MANAGEMENT'S RESPONSE TO THE OFFICE OF THE INSPECTOR GENERAL'S TOP MANAGEMENT AND PERFORMANCE CHALLENGES

1. Counterterrorism

The Office of the Inspector General (OIG) correctly characterized counterterrorism as the highest priority of the Department of Justice (DOJ or the Department). In order to better meet recent and ongoing counterterrorism challenges, the Department has focused on more effective use of resources as well as bolstering coordination and communication among DOJ components and with other federal agencies. Additionally, the Department has increased efforts to ensure effective international collaboration through several DOJ components, including the Federal Bureau of Investigation (FBI) and INTERPOL Washington. In coordination with the FBI and the U.S. Department of State, INTERPOL Washington facilitates the exchange of counterterrorism tactical and strategic law enforcement information between relevant U.S. entities and their counterparts in INTERPOL member countries. This exchange helps enable identification of the membership, hierarchy, methods, and criminal activities of terrorist groups; identify recruitment sources and methods; disrupt and/or dismantle criminal entities that play a central role in the funding and/or support of terrorist activities; assist participating member countries in the exchange of investigative information; and encourage, on an international level, relationships and information exchange between law enforcement and relevant partners, such as customs, immigration authorities, and security and intelligence agencies.

The Department has taken steps to address all of the OIG observations in the June 2010 report on the readiness of the Department and its components to respond to a potential weapons of mass destruction (WMD) incident. Specifically, by establishing an Emergency Preparedness Committee (EPC) chaired by a senior Department member with the membership coming from all the components, the internal component coordination was directly improved. The EPC formed a number of associated issue sub-groups which included: Continuity of Operations (COOP) and Continuity of Government (COG); WMD Policies and Procedures; National Response Framework annex -- Emergency Support Functions 13 (ESF-13); and Operations and Management.

Within these subgroups, the Department has moved swiftly to resolve identified shortcomings. Through the ESF-13 subcommittee, all Department agencies supported the continuation of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) as lead for ESF-13. However, the group noted ATF required appropriate funding to properly administer this mission. The WMD working group has identified training that can be made available to all Department components to assist them with developing their various response plans. Also, to better coordinate the use of federal law enforcement resources to maintain public safety and security if local and state resources are overwhelmed during a WMD incident, the ATF/FBI working group, with DOJ leadership oversight, is meeting weekly. In these meetings, the working group addresses deficiencies relating to response to WMD incidents, as well as training, information sharing, and forensic laboratory protocols, and is preparing a joint plan for explosives coordination. Additionally, ATF has directed its field special agents in charge (SACs) to meet with their respective counterparts to develop plans for the initial response to all explosives incidents in their area of responsibility.

The COOP/COG group is actively coordinating Department support to those programs. Most importantly, through the development of the EPC, the Department has recognized the simple regular exchange and coordination of information has already begun to establish a more coordinated Departmentwide approach. The EPC has recommended a permanent coordinator position be established to assist the Department in continued component collaboration and coordination on all emergency response matters. It will continue to meet on a regular basis.

To address its balance of resources, the FBI's Corporate Resource Planning Board (CRPB), comprised of the FBI senior leadership, has implemented a structured, semi-annual process to review and adopt resource allocation decisions across all programs. The process begins with field offices requesting and justifying needs for resource enhancements or realignments to address risks and threats within their domains. Those requests are then reviewed by FBI Headquarters program managers using the national-level view of domains and threats, before final recommendations are presented to the CRPB. As referenced on page IV-7 of the OIG's *FY 2010 Top Management and Performance Challenges* report, the FBI now has modified the CRPB process by implementing a transparent and repeatable risk-based methodology to inform those resource allocation decisions.

The methodology, known as Risk-Based Management (RBM), has completed one full annual cycle, and produced a standardized method for quantifying risk, that is used by all FBI investigative programs; an implementation of the methodology, whereby each investigative program has identified a specific set of risk indicators (as defined by the standard RBM method); a collection of data and metrics for each risk indicator, identifiable down to the field office level, or better; a ranking of each of the risk indicator sets, within each program, through a series of structured weighting sessions held with the senior managers of each program; and a model, based on the risk indicator ranking, and data for each program, that provides executives with recommendations for resource allocation or alignment.

Also, the RBM process has produced two other key deliverables. The FBI has created a training and communication plan with training in RBM for all FBI Senior Executive Service level executives, as well as publication of all RBM data, risk indicator rankings, and field office rankings, on a website accessible to all FBI employees. The FBI has also created a protocol to drive new weighting sessions. Based on this protocol, the FBI is in the process of conducting updated sessions for four operational programs.

The FBI began using RBM in making resource allocation decisions in FY 2010. Program managers were able to see the relative risk levels for individual offices in their programs, when recommending personnel resource allocations. For FY 2011, the new weighting sessions will drive changes in the relative risk levels, which will be taken into account in resource allocation decisions. The RBM team also has begun to develop plans that more closely will integrate the risk management process with the production of intelligence, as well as plans to enable visual and graphical presentation of risk indicator data that may contribute to field office domain awareness.

The FBI is continuing to make strides in its efforts to address the language needs of its highest investigative priorities. These ongoing efforts center around three key areas: linguist hiring, technology upgrades, and prioritization.

Regarding linguist hiring, the FBI's Security Division now has three investigative analyst consultants fully dedicated to the background investigation and security adjudication of linguist applicants. While the Department expects that this will have a positive impact on the processing time frame, there will be a more significant return on investment in terms of a more thorough background investigation, as enhanced security requirements cannot be ignored. According to the FBI, much of the attrition of FBI linguists has not resulted in any net loss of full time equivalents of linguist output, which has either increased or remained steady. The apparent numerical decrease in linguists had more to do with the FBI cleaning its books of contract linguists who, due to various competing interests, were unable or no longer able to provide any real service to the FBI. In the meantime, the FBI has established comprehensive growth plans aimed at satisfying FBI requirements both locally and nationally. To that end, Foreign Language Program Managers have studied each field division's workload, space and equipment capacity, local domain in terms of investigative needs and recruitable language populations, and have formulated division-specific recruitment strategies within the framework of a national hiring plan.

