogs in the critical support provided by OIA to U.S. Attorneys’ Offices and state and local partners. Additionally, the Criminal Division requests an appropriation language change providing \$9,000 in official reception and representation expense authority.

Division Priorities

In working to achieve the Division’s mission, the Division has identified the following key strategic outcomes to address the country’s most critical justice priorities:

- Disrupting and dismantling domestic and transnational criminal organizations and networks that threaten our country through violence, drug trafficking, human smuggling and immigration offenses, and computer crime;
- Ensuring trust and confidence in government institutions, by reducing public corruption at every level of government;
- Ensuring the stability and security of domestic and global markets, as well as the integrity of government programs, by reducing fraud, money laundering, and other economic crimes, by both corporations and individuals;
- Combating cyber threats and attacks and assuring that agents and prosecutors across the country can obtain digital evidence critical to every sort of investigation;
- Protecting our children from exploitation and defending human rights;

- Securing evidence located abroad that is essential for successful U.S. prosecutions, and seeking international enforcement of U.S. asset-forfeiture orders abroad;
- Assisting foreign law enforcement authorities to obtain evidence in the United States, thereby empowering them to interdict criminal actors on foreign soil before the threat can migrate to the United States;
- Ensuring accountability through extradition for criminals who seek safe haven abroad, while removing violent criminals and other fugitives from our communities to face justice in foreign courts;
- Strengthening justice-sector institutions in countries throughout the globe; and
- Supporting crime-fighting efforts across federal, state, and local governments.

The Criminal Division engages in several program activities to achieve its mission:

- Investigating and prosecuting cases;
- Providing expert guidance and advice to our prosecutorial and law enforcement partners;
- Authorizing the use of sensitive law enforcement tools; and
- Engaging with domestic partners and foreign counterparts to enforce the law, advance public safety, and achieve justice.

Every day, the Criminal Division performs these functions at the forefront of federal criminal law enforcement.

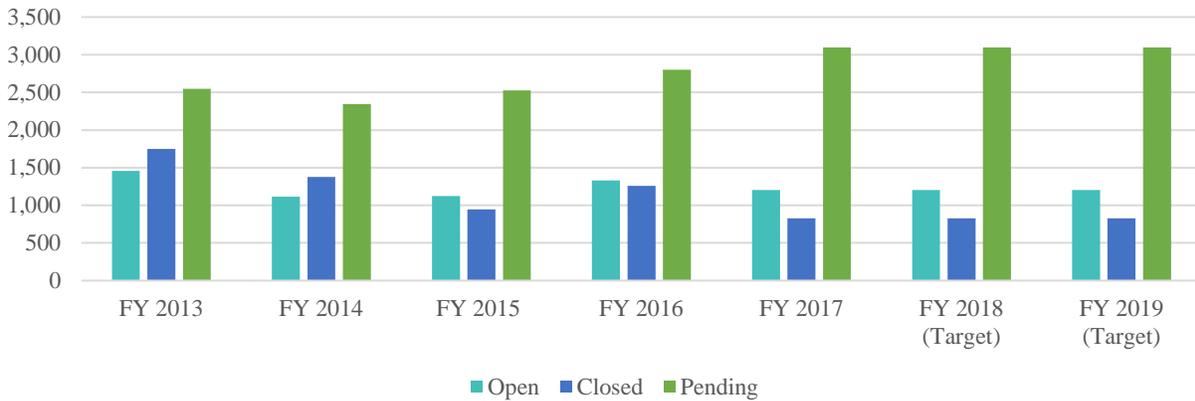


Program Activities

Investigating and Prosecuting Cases

- Investigating and prosecuting the most significant cases and matters
- Coordinating a wide range of criminal investigations and prosecutions that span multiple jurisdictions and involve multiple law enforcement partners

**Criminal Division Prosecutions and Investigations
FY 2013-FY 2019**



The Division strives to support its mission by investigating and prosecuting aggressively and responsibly. The Division undertakes complex cases, especially cases involving multiple jurisdictions or that have an international component. In addition, for certain criminal statutes, the Division approves all federal charging instruments filed throughout the United States to ensure a consistent and coordinated approach to the nation’s law enforcement priorities. The Division has a bird’s-eye view of violent crime, organized crime, narcotics, money laundering, white collar crime, public corruption, cybercrime, and other criminal activities. Consequently, the Division is uniquely able to ensure that crimes that occur, both in the United States and across borders, do not go undetected or ignored.

Select Recent Criminal Division Accomplishments in Investigating and Prosecuting Cases¹

- **Capital Case Section (CCS):** Dylann Roof was tried, convicted and sentenced to death in the District of South Carolina for murdering nine victims and attempting to murder three others, all of whom were participating in a Bible study class at the Mother Emanuel Church in Charleston. Roof’s motive was to spread a message of white supremacy, hoping to spark a race war. The case was prosecuted by the U.S. Attorney’s Office for South Carolina. The Deputy Chief of CCS was part of the trial team, providing expertise in prosecuting the complexities of a capital case. On December 15, 2016, the jury convicted the defendant on all civil rights and hate crime murder counts, following two hours of deliberations. On January 11, 2017, the jury sentenced Roof to death on all capital counts in the indictment.

¹ CRM completed these cases in conjunction with other Department components and law enforcement agencies.