In the area of technology, the FBI is undergoing a number of upgrades designed to more effectively and efficiently process foreign language material. The FBI is upgrading the digital collection system used for national security matters. The upgrade is designed to provide greater storage capacity, provide the capability to directly access data inter-divisionally without having to forward duplicate copies of data (which in the past had made it difficult and labor intensive to provide accurate metrics), and provide more accurate reporting. Furthermore, the new system's graphical user interface is much more user friendly to the linguists (being very similar to the systems used on the criminal investigative side of the house) and provides better capabilities and analytical tools.

Technology upgrades also will help with prioritization, as a significant portion of the "unreviewed" material consists primarily of SPAM, duplicate emails, and other electronic data files that have no intelligence value. The FBI's Operations Technology Division and the Special Technologies Application Office are developing SPAM filters and other analytical tools designed to filter out material of no intelligence value and zero in on higher priority material. Similarly, the FBI's Foreign Language Program is operating off specific prioritization guidance issued by the Counterterrorism and Counterintelligence Divisions with regard to tier and priority levels of material, as well as the perishable intelligence value of lower priority counterintelligence material after a specified period of time. The Foreign Language Program also has worked closely with both the national security and criminal investigative operational divisions to set up automated alerts when application is made for electronic intercept authority under the Foreign Intelligence Surveillance Act or Title 3, thus giving the Foreign Language Program more lead time to plan the staffing of anticipated language requirements.

2. Restoring Confidence in the Department of Justice

The Attorney General explained on the day he was sworn into office, "We must fulfill our duties faithfully, and apply the law evenhandedly, without regard to politics, party, or personal interest." Departmental components and employees across the agency maintain a conscientious focus on demonstrating a commitment to this mission, and, while we recognize that fulfilling our duties requires constant vigilance, we are proud of the steps we have made to ensure that the Attorney General's directive is the reality within the Department.

While the Department has taken numerous steps to ensure that personnel decisions are based exclusively on the merits, the Department has not issued specific clarification yet on the consideration of political affiliation or ideological affiliation as a proxy for political affiliation when deciding whether to approve temporary details of career attorneys to certain high-level Department positions. The Department has resolved the legal question on which the clarification depended and expects to issue the clarification in the near future.

The Department continues to take aggressive measures to ensure that prosecutors are meeting their professional responsibility obligations in every case. The Department has implemented mandatory annual discovery training for all Department prosecutors and held its first discovery training for new prosecutors at the National Advocacy Center in October 2010. The Department will conduct a "train the trainer" course in November 2010. The course will enable prosecutors and members of the law enforcement community to return to their district or component to provide discovery training to law enforcement agents and officers throughout the Department. In addition, the Department conducted discovery training for Department paralegals in September 2010. These and other similar efforts will continue in the future under the supervision of the Department's first National Discovery Coordinator, who was appointed in February 2010. Also, in February 2011, the Department will conduct training for Professional Responsibility Officers from throughout the country. This training will further enable the front-line experts on professional responsibility issues to advise prosecutors within their district or component.

The Department also is focused on increasing the efficiency and transparency of professional responsibility investigations conducted by the Office of Professional Responsibility (OPR). In fact, OPR has increased the pace at which it is concluding investigations and is examining ways to increase transparency consistent with the restrictions of the Privacy Act. This complex effort requires balancing the subjects' privacy interests with the public interest consistent with the Privacy Act and the cases that have interpreted it. As noted by OIG, OPR now has issued annual reports for each preceding fiscal year and will now timely produce such reports so that summaries of significant cases are available to the public and to prosecutors throughout the Department.

The Department is aware of allegations that have arisen regarding enforcement priorities in the Civil Rights Division. The Department looks forward to receiving reports pertaining to these allegations from both OPR and OIG. In the meantime, the Department is fully committed to the full and evenhanded enforcement of the civil rights laws, and the Assistant Attorney General for Civil Rights has communicated this commitment to the attorneys in the Division.

Finally, the FBI is reviewing the OIG's September 2010 report pertaining to cheating on the FBI exam regarding the Domestic Investigations and Operations Guide (DIOG) and is determining

what additional steps and referrals are appropriate. In the fall of 2010, the FBI will be conducting additional DIOG training using the traditional Virtual Academy training and procedures. This training will review the most important concepts that were introduced during last year's DIOG training and will cover the most important revisions (based on field input) that will appear in the next edition (DIOG 2). In addition, the FBI Director has reaffirmed to all employees the importance of taking actions that reflect personal and institutional integrity.

In sum, the Department has expended significant time and energy to ensuring that Department attorneys comply with their responsibility to serve the ends of justice fairly, and the Department will continue to engage in this ongoing effort to assure that the public has every confidence that those responsibilities are being met.

3. Law Enforcement Issues along the Southwest Border

The Department shares the OIG's view that effective communication of information and intelligence across components and agencies is key to fulfilling the Department's law enforcement and national security responsibilities. The Department has worked to enhance communication while addressing violent crime and illegal immigration along the Southwest Border through its Southwest Border Enforcement Initiative (the "Initiative"). The Initiative is a cooperative effort among the Department's law enforcement components, including the FBI, the DEA, and ATF, and United States Attorneys' Offices, to enhance multi agency intelligence and enforcement activities to attack major Mexican-based trafficking organizations on both sides of the border. The OIG identified law enforcement issues along the Southwest Border as one of the top management challenges for the Department, and focused on a few aspects of the Southwest Border Initiative, including ATF's Project Gunrunner, the role of the El Paso Intelligence Center (EPIC), and the role of the Department's Executive Office for Immigration Review (EOIR).