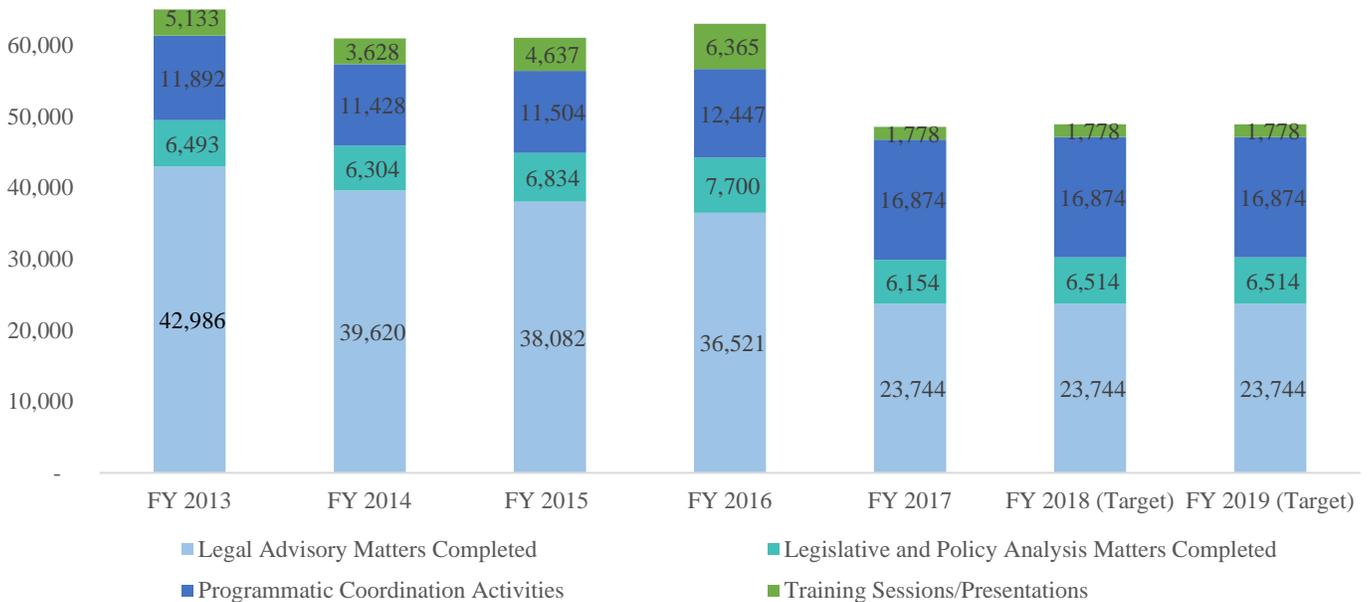


- **Human Rights and Special Prosecutions (HRSP):** U.S. v. Sunny Joshi, et al. is the first large scale, multi-district prosecution brought in the United States against an international network of fraudsters and money launderers perpetrating various telephone impersonation schemes based out of India. The case was indicted in October 2016, with multiple arrests, search warrants, and enforcement activities spread over 12 judicial districts. Since October 2016, 24 defendants have now been convicted of conspiracy charges involving wire fraud, money laundering, and identity fraud, as well as two related convictions for naturalization fraud and passport fraud. Thirty-two additional defendants, located in India and whose international arrests are being pursued, defrauded the American public on a massive scale, with many thousands of fraud victims and hundreds of millions dollars lost over several years traced to the scheme. Additionally, thousands of other U.S. persons had their identities misappropriated as part of the defendants' money laundering scheme. The case had a significant impact in reducing fraud in the United States, with the Treasury Inspector General reporting that in the months following the October indictment and takedown, the average number of reported scam calls dropped from as much as 45,000 calls and 300 new victims a week, to 2,500 calls and 20 victims a week.
- **Fraud Section (FRD):** FRD's Health Care Fraud Unit organized and led the largest national health care fraud takedown in history, both in terms of individuals charged and the loss amount involved. On July 13, 2017, Attorney General Sessions and Department of Health and Human Services (HHS) Secretary Price announced a nationwide sweep led by the Health Care Fraud Strike Force (HCF SF) with the cooperation of 41 U.S. Attorneys' Offices and 29 Medicaid Fraud Control Units (MFCUs). This effort resulted in charges against 412 individuals, including 115 doctors, nurses and other licensed medical professionals, for their alleged participation in Medicare and Medicaid fraud schemes involving approximately \$1.3 billion in false billings. Importantly, of the 412 individuals charged, 120 (including 27 doctors) were charged in cases involving the illegal distribution of opioids.
- **Public Integrity Section (PIN):** In May 2017, PIN and the Middle District of Florida convicted former United States Congresswoman Corrine Brown after a four-week trial for her role in a conspiracy and fraud scheme involving a fraudulent scholarship charity. Brown's long-time chief of staff Elias Simmons and Carla Wiley, the president of the fraudulent charity, pleaded guilty for their roles in the education charity scheme in February and March 2016, respectively. Brown, Simmons, Wiley, and others acting on their behalf solicited more than \$800,000 in charitable donations based on false representations that the donations would be used for scholarships and other charitable causes. However, Brown, Simmons, Wiley, and others used the vast majority of charitable donations for their personal and professional benefit, including tens of thousands of dollars in cash deposits that Simmons made to Brown's personal bank accounts and more than \$300,000 used to pay for events hosted by Brown or held in her honor. All defendants were sentenced in December 2017.

Providing Expert Guidance and Advice

- Developing and supporting effective crime reduction strategies and programs
- Driving policy, legislative, and regulatory reforms
- Providing expert counsel and training in criminal enforcement matters to state, local, and federal and foreign enforcement partners

Expert Guidance and Legal Advice



The Criminal Division serves as the strategic hub of legal and enforcement experience, expertise, and strategy in the fight against national and international criminal threats. Consequently, its expert guidance and advice are crucial to the successful application of criminal law throughout the country. The Division leads the national effort to address emerging criminal trends, including the increasingly international scope of criminal activity. The guidance provided to U.S. Attorneys’ Offices and other federal law enforcement partners promotes coordination, consistency, and the efficient use of resources, leverages expertise, and furthers the Department of Justice’s mission to ensure justice.

Select Recent Criminal Division Accomplishments in Providing Expert Guidance and Advice

- **Child Exploitation and Obscenity Section (CEOS):** CEOS is continuing to lead and coordinate Operation Pacifier, a unique, major Tor-based operation that utilized a cutting edge investigative technology to de-anonymize offenders exploiting children on the Tor network on a highly sophisticated website. Due to the scope of Pacifier arrests and the novelty and sensitivity of the network investigative technique (NIT), legal challenges emerged in every circuit in the country. CEOS worked closely and extensively with the Division’s Computer Crime and Intellectual Property Section (CCIPS) and Appellate Section and U.S. Attorneys’ Offices around the country, to guide the Department’s response, successfully defending the investigation against

aggressive legal challenges pertaining to the FBI investigation, authorization of the NIT warrant, and motions to compel discovery pertaining to the NIT source code, in trial and appellate courts. To date, nearly every district court to decide motions to suppress evidence related to the investigation has denied such motions. Adverse district court opinions were successfully challenged on appeal in three different circuits.

Reviewing the Use of Sensitive Law Enforcement Tools



Approving and overseeing the use of the most sophisticated investigative tools in the federal arsenal.

The Division serves as the Department’s “nerve center” for many critical operational matters. It is the Division’s responsibility to ensure that investigators are effectively and appropriately using available sensitive law enforcement tools. These tools include Title III wiretaps, electronic evidence-gathering authorities, correspondent banking subpoenas, and the Witness Security Program. In the international arena, the Division manages the Department’s relations with foreign counterparts and coordinates all prisoner transfers, extraditions, and mutual legal assistance requests. Lastly, the Division handles numerous requests for approval from U.S. Attorneys’ Offices to use sensitive law enforcement techniques, in conjunction with particular criminal statutes. For example, the Division reviews every racketeering indictment that is brought across the nation, and supervises every Foreign Corrupt Practices Act case. In these ways, the Division serves a critical and unique role in ensuring consistency across districts and continuity over time, and the even-handed application of those statutes.