ATF's Project Gunrunner is designed to reduce cross-border drug and firearms trafficking and the high level of violence associated with these activities on both sides of the border. ATF has taken concrete steps to implement the new strategy for combating firearms trafficking to Mexico and other related violence. On September 16, 2010, ATF transmitted to all field SACs and affected Field Operations headquarters division chiefs the ATF Cartel Strategy document, a transmittal memorandum, and PowerPoint slides outlining recent enhancements to ATF's case management system for coding Southwest Border and cartel-related investigations. ATF directed the SACs to review and internally disseminate this material, and on September 23, 2010, posted the documents on its Intraweb. ATF also designated these materials as the topic for mandatory roll call training in October 2010 for all field special agents.

ATF has scheduled a Project Gunrunner coordination conference at the El Paso Intelligence Center (EPIC) in December 2010 for all managers and supervisors for field divisions/field offices/field intelligence groups (FIGs) with designated Gunrunner groups; border liaison agents; members of its International Affairs Office, Mexico Country Office, Office of Strategic Intelligence and Information Criminal Intelligence Division; the Southwest Border Field Intelligence Support Team; the ATF EPIC staff; and the ATF Organized Crime Drug Enforcement Task Force (OCDETF) and Gunrunner program offices. ATF will continue its periodic conference calls involving intelligence personnel from its FIGs, regional field

intelligence support teams, and headquarters intelligence components, as well as training and information sharing conferences involving FIG personnel. This may be accomplished through DOJ components' continued participation in various interagency settings, including EPIC, the OCDETF Program and its Southwest Border Strike Forces, the Department of Homeland Security (DHS) Border Intelligence Fusion Section (BIFS), and the Office of National Drug Control Policy National and Southwest Border Counternarcotics Strategies.

EPIC remains a principal component of the Department's effort to develop enhanced and coordinated multiagency intelligence and operational capabilities. The Department continues to make advances in the operation of EPIC. EPIC's efforts to enhance analysis of information on drug seizures, fraudulent document use, and trafficker activities included the initiation of a Predictive Analysis and Targeting Unit. The Unit initially is focused on providing expanded information based on analysis of seizure and other resource data to the DHS sponsored Alliance to Combat Transnational Threat Unified Commands and other EPIC partner agency customers. This coordinated effort with DHS will be expanded further by the functions of the BIFS, which will be launched within EPIC in November 2010. The Predictive Analysis and Targeting Unit will become part of the BIFS, and analytical functions will be expanded with additional personnel available through the launch of the BIFS. An added enhancement that will result with the BIFS addition will be the expanded connectivity to the numerous federal and state intelligence organizations throughout the United States. Initially, direct coordination and connectivity will be provided to EPIC via the BIFS for the 72 DHS-sponsored and funded State Intelligence Fusion centers.

In addition, we note that the decline in usage of EPIC by federal agencies is offset by a corresponding increase in queries to the OCDETF Fusion Center (OFC) which reached initial operating capacity in 2006. EPIC is a tactical intelligence center and the OFC is an investigative support center. The Department led OFC provides a single fused repository for sensitive investigative information. The OFC conducts cross-agency and cross-jurisdictional integration and analysis of drug related data to create comprehensive intelligence pictures of targeted organizations through its fused database Using advanced computer and analytic tools, the interagency workforce that includes agents and analysts from DOJ, DHS, and the Department of Treasury builds comprehensive targeting packages that support complex multi-jurisdictional investigations against the criminal organizations that are the primary sources of the criminal activity along the Southwest border. Using the protocols established by the DEA-led Special Operations Division, these packages, are distributed and ensure seamless enforcement operations across organization/agency lens and geographic boundaries.

Some enhancements at EPIC for the coordination of law enforcement issues include deploying new Intelligence Research Specialists and Special Agents to offices that directly impact violent crime and drug trafficking activities of organizations and Mexican drug cartels.

In addition to EPIC and the OFC, the DEA's Special Operations Division (SOD) is another lynchpin in the Department's effort to coordinate tactical intelligence and operation information across components and agencies. SOD supports comprehensive, multi-jurisdictional enforcement efforts against the criminal enterprises operating in the Southwest by identifying connections among and between seemingly disparate investigative and enforcement activities

and building a coordinated whole of government response. Operation Xcellerator and projects such as Coronado and Deliverance, are examples of SOD's success and demonstrate the ability of law enforcement agencies at every level nationwide to coordinate targeting and dismantling of Mexican drug trafficking organizations. These efforts resulted in significant drug, currency, and asset seizures, as well as large numbers of arrests.

In April 2010, the EPIC Identity Fraud Unit was established. It uses advanced analytical techniques and multiagency database research to provide intelligence support to law enforcement agencies in identity verification, all aspects of identity fraud, alien smuggling, specialized world-wide targeting, and intelligence-driven special operations with DHS. The U.S. Department of State joined this effort by placing a full-time representative at EPIC in July 2010. The unit has expanded and enhanced its capabilities by instituting Operation No Refuge (ONR), which identifies persons of interest who are encountered at the border who may be clandestinely entering the United States to further criminal enterprises. Through intelligence sharing efforts with the Government of Mexico, ONR is designed to prevent the entry of non-immigrant visa holders that are high-level cartel members, their families, associates, and members of transnational gangs. EPIC's role is to conduct an extensive analysis, leverage a wide array of information and intelligence sources, and combine targeting and intelligence gathering at the ports of entry. This operation has led to interdictions for Customs and Border Patrol (CBP) Field Operations at the ports of entry, and CBP Border Patrol at the checkpoints. It has contributed to new or existing investigations with DHS's Immigration and Customs Enforcement and DOJ's Drug Enforcement Administration (DEA), or resulted in immediate immigration adverse actions or visa revocations through the Department of State.

To address the Department's role in immigration policy and enforcement along the Southwest Border, the Department chose as part of the Administration's High Priority Performance Goals initiative a goal that would directly address the hiring issues faced by the immigration courts: Increase immigration judges by 19 percent by the end of FY 2011 so that as the DHS criminal alien enforcement activity increases, not less than 85 percent of the immigration court detained cases are completed within 60 days. To meet this priority goal, as well as to ensure fair and timely case adjudication, the Executive Office for Immigration Review (EOIR) has made immigration judge hiring the agency's top priority.

EOIR has taken a number of measures to ensure that it meets the priority goal for immigration judge hiring. It has begun the hiring process in advance of actual vacancies when possible, has centralized the hiring process at EOIR headquarters, has added staff to the hiring project, has increased the number of application review teams, and has reduced the time frames for many of the hiring steps. Seventeen new immigration judges joined EOIR during FY 2010 and an additional 24 judges will have entered on duty in October 2010. The hiring process is ongoing for additional new immigration judges who will be placed where the need is greatest, at sites that have a high volume of detained cases. Although time-consuming, the recruitment and selection process for immigration judges is a system for identifying and appointing the very best candidates. The recruitment procedures include public announcements for vacancies, a rigorous, multi-level review of applications, and a multi-panel interview and selection process involving career officials in EOIR and senior career and non-career officials in the Department.

To address issues along the Southwest Border, DOJ and DHS meet frequently to discuss ways to handle immigration court dockets that meet the needs of all federal agencies involved. These coordination efforts, such as the Alternatives to Detention program and other docket management initiatives, should begin to show results in FY 2011.

The Department also is working towards better international coordination. INTERPOL has been working with member countries to exchange information regarding human smuggling and trafficking in an attempt to dismantle transnational criminal organizations. INTERPOL Washington also serves to build relationships between DOJ, DHS, and other member countries to investigate criminal organizations that use the southern border of the United States to illegally traffic persons, and participates regularly in forums and conferences as subject matter experts in the investigation and prosecution of these crimes.

4. Civil Rights and Civil Liberties

The Department is committed to protecting individual's civil rights and liberties while ensuring that those who want to harm the United States and its citizens be brought to justice. We are encouraged by the OIG's recognition of our constant efforts to ensure these rights and liberties. However, as the OIG pointed out in its report, the Department must continually focus on implementing appropriate training, policies, controls, and oversight mechanisms to make certain that all employees abide by the law protecting these rights and liberties.

As part of this continuing focus, the FBI has reviewed its policies and is in the process of modifying them, as appropriate. The FBI expects that its Counterterrorism Policy Guide will clarify when cases involving First Amendment issues should be classified as Acts of Terrorism matters and when they should not. In addition, the Counterterrorism Policy guide will require that the initiation of a domestic terrorism investigation on an individual identify the particular federal statute that has been, or may have been, violated. Finally, the FBI has drafted a corporate policy stating that, under the Privacy Act, information regarding an individual's exercise of First Amendment rights may not be retained without the requisite law enforcement nexus, statutory authorization, or the individual's consent, and that any documentation of such information must be destroyed.

5. Information Technology Systems Planning, Implementation, and Security

The Department is committed to managing its Information Technology (IT) systems efficiently, cost-effectively, and securely. Indeed, the Department already has made significant progress in planning and implementing new IT systems, and its future projects and efforts will continue to build on that success.

To that end, while the Department Chief Information Officer (CIO) does not have authority over the various components' IT budgets, he does have insight into – and oversight of – their IT priorities through the annual budget process. During that process, each component's CIO presents his or her IT priorities to the Department CIO, who then provides recommendations to Department senior managers on IT investment priorities based on overall compliance with the Department's mission, the Attorney General's priorities, and the Department's strategic plan. In

addition, all components must ensure that any new project – regardless of size – meets the requirements of the Department's reference architecture and that the program uses sound program management methodology. Programs that have a total development and implementation cost in excess of $100 million require regular review by the Department's Investment Review Board (DIRB), which is chaired by the Deputy Attorney General. These reviews provide senior management with an in-depth view of the program, including its schedule, cost, and any potential issues. This process ensures that issues are surfaced and addressed before they can have a significant impact or become critical to the program's overall success. Consistent with its general effort to ensure effective IT management, the Department fully supports and places a high priority on the continued development of IT systems in a cost effective manner.

With regard to the OIG's comments concerning the Sentinel program, the FBI has indicated it is working to complete the program within the approved budget, and without reduction in functionality. The Department will monitor closely the work done under the revised project plan and approach. The Department supports the FBI's decision to alter its approach to finishing the project and minimize project costs. The FBI examined several options in detail for completing the Sentinel Project, and selected an approach based on what is known as "agile development" methodology. This approach will reduce the FBI's reliance on the more traditional multi-level large development organization with a much flatter, smaller, and less costly organization using product experts. The Department CIO and the FBI CIO worked very closely with the Office of Management and Budget (OMB) on the development of the new agile development approach that the FBI is undertaking. In October 2010, the FBI briefed the DIRB on a revised plan for completing the program within the FY 2011 budget funds. The DIRB verbally approved the FBI's plan and program for FY 2011 with specific follow-up actions required to address DIRB questions. Following the briefing to the DIRB, the Department CIO, the FBI CIO, and the Sentinel Program team met with the Federal CIO as part of the TechStat review process. At the end of that review, the Federal CIO expressed his support for the continuation of the program based on the revised plan.

With regard to the Department's Litigation Case Management System (LCMS) project, recently, the Department made a decision to discontinue the LCMS program because of schedule delays, implementation risk, and cost overruns. The Department has determined that it will no longer attempt to consolidate the eight individual case tracking applications into one central system. Instead, the Department has determined that many of the original LCMS business objectives can be supported more cost effectively by enhancing the existing Component Case Tracking applications. In the future, the Department will support selective, small litigation IT initiatives which adhere to the following criteria: 1) strong executive business sponsorship from the components; 2) high-value, mission business need; and 3) schedules for delivering new operational capabilities within 6-12 months. Any such initiatives will be evaluated, prioritized, and approved through our formal governance process with final approval from the Office of the Deputy Attorney General.