Select Recent Criminal Division Accomplishments in Reviewing the Use of Sensitive Law Enforcement Tools

- **Office of Enforcement Operations (OEO):** OEO approves and/or advises senior-level decision makers who, per statute, regulation, or Department policy, are empowered to authorize the use of certain sensitive law enforcement tools or techniques, including federal electronic and video surveillance. During FY 2017, the ever-evolving technological landscape and the associated challenges to effective electronic surveillance, as well as the Department’s heightened focus on prosecuting drug trafficking, violent gangs and alien smuggling, required OEO to provide even greater support to the field. OEO continued to expand its outreach, conducting approximately 28 trainings throughout the United States for Criminal Division attorneys, federal law enforcement agents and Assistant United States Attorneys covering a wide range of topics, including statutory and Department requirements for electronic surveillance requests, current issues and case law related to the suppression of electronic surveillance evidence and the application of electronic surveillance to emerging technologies. OEO also created and disseminated several sample documents for wiretap applications. The response to these efforts has been overwhelmingly positive. OEO has used training sessions as an opportunity to discuss the importance of statutorily-mandated reporting requirements, including the need to accurately record encryption information on the reporting forms. Last year, the Wiretap Report reflected a 43% increase in overall compliance and an 11-fold increase in reported wiretaps that encountered encryption.

Engaging with Domestic Partners and Foreign Counterparts to Enforce the Law, Advance Public Safety, and Achieve Justice

- Helping international law enforcement partners build capacity to prosecute and investigate crime within their borders by providing training and assistance
- Coordinating with international criminal enforcement authorities to foster operational cooperation

The Division’s lawyers and other personnel are located in countries around the world. Posts in ten countries are maintained to foster relationships and participate in operations with international law enforcement and prosecutors. The Division also has personnel who provide assistance to foreign governments in developing and maintaining viable criminal justice institutions. Two of the Division’s sections, the International Criminal Investigative, Training and Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) promote cooperation in transnational criminal matters and build the capacity in partner nations to provide modern professional law enforcement services based on democratic principles and respect for human rights.

The Office of International Affairs (OIA) also plays a critical role in strengthening U.S. partnerships with foreign countries, which is essential to ensuring justice in individual criminal cases and protecting our national security. In the past few years, OIA has given increased attention to requests from foreign counterparts seeking electronic records, which have exploded consistent with the rapid rise in worldwide access to the internet. Attorneys from OIA’s specialized Cyber Unit provide critical support to partner countries seeking electronic records from the U.S. by training prosecutors and investigators on applicable U.S. legal standards. Additional information about OIA’s work is available in the program increase section starting on page 19.

Select Recent Criminal Division Accomplishments in Engaging with Domestic Partners and Foreign Counterparts to Enforce the Law, Advance Public Safety, and Achieve Justice

- **International Criminal Investigative Training Assistance Program's (ICITAP):** In FY 2017, ICITAP continued to advance U.S. national security by developing the capacity of our foreign allies to combat Transnational Criminal Organizations (TCOs) that threaten the homeland. ICITAP remains committed to working with our foreign law enforcement partners to enhance cooperation in fighting transnational crime at its source, before it reaches our shores.

To this end, ICITAP has devoted significant resources in the development of Mexico's forensic capacity. The technical assistance and specialized training delivered by ICITAP are increasing host-country capacity to combat production and distribution of fentanyl, and are fostering a new culture that focuses on quality, validity, and credibility. These efforts are critical to Mexico's more effective use of forensic evidence in violent crime cases, and will also provide the tools necessary to link evidence to other open investigations of transnational criminal organizations.

- A November 2016 drug seizure in Mexicali, Baja California, was confirmed by the federal prosecutor general's (PGR) lab as fentanyl. Prior to this conclusive analysis by the ICITAP-trained PGR personnel, the state-level Mexicali authorities believed the seizure to be cocaine hydrochloride. If pure, the three kilogram seizure would equate to approximately one million lethal doses.
 - To date, ICITAP has assisted 27 forensic-discipline laboratories in six states and the PGR authority to achieve international accreditation according to ISO/IEC 17020/17025 standards, and anticipates that several more laboratories will be accredited in 2018.
 - In addition, ten CSI units in five states have been internationally accredited, including three on the U.S. border in Baja California. As more state-level forensic laboratories receive assistance from ICITAP and become accredited, Mexico's enhanced capability to conduct efficient and accurate narcotics investigations will be instrumental to the USG's efforts to combat narco-trafficking across the southwest border and the opioid crisis in the United States.
- **Overseas Prosecutorial Development, Assistance, and Training (OPDAT):** In FY 2017, OPDAT helped keep Americans safe from violent crime by increasing partner-nation capacity to investigate, prosecute, and dismantle transnational criminal organizations and terrorist networks at the source. Capacity-building efforts include development of legislative frameworks, case-based mentoring, and a train-the-trainer approach to instruction. In conjunction with their foreign counterparts, OPDAT assesses host-country criminal justice institutions and procedures; draft, review and comment on legislation and criminal enforcement policy; and provide technical assistance to host country prosecutors, judges, and other justice sector personnel working in the field.
 - Honduras ordered the forfeiture of \$800 million in assets from the previously-powerful narco-trafficking cartel, Los Cachiros. Honduran prosecutors, expert witnesses, financial analysts, and the judge on the case were mentored by OPDAT Resident Legal Advisors (RLA).



- The OPDAT Balkans Regional Counterterrorism (CT) RLA program provided extensive assistance to investigators, prosecutors, and judges in Albania, Bosnia, Kosovo, and Macedonia. This program has led to 131 convictions under newly-passed foreign terrorist fighter laws in the Balkans.
- OPDAT increased coordination among counterterrorism investigators and prosecutors throughout West Africa working on cases against al Qaeda in the Islamic Maghreb (AQIM). These efforts increased the region's collective response, highlighted the benefits of the U.S. law enforcement partnership, and led to a series of law enforcement countermeasures.
- OPDAT continued assisting partners to combat terrorism in East Africa. The OPDAT RLA based in Kenya provided mentoring on investigations and prosecutions in the region, including cases against members of Al Shabaab, al Qaeda operatives, and an ISIS cyber cell.
- The OPDAT Intellectual Property Law Enforcement Coordinator (IPLEC) for the Americas, based in Brazil, provided extensive case-based mentoring to prosecutors, customs agents, and investigators throughout the region resulting in \$145 million worth of seized counterfeit goods, including dangerous pharmaceuticals, and the shutdown of five notorious pirate sites and the arrest of their administrators.

Criminal Division Overseas Presence – All Sources



*Includes direct and program funded in-country federal positions or active programs.