The third Department high-priority project identified by OMB is the FBI's Next Generation Identification (NGI) project, which is intended to enhance the existing capabilities of the FBI's current fingerprint identification system (Integrated Automated Fingerprint Identification System

– IAFIS) and provide searching capability for other types of biometric identification, such as palm prints, iris scans, and tattoos. NGI is intended to significantly reduce the amount of time needed to conduct searches for high-priority records. The FBI has requested $1.2 billion for this project from FY 2008 through FY 2017. To be accurate, the development portion of the project is expected to be completed by 2014 followed by 3 years of operations and maintenance by the prime contractor. According to the OMB's "Federal IT Dashboard," the aggregated cost of IAFIS and NGI is expected to be $3.4 billion through FY 2017. The $3.4 billion includes the IAFIS cost of $2.2 billion which was to develop and maintain the current fingerprint identification system (IAFIS), as well as the NGI cost of $1.2 billion which will ultimately replace IAFIS. One of the key challenges for this high-dollar project is to contain the cost while implementing a design that can accommodate new types of biometric evidence as they become available.

With regard to the comments on the Department's Integrated Wireless Network (IWN) program, IWN is a project intended to modernize DOJ's secure tactical radio communications and improve federal law enforcement agent communication across agencies. Since the OIG issued its March 2007 report, the Department has refined its deployment strategy in order to meet the DOJ law enforcement communication needs in the most cost effective manner. While the OIG has indicated the "development of IWN is still struggling," substantial efforts have been made in recent months to rigorously review the project management approach and provide increased oversight and support to the project, one facet of which was the addition of a senior law enforcement radio and telecommunications expert to the IWN Project Management Office. Additionally, the OCIO and IWN management team have worked in concert to make critical adjustments to both the short and long term IWN development plans. The Department's newly developed three-pronged approach to the project is designed to accomplish several key things, including: accelerating the replacement of handsets with narrowband compliant units; leveraging existing FBI legacy infrastructure (e.g. towers, transmitters, dispatch capabilities) in order to achieve greater IWN coverage more quickly and at a lower cost; and deploying trunking in those areas where the trunking architecture will provide superior law enforcement radio coverage. The Department's new approach also aligns projected funding streams with the three deployment prongs to ensure a reliable, phased implementation approach in support of the law enforcement components.

6. Violent and Organized Crime

The Department is pleased that the OIG recognizes our many accomplishments in fighting violent and organized crimes. We agree that fighting these crimes is a high priority, and we continuously work to sharpen our techniques. All levels of government – federal, state, local, and tribal – must be ever-vigilant in their pursuit of individuals, gangs, and organizations that cause harm to U.S. citizens. And, more and more, both violent and organized crime cross international borders.

In response to the OIG's reference to their follow-up review of Federal Firearms Licensees (FFLs), ATF currently is working with the OIG on the review and is confident that the OIG will find that ATF has instituted several improvements to its FFL inspection program since the 2004 review.

In addition to the efforts noted by the OIG and by the Department, INTERPOL's Transnational Gang and Child Protection Programs are responsible for ensuring that all INTERPOL member countries are advised in a timely and continuous manner of the identities and criminal histories of violent gang members and child sex offenders deported from the United States. Since 2007, INTERPOL Washington has issued over 4,400 INTERPOL Green Notices on known violators, to assist law enforcement agencies throughout the world in the identification and location of these transnational subjects who pose a potential threat to public safety, and are likely to remain engaged in criminal activities.

7. Financial Crimes and Cyber Crimes

The OIG' *Top Management and Performance Challenges in the Department of Justice – 2010* acknowledges the Department's progress in combating financial and cyber crime. Although we are focused on continuing to develop successful strategies to combat these crimes, the Department recognizes that this is, and will continue to be for some time, a challenging area. The Financial Fraud Enforcement Task Force (FFETF), mentioned by the OIG, brings together more than 20 federal agencies to strengthen the Government's efforts to investigate and prosecute fraud related to the financial crisis, recover the proceeds of financial fraud, and ensure just and effective punishment for the perpetrators of that fraud.

The Mortgage Fraud Working Group has played a leading role in the FFETF. It is comprised of over a dozen members and is chaired by the U.S. Attorneys. The working group includes representatives from the FBI, the Housing and Urban Development OIG, and the National Association of Attorneys General (consisting of state attorneys general). Working with our partners at the state and local levels, the primary goal of the working group is to marshal the government's civil and criminal capabilities to combat the mortgage fraud that has proliferated as a result of the financial crisis and help homeowners who have suffered from mortgage fraud.

In June 2010, the Department announced the results of a nationwide mortgage fraud sweep. Called "Operation Stolen Dreams," the sweep was the largest collective enforcement effort ever brought to bear to combat mortgage fraud. Spanning 3 months, the sweep involved more than 1,200 criminal defendants nationwide and nearly 200 civil enforcement actions resulting in the recovery of over $147 million.

The Department's efforts to combat financial crime have been increasingly aggressive and sustained, and these efforts have resulted in significant progress. In the first three quarters of FY 2010, the Department charged 4,352 defendants with financial fraud. Of those, 3,218 defendants pleaded guilty, and 2,815 were sentenced to some prison term. Of the 2,815 sentenced to prison, 1,618 defendants received sentences greater than 12 months.

The Criminal Division's Fraud Section has targeted its investigations and prosecutions on four major areas: foreign corrupt practices; health care fraud; corporate, securities, and commodities fraud; and financial institutions and government fraud. In each of these areas, the Fraud Section, together with its partner agencies, is using increasingly aggressive, innovative, and intelligence-

driven tactics to unearth and prosecute these crimes. The results are unprecedented fines, huge taxpayer savings, and significant jail sentences for individual violators.

Meanwhile, as U.S. Attorneys have been, and are being, confirmed, they have been hiring over 100 additional civil and criminal prosecutors and support staff solely dedicated to addressing financial crimes. The positions were funded by the FY 2009 Supplemental and FY 2010 budgets and were allocated to those U.S. Attorneys' Offices (USAOs) with the greatest need and a comprehensive plan for their efficient use.

With respect to cyber and intellectual property crimes, the Department continues its coordinated efforts in Eastern Europe, Latin America, and elsewhere to ensure development of national laws and capacity to address these threats, and to foster international legal frameworks for cooperation, including the International Convention on Cyber Crime. Building upon this legal foundation, the Department has participated in successful joint investigations over the last years with Romania, Ukraine, Egypt, and many other countries, to address cyber crime that crosses national borders. These operations have resulted in arrests and prosecutions in the United States and overseas, including extradition of suspects to the United States.

The Department currently is implementing the 2010 Joint Strategic Plan on Enforcement of Intellectual Property. In support of the Strategic Plan, the Executive Office for U.S. Attorneys (EOUSA) has implemented enhanced data collection procedures to track and report the enforcement priorities of the Strategic Plan, including consumer protection, national and economic security, and organized crime activities. Furthermore, the Office of Legal Education is sponsoring a national conference in April of 2011, focusing on internet crimes, investigative techniques, and advancements in technology. This conference will reinforce the Strategic Plan priorities, educate prosecutors on the procedures of the new data collection system, and enable prosecutors to refine investigative and trial techniques.

To improve identity fraud prosecutions, the Department has taken the following steps: First, all 94 U.S. USAOs participated in an identity fraud survey which asked questions pertaining to office practices with regard to maintaining identity fraud task forces and working groups, financial thresholds for prosecutions, and proper use of case and personnel time tracking systems. Second, based on the survey results and other interaction with USAOs, the Department conducted an intensive review of available statistical information to obtain a more realistic appraisal of identity fraud practice in USAOs.

Third, the Department is highlighting the importance of identity fraud to all incoming U.S. Attorneys, who now receive a report on their district's identity fraud practice at their orientation, including information concerning task forces and working groups, as well as data showing how identity fraud statistics for their districts compare to other districts of similar size. Fourth, a white collar crime coordinator from EOUSA is in regular email contact with the identity fraud points of contact in all USAOs concerning legal and tactical issues in identity fraud cases. Any USAO can seek assistance on legal and tactical issues in identity fraud issues through this email chain.

Fifth, the Fraud Section of the Criminal Division has continued to host valuable monthly Identity Fraud Working Group Sessions, which include representatives from interested DOJ components, prosecutors from around the United States, and federal agencies. Various group members join in informal subgroups to work on specific issues of concern in identity fraud.

Sixth, the National Advocacy Center conducted an identity fraud training program. This course was well attended by Assistant U.S. Attorneys from a wide variety of practice areas, which reflects the use of identity fraud statutes in a wide range of cases. The program also included training on victim issues and the effective use of task forces.

Finally, as criminals commit financial and cyber crimes by exploiting technological advances, the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS) has responded by creating a new Forfeiture Unit to assist other litigating sections in forfeiture of proceeds and instrumentalities of financial and cyber crimes. AFMLS also has recently created a Money Laundering and Bank Integrity Unit, dedicated to investigating complex national and international criminal cases with a focus on financial institutions, professional money launderers, and criminals who use emerging and innovative money laundering techniques, such as virtual currencies and mobile payments systems.

8. Detention and Incarceration

One of the Department of Justice's most important responsibilities is to house federal prisoners and detainees safely and humanely. The Department remains committed to fulfilling this responsibility, despite the increasing prison and detainee populations and mounting resource challenges noted by the Inspector General.

The Department shares the OIG's concerns about the significant rise in prisoner population. Although adding beds to existing institutions or building new institutions would address the problem – and are a necessary part of the solution – the Department believes there may be other options to consider, as well. As a Nation, we cannot bear the cost – socially or economically – of building our way out of the prison issue or neglecting to look at the issues driving the rising prison population. The Attorney General's Sentencing and Corrections Working Group is looking across the policy spectrum at innovative approaches for preventing crime, sentencing prisoners, and reforming correctional management that will, first and foremost, protect public safety while holding prisoners accountable in humane conditions.

The Department continues to maintain a zero tolerance policy for staff sexual abuse and takes any allegation of sexual abuse in its facilities seriously. In response to this ongoing concern, the Federal Bureau of Prisons (BOP) continues to assess and adjust its current policy, Program Statement 5324.06, Sexually Abusive Behavior Prevention and Intervention Program. In addition, the BOP issued guidance to its Wardens on October 16, 2009, and October 12, 2010, highlighting the importance of reporting all cases of sexually abusive behavior toward inmates, including cases involving alleged victimization by a staff member and unfounded allegations.

The memorandum dated October 12, 2010, re-iterated that Wardens first are to consider alternatives to segregation or transfer based on the circumstances of the allegation and that they

are required to document what methods were considered and why (if applicable) alternatives to segregation or transfer were not used. In addition, the memo required Wardens to place the above documentation in the case referral sent to the Office of Internal Affairs. The Department and BOP are committed to maintaining their focus on this issue.

The Department is working diligently to develop national standards to combat sexual assault in correctional facilities pursuant to the Prison Rape Elimination Act of 2003 (PREA) and agrees that a final rule should be implemented expeditiously. In addition to preparing the rule, the Department has been working to ensure that, once promulgated, the national standards are successful. The Department is uniquely positioned to serve as a force multiplier, enabling best practices to gain recognition and enabling correctional systems – especially those with limited experience at developing practices and procedures to detect, prevent, and punish prison rape – to benefit from the PREA efforts of other jurisdictions. To that end, the Department's Bureau of Justice Assistance has entered into a 3-year cooperative agreement for the development and operation of a Resource Center for the Elimination of Prison Rape. The Resource Center will provide additional training, technical assistance, and program implementation resources to the field to assist in the identification and promulgation of best practices and promising practices.