Challenges to Achieving Outcomes

Many factors, both external and internal, affect the Criminal Division's capacity to accomplish its goals. While some of these factors are beyond its control, the Division strives to navigate these obstacles successfully, with an effort to minimize the negative impact these factors have on the Division's critical mission.

External Challenges

The Criminal Division's mission is to protect the American people from the most serious forms of criminal activity, including transnational criminal organizations, violent gangs, cybercrime, child exploitation, corruption, fraud, and money laundering. The Division's specialized prosecution units develop and enforce federal criminal laws that target complex, international, and multi-district crime. The Division responds to critical and emerging national and international criminal threats and leads a coordinated, nationwide response to reduce those threats.

1. **Sustainment Funding for the Office of International Affairs (OIA) Base Resources and MLAT Reform**: Securing sufficient funding to sustain OIA operations is the biggest external challenge that the Criminal Division currently faces. OIA's staffing level, while imperative to maintain efficiencies and the reduction to its case backlog, is unsustainable in FY 2019 with the Division's existing appropriated funding. Additional funding is imperative to avoid insolvency and further backlogs in the critical support that OIA provides to the U.S. Attorneys' Offices, as well as its state and local law enforcement partners.

In FY 2015, the Department of Justice made a one-time transfer of \$13.5 million to the Criminal Division to support OIA's MLAT Reform efforts that include a reorganization and a staffing initiative. That funding will be fully obligated by FY 2019. The Criminal Division's baseline budget has not been adjusted to account for these positions, and the demands on OIA's services continue to increase.

Absent the requested funding, the Criminal Division faces several specific challenges:

- The Division will need to either reduce OIA's staff or realign resources from other Criminal Division sections—essentially taking resources away from the prosecution of complex transnational criminal enterprises, child exploitation offenses, major fraud cases, and computer crimes—to remain solvent in FY 2019. Both options present significant public safety risks.
- Without sustainment of the required OIA personnel, the resulting delays in processing extradition and mutual legal assistance requests will impact federal, state, and local prosecutions as well as foreign cases, resulting in delayed or unsuccessful prosecutions and removal actions.
- Delays in responding to requests for electronic evidence in the custody or control of U.S.-based Providers, in particular, threaten the competitiveness of Providers and our model of internet governance. Such delays prompt calls by foreign governments for data localization, trigger foreign demands that U.S. Providers produce information directly in response to foreign orders or face criminal penalties, and encourage foreign proposals that U.S. Providers be subject to foreign or global data protection regimes.

While this external challenge is funding-based and specific to OIA, the increased workload that OIA has experienced, and is anticipated to experience in the future, is a manifestation of the continued globalization of crime. This globalization of crime is one of the external challenges that the Division identified in its FY 2017 and FY 2018 Congressional Justifications.

2. **Unsustainable ICITAP and OPDAT Headquarters Funding Structure:** Through the Criminal Division’s International Criminal Investigative Training Assistance Program (ICITAP) and Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) programs, the Division works with its foreign counterparts to address the lack of effective policies, laws, and judicial systems to investigate and prosecute criminals in foreign countries. The absence of such efforts creates obstacles for U.S. prosecutors as they work to bring transnational criminals to justice and seize their ill-gotten profits.

Both the ICITAP and OPDAT programs receive reimbursable funding from the State Department in the form of Interagency Agreements. The majority of headquarters funding comes from overhead provided in these Interagency Agreements. However, overhead funding is insufficient to support headquarters operations and has proven to be unpredictable. The Division estimates that a decision to shut down these programs due to insolvency will need to be made in FY 2020.

Given the importance of these programs, the Division has allocated some of its direct appropriations to support headquarters operations and push insolvency further into the future, but this is not a sustainable strategy.

Headquarters operations are vital to the funding, origination, development, oversight, management, and implementation of DOJ’s foreign assistance programs. Headquarters personnel participate in interagency initiatives, develop program plans and proposals, ensure institutional knowledge of justice sector standards and development assistance best practices, and advocate on behalf of the Attorney General. They also have a unique role in coordinating the Department’s Security Sector Assistance programs.

Internal Challenges

The Criminal Division faces a number of internal challenges. Consistent with previous budget submissions, information technology tools continue to be an internal challenge for the Criminal Division. These tools range from the use of Automated Litigation Support (ALS) to internal information and network security to understanding the advances in technology used by criminals.

1. **Automated Litigation Support:** The Division continues to experience increased demand for ALS services critical to the investigation and prosecution of increasingly complex crimes that include multi-district and international components, and require a massive amount of data to be processed and stored. For some of the largest cases, these costs can be significant over the course of several years. For example, prosecutors increasingly confront transnational criminal organizations and build cases against complex criminal enterprises that arise from a variety of locations and extend around the globe. A Fraud Section case involved a bribery scheme that spanned five countries and lasted for over a decade.²
2. **Information and Network Security:** To stay one step ahead of criminals, the Division needs to acquire the most advanced IT equipment and software available. Additionally, it must ensure that it is invulnerable to cyber-attacks or computer intrusions. Through diligent monitoring, strong identity management to secure data systems and facilities from intrusion, and prevention and detection of insider threats, the Division and the Department continue to counter cyber-attacks and intrusions, but the need for advanced security capabilities to best protect the mission remains an internal challenge.

² <https://www.justice.gov/opa/pr/sbm-offshore-nv-and-united-states-based-subsiary-resolve-foreign-corrupt-practices-act-case>

3. **Rapidly Evolving Technologies:** New technologies have generated cutting-edge methods for committing crimes, such as the use of the internet to commit identity theft and the use of “darknet” web sites to conceal the sexual abuse of children and sharing video of that exploitation. These technologies continue to pose many challenges to law enforcement agents and prosecutors alike. The Division strives to keep pace with these cutting-edge methods of technology and provides training and assistance to other prosecutors and investigators.

Budget & Performance Integration

This budget demonstrates how the Criminal Division’s resources directly support the achievement of the Department’s priorities – both nationally and internationally. The Division reports as a single decision unit; therefore, its resources are presented in this budget, as a whole. Total costs represent both direct and indirect costs, including administrative functions and systems. The performance/resources tables in Section IV of this budget provide further detail on the Division’s performance-based budget.

Environmental Accountability

The Criminal Division has taken significant steps to integrate environmental accountability into its daily operations:

- The Division is currently in the design phase of renovation projects in our buildings at 1301 New York Avenue and 1400 New York Avenue, with construction anticipated to begin in 2018. The Division will be making several updates that will increase energy efficiency, including more efficient use of space that will improve ambient conditions, balance thermal temperatures, improve air quality, and increase natural light, replace outdated/inefficient HVAC units, add new state of the art electronic controls, correct current plumbing issues, and add energy star appliances. The Division continues working with the building property managers to install electronic dampeners in the building ventilation systems that will allow greater control over air flow to specific areas and decrease energy usage and costs.
- The Division continues to improve its recycling and environmental awareness programs. The Division has a comprehensive recycling program that includes the distribution of individual recycling containers to every federal and contract employee, recycling flyers in all new employee orientation packages, and recycling program information on the Division’s intranet site.