As a member of the PREA Working Group, the USMS Prisoner Operations Division provides expertise and experience on lock-up standards. On October 1, 2010, the working group provided the Deputy Attorney General with recommendations for national standards for review and approvals. The USMS is fully compliant with the standards as drafted and has developed a new sexual assault policy. It is working with the National Institute of Corrections to create an on-line training module about the Prison Rape Elimination Act and its new sexual assault policy.

The Department agrees with the OIG's assessment of the benefits of the UNICOR program, which is run by Federal Prison Industries (FPI). FPI's ability to maintain inmate employment levels and remain self-sustaining has been a challenge in recent years due to the continued impact of several external factors, such as adverse legislation, a struggling economy, and a downturn in the demand for items needed to support the war effort.

In an effort to reduce operating costs and maintain FPI's self-sufficiency through this downturn, FPI closed and downsized factories. While these measures generated substantial cost savings, they also resulted in a decrease in inmate employment, dropping the rate further below the goal of employing 25 percent of the inmate population. Alternative measures are being evaluated by the Department to enhance work opportunities and reentry initiatives while providing job skills training to the highest practicable number of inmates.

Several concerns related to BOP's furlough program were highlighted by the OIG. In order to better track and review furloughs, in October 2010, the Central Office Correctional Programs staff participated in a management assessment to modify the program review guidelines. Ultimately, the results from this assessment will be used to strengthen controls for release codes, escape data, and inmate custody requirements for furloughs (victim and witness notification).

The BOP continues to work with Union representatives on policy negotiations in an effort to develop a more effective mechanism for coordinating policy changes. During the week of

October 4, 2010, BOP labor negotiators and Union officials attended Partnership Building training. Negotiations began October 26, 2010, for the furlough policy. A tentative meeting is scheduled for November 16-18, 2010, in an effort to conclude negotiations.

Regarding jail day rates, the Office of the Federal Detention Trustee (OFDT) shares the OIG's goal of setting efficient and economic rates. Indeed, it already has implemented many of the recommendations previously identified by the OIG. For example, as part of eIGA, OFDT is collecting detailed cost information from state and local jails and is making the information available to USMS personnel involved in negotiating these jail day rates. To date, it has collected detailed cost information for 514 jails and has used the information to negotiate rates in 256 agreements.

The cost information that OFDT is collecting also will assist in setting economic rates in another key aspect. As the OIG points out, OFDT has developed a new econometric statistical model, known as the core rate. Later this year, after OFDT acquires sufficient cost information – and on a continual basis thereafter – OFDT will undertake to assess and refine what the core rate should be. This core rate then will serve as a benchmark or Government's estimate for detention services provided by state and local jails, helping to ensure that jail day rates are economical and cost-efficient.

9. Grant Management

As the OIG acknowledges, by April of 2009, each of the Department's three grant-making components (the Community Oriented Policing Services (COPS), the Office on Violence Against Women (OVW), and the Office of Justice Programs (OJP)) had plans in place to implement the OIG's recommendations from the February 2009 *Improving the Grants Management Process* report. In January 2010, the three components began bi-weekly meetings to address the issues raised by the OIG in the *2009 Top Management and Performance Challenges in the Department* report and to develop Departmentwide policies and procedures to improve the grant process. As a result of these meetings, we now have a departmental process for dealing with high-risk grantees. The Department also anticipated and incorporated the recommendations in the OIG's January 2010 *Improving the Grant Management Process for Department of Justice Tribal Grant Programs* report in developing the 2010 Coordinated Tribal Assistance Solicitation process. For the first time, the Department's three grant components issued their tribal grants under a single solicitation and coordinated the peer review and award process. The components also have developed joint training and technical assistance programs for tribal grantees, which will begin in FY 2011. The components will continue to meet bi-weekly, and will add the issues raised in the *2010 Top Management and Performance Challenges* to its list of priorities for FY 2011.

The OJP is committed to administering a grant awards process in a fair, accessible, and transparent fashion – and, as good stewards of federal funds, manage the grants system in a manner that avoids waste, fraud, and abuse. The OJP is employing a comprehensive approach to address grants management issues identified by audits and reviews. At every possible opportunity, OJP-wide corrective actions are implemented to respond to OIG grant-related and program-specific audit recommendations. The OJP has worked to implement appropriate

corrective actions quickly in response to the OIG's audit findings on the administration of the Edward Byrne Memorial Justice Assistance Grant Program. The OJP currently is developing agency-wide procedures to ensure that applications are consistently treated when determining whether they meet basic minimum requirements (BMR) and should proceed to peer review process. Similar to FY 2010, each OJP bureau and program office will issue internal policy guidance outlining the BMR process for its FY 2011 competitive solicitations. In FY 2010, the OJP revised its competitive solicitation language to clearly describe what material is required to be submitted by the applicant and to notify the applicant of the implications if they fail to submit an application that contains critical specified elements (i.e., will not proceed to peer review or receive further consideration).

With regard to the 2009 COPS Hiring Recovery Program (CHRP), the COPS Office agreed with the OIG's determination that there were minor technical inaccuracies with some of the formulas COPS used in its application scoring methodology, which impacted 40 agencies that either should have received grants but did not, or received fewer officers than they should have. (These 40 agencies represented only 3.82 percent of all 1,046 CHRP award recipients – and less than 1.7% of the $1 billion in CHRP funding). In addition to a host of other information, applicants seeking funding from the CHRP program were asked to provide data for 3 years on the applicant's agency budget, jurisdictional budget, jurisdictional revenue, and jurisdictional general fund balance. These questions were scored using a formula for measuring the change over time that the OIG identified as inaccurate. After this issue was identified, the COPS Office proactively determined the scope of the inaccuracy, developed an appropriate improvement to the formula for future use, and identified the agencies negatively affected.