II. Summary of Program Changes

| Item Name | Description | | | | Page |
|--|--|-------------|------------|------------------------|-------------|
| | | Pos. | FTE | Dollars (\$000) | |
| Sustainment Funding for OIA Base Resources and MLAT Reform | Sustains the Office of International Affairs (OIA) base resources and Mutual Legal Assistance Treaty (MLAT) reform. This support is imperative to avoid insolvency and further backlogs in the critical support provided by OIA to protect the United States and support the U.S. Attorneys’ Offices, as well as our state and local law enforcement partners. | 72 | 72 | \$13,000 | 19 |

| | | | | | |
|---|--|-----|-----|----------|----|
| Narcotic and Dangerous Drug Section Reduction | The Department of Justice requests a reduction to reprioritize and reshape resources for a smaller, more efficient Department at the Headquarters level. | -10 | -10 | -\$1,503 | 25 |
|---|--|-----|-----|----------|----|

III. Appropriations Language and Analysis of Appropriations Language

The Criminal Division is part of the General Legal Activities (GLA) subappropriation in the Department of Justice’s appropriation. The Division is requesting the following language be added to GLA’s overall appropriation language.

Provided further, That of the total amount appropriated, not to exceed \$9,000 shall be available to the Criminal Division for official reception and representation expenses:

The lack of access to representational funds continues to present a challenge to the Division’s ability to accomplish its international missions. Various Division Sections interact with foreign counterparts on a daily basis—including OIA, which acts as the Central Authority for the entire United States—both in Washington, D.C. and in many overseas posts.³

However, these offices are not funded to provide or reciprocate basic hospitalities integral to the process of international relations. Our foreign counterparts are usually funded to provide such hospitality, which can potentially place the United States in uncomfortable situations during foreign interactions when similar funding is not available to reciprocate. Failing to meet this expectation distracts from, and can potentially jeopardize, the U.S. government’s objectives for the engagement.

IV. Program Activity Justification

| <i>Enforcing Federal Criminal Law</i> | <i>Direct Pos.</i> | <i>Estimate FTE</i> | <i>Amount (\$000)</i> |
|---|--------------------|---------------------|-----------------------|
| 2017 Enacted | 720 | 717 | \$181,745 |
| 2018 Continuing Resolution | 680 | 680 | \$180,511 |
| Adjustments to Base and Technical Adjustments | -13 | -13 | -\$4,630 |
| 2019 Current Services | 667 | 667 | \$175,881 |
| 2019 Program Increases | 72 | 72 | \$13,000 |
| 2019 Program Offsets | -10 | -10 | -\$1,503 |
| 2019 Request | 729 | 729 | \$187,378 |
| Total Change 2018-2019 | 49 | 49 | \$6,867 |

Enforcing Federal Criminal Law

Program Description

The Criminal Division’s mission is to protect the American people from the most serious forms of criminal activity, including transnational criminal organizations, cybercrime, child exploitation, fraud,

³ OIA serves as the central authority for the entire United States under our international treaties for responding to MLAT requests and sending MLA requests abroad. State, local and federal prosecutors in the United States work through OIA to obtain foreign evidence in their cases, and foreign prosecutors send their requests for evidence located in the United States to OIA.

gangs, corruption, and money laundering. The Criminal Division's specialized prosecution units develop and enforce federal criminal laws that target complex, international, and multi-district crime. The Division responds to critical and emerging national and international criminal threats and leads a coordinated, nationwide response to reduce those threats. The Criminal Division is situated at headquarters to work in partnership with both domestic and international law enforcement. While U.S. Attorneys and state and local prosecutors serve a specific jurisdiction, the Criminal Division addresses the need for centralized coordination, prosecution, and oversight.

The Division complements the work of its foreign and domestic law enforcement partners by centrally housing subject matter experts in all areas of federal criminal law, as reflected by the 17 Sections and Offices that make up the Division's Decision Unit "Enforcing Federal Criminal Laws:"

- Office of the Assistant Attorney General
- Office of Administration
- Appellate Section
- Computer Crime and Intellectual Property Section
- Capital Case Section
- Child Exploitation and Obscenity Section
- Fraud Section
- Human Rights and Special Prosecutions Section
- International Criminal Investigative Training Assistance Program
- Money Laundering and Asset Recovery Section
- Narcotic and Dangerous Drug Section
- Organized Crime and Gang Section
- Office of Enforcement Operations
- Office of International Affairs
- Office of Overseas Prosecutorial Development, Assistance and Training
- Office of Policy and Legislation
- Public Integrity Section

The concentration of formidable expertise, in a broad range of critical subject areas, strengthens and shapes the Department's efforts in bringing a broad perspective to areas of national and transnational criminal enforcement and prevention. To capture this range of expertise, the Division's Performance and Resource Table is organized into three functional categories: prosecutions and investigations; expert guidance and legal advice; and the review of critical law enforcement tools.

Performance and Resource Tables

Performance materials will be provided at a later date.



Performance, Resources, and Strategies

Performance materials will be provided at a later date.

V. Program Increases by Item

Item Name: Sustainment Funding for OIA Base Resources and MLAT Reform

Budget Decision Unit(s): Enforcing Federal Criminal Law

Organizational Program: Criminal Division

Program Increase: Positions 72 Atty 37 FTE 72 Dollars \$13,000,000

Description of Item

The Criminal Division’s Office of International Affairs (OIA) supports prosecutors and law enforcement in the United States and abroad by navigating domestic and foreign laws, as well as treaty and other requirements, to secure the return of fugitives to face justice and to obtain the evidence needed to convict them. No other component in the federal government performs this function that bridges the divide between prosecutions at home and evidence and fugitives abroad.

OIA’s ability to move fugitives and evidence across borders at the pace necessary to satisfy the demand of justice depends on an adequately staffed and efficient OIA. In recent years, demands for OIA’s assistance in obtaining evidence and fugitives have grown dramatically, as prosecutors and police increasingly confront transnational criminal organizations and build cases against complex criminal enterprises that arise from a variety of locations and extend around the globe. Recognizing OIA’s critical role in this diverse pool of criminal cases—including terrorism, violent crime, child exploitation, computer crimes, and fraud—in FY 2015 the Department of Justice made a one-time transfer of \$13.5 million to the Criminal Division to support OIA’s reform efforts to include a reorganization and a staffing initiative aimed at equipping OIA to support the efforts of federal, state, and local law enforcement’s criminal justice efforts. That funding, which authorized OIA to hire additional positions, will be fully obligated by FY 2019. Absent permanent funding to sustain OIA’s critical mission, other essential missions of the Criminal Division may be adversely affected. **Accordingly, the Criminal Division requests an increase of \$13 million to permanently fund MLAT and OIA positions.**

OIA and Its Partners: OIA is a clearinghouse for criminal investigations with an international component, and it supports federal, state, and local agencies by carrying out the following core functions:

- *Extradition and Removal of Fugitives:* OIA uses all legal tools at its disposal and collaborates with U.S. and foreign law enforcement partners to play a central role in apprehending and returning fugitives from justice so that they may be held accountable for their crimes no matter where in the world they are located.
- *International Evidence Gathering:* OIA serves as the U.S. Central Authority under Mutual Legal Assistance Treaties (MLATs) to obtain evidence located abroad that is essential for successful U.S. prosecutions, seeks enforcement of U.S. asset forfeiture orders abroad, and arranges return of assets to the United States. OIA also assists foreign countries to obtain evidence located in the United States in support of foreign criminal investigations.

- *Litigation and Legal Advice on International Issues:* As DOJ’s primary experts on international criminal matters, OIA attorneys support litigation of extradition requests and provide legal and strategic guidance to DOJ leadership on international criminal law enforcement matters.
- *International Relations and Treaty Matters:* On matters affecting DOJ’s international law-enforcement mission, OIA attorneys also participate in negotiating bilateral extradition and mutual legal assistance treaties and executive agreements; review law enforcement agreements negotiated by other agencies; and represent DOJ in a multitude of multilateral fora, where they formulate regional law enforcement strategies to promote the U.S. government’s law enforcement interests.



Justification

OIA has experienced a dramatic increase in requests for mutual legal assistance (MLA) in recent years, particularly those from foreign partners seeking electronic records in the custody or control of U.S. Communications Service Providers (“Providers”). OIA’s staffing did not keep pace with these increased demands on OIA’s services, which resulted in a substantial backlog across all four of OIA’s core functions. OIA’s docket began to rise appreciably in FY 2012 and eventually reached an all-time high of 13,421 in March 2016.



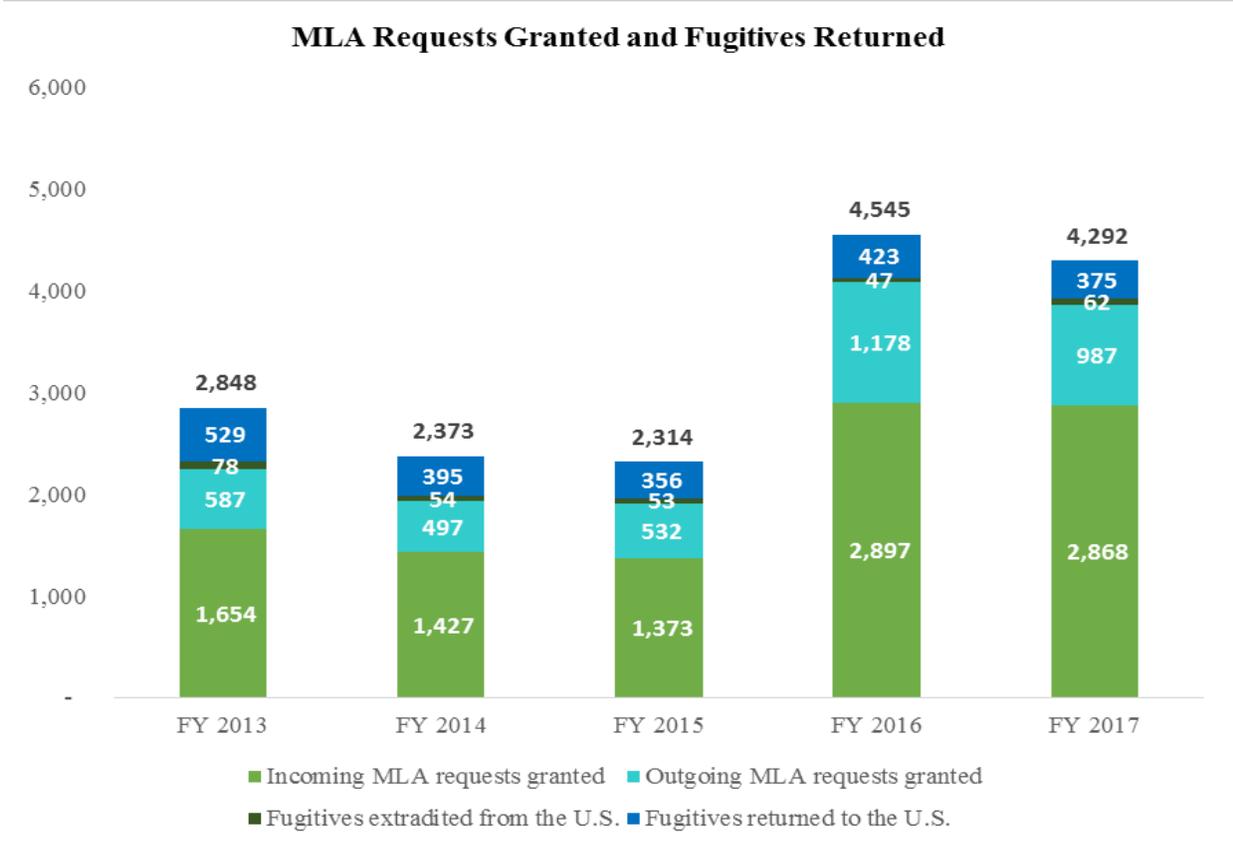
Recognizing the dangers of this rising backlog, in FY 2015 the Department made a one-time \$13.5 million transfer to support OIA. Using that additional funding, OIA embarked on a broad “MLAT Reform” program that included both a reorganization strategy to gain new efficiencies and a hiring initiative. As detailed later in this justification, shifting additional resources to OIA has proven to be a sound investment, reducing its caseload to less than 9,038 today and increasing its responsiveness to the many partners relying on its assistance to track down criminals and the evidence needed to convict them.