The COPS Office then remedied the 40 agencies identified using available funding, including FY 2010 COPS Hiring Program funding. Thirty-four of these agencies originally would have received CHRP funding, and six would have received more CHRP funding (additional officer positions), if the new formula had been used. The COPS Office immediately notified the 40 affected agencies of the remedial action and their pending FY 2010 awards. Prior to awarding this funding, the COPS Office verified that these agencies were in compliance with all other grant conditions and obtained updated budget data from each agency, as it was necessary to have current and validated salary information in order to determine accurate award amounts. As noted in the audit report, the OIG agreed that this was a reasonable approach. Accordingly, awards were made to the 40 agencies remedying this issue in September 2010.

The OVW takes very seriously its responsibilities as a grant-making agency and is dedicated to managing its grant programs effectively and with transparency. The OVW understands that funding decisions impact communities across the country, and therefore these decisions must be made in a fair manner without error. A key element to this decision-making process is the peer review process. In order to ensure that individual application scores by peer reviewers are tabulated correctly, the OVW has incorporated a Peer Review Scores Certification as part of its peer review process. Lead peer reviewers will ensure that the scores of the panel are recorded and calculated accurately and sign a certification to the fact. Another key element to an objective peer review is the elimination of any existing or potential conflicts of interest. In order to strengthen its existing conflict of interest policy, peer reviewers will no longer receive any

scoring forms until they have signed and returned all of their necessary conflict of interests forms.

While peer review scores are a basis for funding decisions, a thorough internal review is completed to assess financial stability, compliance with programmatic and statutory requirements, and past performance for organizations previously receiving OVW funding. In addition, the OVW has the discretion to consider geographic distribution of potential awards in its funding decisions to ensure that all regions of the country are benefiting from the grant dollars. The basis for any funding recommendation is substantiated in a comprehensive recommendation memo that is reviewed by the Director of the Office. If final funding recommendations deviate from rank order of the combined internal and peer review scores, justification is provided in this memo. The OVW now maintains both paper and electronic copies of its funding memos.

The OJP has procedures in place to record the key aspects of the award process and document award recommendations and decisions. The OJP's Grants Management System is the source for the official grant file and includes auditable documentation for all actions taken during the life of the grant. In accordance with established policy directives, the OJP will continue to document funding recommendations and decisions. This documentation describes the process used to evaluate applications, states the categories and the priority areas of the solicitation, lists the applications being recommended, and describes the factors used to make funding recommendations. Explanations are included for all applications not recommended for funding that received higher scores (or included in a higher tier if banding is used) than applications with lower scoring that were recommended for funding.

The OJP is dedicated to continuously improving its oversight and monitoring of grantees and grant programs. The OJP has established common procedures and guidance to improve the quality and completeness of monitoring across OJP, as well as provided effective tools to its grants managers to properly document desk reviews and on-site monitoring, formally communicate with grantees through the system, and track the resolution of open issues. As part of its oversight responsibilities, the OJP Office of Audit, Assessment, and Management (OAAM) will continue to evaluate the quality and level of monitoring of OJP grants and identify opportunities for improvement.

Additionally, the OAAM will review the procedures and internal controls of OJP's grant management processes, provide recommendations for improvement, and monitor actions to ensure improvements are implemented. The OAAM will also continue to conduct program assessments of OJP and COPS Office grants and grant programs to measure performance against intended outcomes and assess compliance with applicable regulations and statutes. Assessment reports will include targeted recommendations for making program improvements and enhancing grant oversight practices, as well as program accomplishments and best practices.

The OJP works closely with the OIG in addressing grantee issues identified in single and grant audits. The OJP has streamlined its audit follow-up activities, eliminating existing backlogs and allowing for more timely resolution of outstanding audit recommendations. In FY 2010, the OJP closed 151 of the 289 open single and OIG grant audit reports. This represented the resolution of

nearly 500 findings. Of the $15.9 million in questioned costs by the OIG, grantees submitted supportable documentation for $11.1 million and returned $3.3 million to DOJ for unallowable or unsupported costs. The remaining $1.5 million were duplicate costs addressed by DOJ grant recipients in other audit reports, or through litigation.

The OVW continues to work with the OIG to address and resolve the two remaining recommendations from the 2005 Department of Justice Grant Close-Out Audit. One of the recommendations was that OVW remedy questioned costs related to drawdowns occurring more than 90 days past the grant end date (401 open awards at the time of the audit). To resolve this, OVW will provide a one-time no-cost extension letter to grantees and institute a policy that prohibits grantees from drawing down funds after 90 days. Only five awards remain for closeout. The second recommendation was that OVW deobligate funds related to expired grants that are more than 90 days past the grant end date (288 open awards at the time of the audit). OVW will deobligate all funds and put them to better use. The OVW plans to submit a request for closure of this audit by December 2010.

10. Financial Management

We agree with the OIG conclusion that the Department will not be able to fully meet the demands for program transparency and new Accountable Government initiatives without the Unified Financial Management System (UFMS). The Department remains fully committed to standardizing the core accounting functions and delivering an integrated financial and acquisition solution to strengthen internal controls, management oversight, and accountability.

We also agree that the implementation of UFMS has been too slow. Faced with tightly constrained budgetary resources, the UFMS program has been funded primarily (over 70%) from agency balances. We appreciate the valuable support, guidance, and oversight provided by the OIG staff in working with the Controller's Office to address and resolve these issues.

Despite continued challenges, UFMS is serving as the system of record for two major law enforcement components, DEA and ATF, and in its first year of UFMS operations, DEA retained its clean audit opinion. UFMS now serves about 2,500 DOJ users worldwide.

Consistent with current OMB direction, the Department has further separated the UFMS implementation tasks and will adjust the outyear implementations at the Offices, Boards, and Divisions; OJP; and the BOP in order to focus on successful implementation at the USMS and the FBI. Implementation of UFMS at the USMS is on schedule and budget for deployment in the first half of FY 2012. While the FBI Phase 2 implementation of UFMS did not begin in FY 2010, it now is underway with a heightened focus on managing the risks of this critical effort.

Working together, we can achieve the goals of improving financial accountability and streamlining financial operations, while retaining audit results.