The funds received in FY 2015 allowed the Criminal Division to hire additional positions for OIA. These funds will be fully obligated by FY 2019, and the Criminal Division’s baseline budget has not been adjusted to account for these positions. The demands on OIA’s services continue to increase, and in the first 12 weeks of FY 2018 alone, OIA has received 1,637 requests for assistance. Moreover, based on an analysis of trends dating back twenty years, OIA anticipates the steady increase in requests to continue. Absent the requested funding, the Division will need to either reduce OIA’s staff or realign resources from other Criminal Division components to remain solvent in FY 2019. Both options present significant public safety risks. Without sustainment of the required OIA personnel, the resulting delays in processing extradition and mutual legal assistance requests will impact federal, state, and local prosecutions as well as foreign cases, resulting in delayed or unsuccessful prosecutions and removal actions. Diverting resources from other Criminal Division Sections will blunt their capacity to combat public corruption, fraud, cybercrime, child exploitation, etc.

Accordingly, the Criminal Division requests \$13 million to permanently fund OIA’s MLAT Reform program and to support OIA’s positions for FY 2019. This funding represents an investment in not only OIA, but in all of the federal, state, and local partners that rely on OIA to ensure no fugitive or evidence is beyond the reach of U.S. justice.

Results: In addition to reducing the backlog of pending cases, OIA’s improved capacity stemming from an increase in personnel and a new data-driven management approach allowed OIA to double the number of MLA requests granted and fugitives returned from FY 2015 to FY 2016, and sustain that production into FY 2017. OIA secured the extradition of more than 400 fugitives in FY 2017, returning violent criminals and other serious offenders to face justice abroad, and ensuring that fugitives from the United States were returned for prosecution.

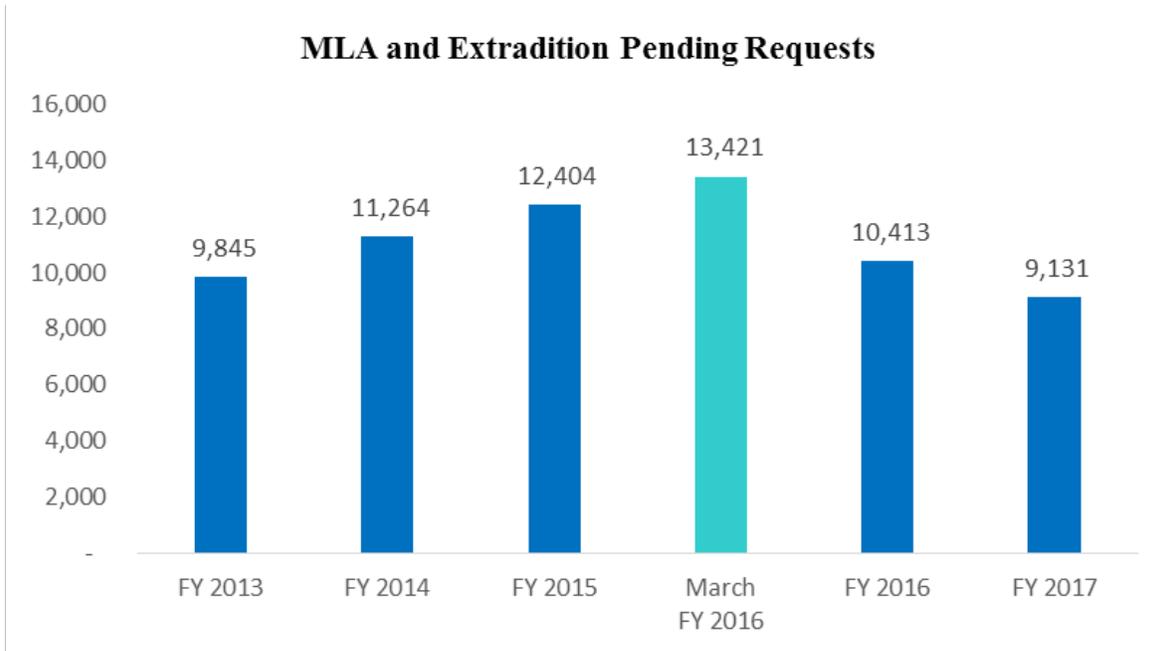
OIA is executing incoming MLA requests more quickly and efficiently, thereby reducing the risk to U.S. citizens by empowering foreign authorities to interdict criminal actors on foreign soil before the threat can migrate to the United States. OIA’s reorganization also allows the remainder of the office to sharpen its support of requests from domestic prosecutors and law enforcement. From FY 2015 to FY 2016, the number of requests in which OIA secured evidence and other assistance from overseas for prosecutors in the United States increased by 112%.



Remaining MLAT Reform Challenges: OIA’s transformation is not yet complete and challenges remain. The demands on OIA to obtain fugitives and evidence in critical law enforcement operations have increased since FY 2015, and the backlog of pending requests—while diminished—has not been eliminated. The number of foreign requests for assistance has increased by 18% since FY 2015, and, more importantly, a significant portion of these cases include violent criminals walking the streets of America who are wanted for prosecution abroad.⁴ Foreign authorities also continue to understand and meet challenges in applicable U.S. legal standards in their prepared requests. Through training and outreach, OIA is helping to improve the quality of their requests so foreign prosecutors can successfully obtain the evidence they need.

Funding for this enhancement will be critical to overcome these challenges and build on the success to date aimed at ensuring the expeditious return of fugitives and evidence.

⁴ As of December 28, 2017, OIA had 337 pending incoming extradition requests targeting violent criminals.



Impact on U.S. Economy and Security: The delays in responding to requests for electronic evidence in the custody or control of U.S.-based Providers, in particular, threaten the competitiveness of Providers and our model of internet governance. Such delays prompt calls by foreign governments for data localization (commonly referred to as the “Balkanization of the Internet”), trigger foreign demands that U.S. Providers produce information directly in response to foreign orders or face criminal penalties, and encourage foreign proposals that U.S. Providers be subject to foreign or global data protection regimes.

OIA Success Stories: The following are a few examples of OIA’s work in support of our domestic partners’ efforts to disrupt, dismantle, and prosecute criminals no matter where they are located:

1. OIA also achieved the surrender to the United States of alleged Sinaloa Cartel leader, Joaquin “El Chapo” Guzman Loera after seeking his extradition for 19 years. The cartel is linked to billions of dollars in smuggling and countless murders. His high-profile extradition to the United States is a testament to the productive legal cooperation relationship between the United States and Mexico.
2. In FY 2017, OIA played an essential role by coordinating requests for evidence and liaising with foreign authorities in the Department’s investigation into the fraudulent activity of Mossack Fonseca, a Panamanian law firm, and managed a high volume of formal and informal requests from nations affected in the multi-country corruption case against Odebrecht S.A. (25 formal requests from eight countries since December 2016).
3. Finally, OIA secured the extradition to the United States of ISIS-affiliate Mirsad Kandic to stand trial in the Eastern District of New York for providing and attempting to provide material support to terrorist organizations. Kandic is accused of using Twitter and other social media platforms to recruit potential terrorists to Syria to join ISIS.

Impact on Performance

The requested funding will allow the Department to meet the current and expanding requirements associated with investigating, apprehending, returning, and prosecuting criminals who increasingly seek to take advantage of territorial borders to prey upon the innocent. It will allow the Department to continue to assist foreign partners in their efforts to conduct successful prosecutions of significant, often violent crimes and terrorism offenses, and will ensure that no place on Earth is beyond the reach of American justice. A lack of adequate resources for the Department’s OIA mission will risk serious compromise of other aspects of the Criminal Division’s operations, to include the prosecution of complex transnational criminal enterprises, child exploitation offenses, major fraud cases, and computer crimes.

Funding

Base Funding

| FY 2017 Enacted | | | | FY 2018 Continuing Resolution | | | | FY 2019 Current Services | | | |
|-----------------|----------|-----|----------|-------------------------------|----------|-----|----------|--------------------------|----------|-----|----------|
| Pos | Agt/Atty | FTE | \$(000) | Pos | Agt/Atty | FTE | \$(000) | Pos | Agt/Atty | FTE | \$(000) |
| 82 | 54 | 82 | \$19,982 | 82 | 54 | 82 | \$19,847 | 82 | 54 | 82 | \$19,302 |

Personnel Increase Cost Summary

| Type of Position/Series | Full-year Modular Cost per Position | Number of Positions Requested | FY 2019 Request | FY 2020 Net Annualization ⁵ (change from 2019) |
|------------------------------------|-------------------------------------|-------------------------------|-----------------|---|
| Attorneys (0905) | \$239 | 37 | \$8,841 | |
| Paralegals / Other Law (0900-0999) | \$104 | 35 | \$3,623 | |
| Total Personnel | \$343 | 72 | \$12,464 | |

Non-Personnel Increase/Reduction Cost Summary

| Non-Personnel Item | Unit Cost | Quantity | FY 2019 Request | FY 2020 Net Annualization (change from 2019) |
|----------------------------|------------|------------|-----------------|--|
| Docketing Unit | N/A | N/A | \$536 | |
| Total Non-Personnel | N/A | N/A | \$536 | |

⁵ The Criminal Division is not planning to request annualizations for these positions, as they will cover these costs out of the base appropriation in the out-years. The Division estimates these costs to be approximately \$2 million.

Total Request for this Item

| | Pos | Agt/ Atty | FTE | Personnel | Non- Personnel | Total | FY 2020 Net Annualization (change from 2019) |
|--------------------|-----|--------------|-----|-----------|-------------------|----------|---|
| Current Services | 82 | 54 | 82 | \$19,302 | \$0 | \$19,302 | |
| Increases | 72 | 37 | 72 | \$12,464 | \$536 | \$13,000 | |
| Grand Total | 154 | 91 | 154 | \$31,766 | \$536 | \$32,302 | |

Affected Crosscuts

- | | |
|--------------------------------|-----------------------------|
| 1 Cyber Crime | 9 Civil Rights |
| 2 Crimes Against Children | 10 Immigration |
| 3 Drugs | 11 International Activities |
| 4 Economic Fraud | 12 Public Corruption |
| 5 Gangs | 13 Sex Tourism |
| 6 Southwest Border Enforcement | 14 National Security |
| 7 Transnational Crime | 15 Counterterrorism |
| 8 Violent Crime | |

VI. Program Offsets by Item

Item Name: **Narcotic and Dangerous Drug Section Reduction**

Budget Decision Unit(s): Enforcing Federal Criminal Law

Organizational Program: Criminal Division

Program Decrease: Positions -10 Atty -10 FTE -10 Dollars -\$1,503,000

Description of Funding Request

The Criminal Division proposes a reduction to its Narcotic and Dangerous Drug Section (NDDS) of 10 positions, 10 FTE, and \$1.5 million. The proposed program reduction of approximately 33% of NDDS' total attorneys will be achieved through attrition over the course of FY 2019.

Justification

The requested reduction contributes towards executing the President’s Executive Order on a “Comprehensive Plan for Reorganizing the Executive Branch” and the Department’s dedication to being good stewards of taxpayer dollars. In an effort to reprioritize and reshape resources for a smaller, more efficient Department at the Headquarters level, this request identifies positions within NDDS to attain this goal.

Impact on Performance

While the requested reduction will yield a smaller, more efficient NDDS at the Headquarters level, the section will continue to work to reduce the supply of illegal drugs in the United States by investigating and prosecuting priority national and international drug trafficking groups. NDDS will focus on the opioid epidemic, particularly those who supply fentanyl and other opioids through the country.

Funding

Base Funding

| FY 2017 Enacted | | | | FY 2018 Continuing Resolution | | | | FY 2019 Current Services | | | |
|-----------------|----------|-----|----------|-------------------------------|----------|-----|----------|--------------------------|----------|-----|----------|
| Pos | Agt/Atty | FTE | \$(000) | Pos | Agt/Atty | FTE | \$(000) | Pos | Agt/Atty | FTE | \$(000) |
| 42 | 30 | 42 | \$10,602 | 42 | 30 | 42 | \$11,255 | 42 | 30 | 42 | \$11,242 |

Personnel Increase Cost Summary

| Type of Position/Series | Full-year Modular Cost per Position | 1st Year Annualization | Number of Positions Requested | FY2019 Request | 2nd Year Annualization | FY 2020 Net Annualization (change from 2019) | FY 2021 Net Annualization (change from 2020) |
|-------------------------|-------------------------------------|------------------------|-------------------------------|----------------|------------------------|--|--|
| Attorneys (0905) | \$150 | | -10 | -\$1,503 | | | |
| Total Personnel | | | -10 | -\$1,503 | | | |

Total Request for this Item

| | Pos | Agt/ Atty | FTE | Personnel | Non- Personnel | Total | FY 2020 Net Annualization (change from 2019) | FY 2021 Net Annualization (change from 2020) |
|--------------------|-----|--------------|-----|-----------|-------------------|-----------|---|--|
| Current Services | 42 | 30 | 42 | \$11,242 | | \$ 11,242 | | |
| Decreases | -10 | -10 | -10 | -\$1,503 | | -\$1,503 | | |
| Grand Total | 32 | 20 | 32 | \$9,739 | | \$9,739 | | |

Affected Crosscuts

- | | | | |
|---|--------------------------------------|----|--------------------------|
| 1 | Drugs | 6 | National Security |
| 2 | Counterterrorism | 7 | Cyber Crime |
| 3 | Intelligence and Information Sharing | 8 | Public Corruption |
| 4 | Southwest Border Enforcement | 9 | Violent Crime |
| 5 | Transnational Crime | 10 | International Activities |

VII. Exhibits