

**FY 2012
Performance Budget
Congressional Submission**



NATIONAL SECURITY DIVISION

U.S. Department of Justice

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I. Overview for the National Security Division

A. Introduction

For FY 2012, the National Security Division (NSD) requests a total of 364 permanent positions (including 238 attorneys), 356 FTE, and \$87,882,000. This request includes a total program change of -\$719,000, 18 permanent positions (including 2 attorneys), and 10 FTE. The NSD's total requested program improvements for FY 2012 will expand the Division's support of Goal One of the Department of Justice's Strategic Plan: Prevent Terrorism and Promote the Nation's Security.

The NSD is not requesting any enhancements for information technology (IT) although this request includes \$10,895,000, 9 positions, and 9 FTE for base IT activities.

B. Background

The mission of the NSD of the Department of Justice (DOJ) is to carry out the Department's highest priority: to combat terrorism and other threats to national security. The NSD, which consolidates the Department's primary national security elements within a single Division, currently consists of the Office of Intelligence (OI); the Counterterrorism (CTS) and Counterespionage Sections (CES); the Law and Policy Section (L&P); and the Office of Justice for Victims of Overseas Terrorism (OVT). This organizational structure ensures greater coordination and unity of purpose between prosecutors and law enforcement agencies, on the one hand, and intelligence attorneys and the Intelligence Community, on the other, thus strengthening the effectiveness of the Department's national security efforts.

The NSD is led by an Assistant Attorney General and supported by a Principal Deputy Assistant Attorney General and three Deputy Assistant Attorneys General. The NSD's major responsibilities include:

Intelligence Operations and Litigation:

- Provide legal representation and counsel to agencies within the Intelligence Community to ensure that they have the legal tools necessary to conduct intelligence operations;
- Represent the United States before the Foreign Intelligence Surveillance Court (FISC) to obtain authorization under the Foreign Intelligence Surveillance Act (FISA) for the United States government to conduct intelligence collection activities, such as electronic surveillance and physical searches;
- Coordinate and supervise intelligence-related litigation matters, including evaluating and reviewing requests to use information collected under FISA in criminal and non-criminal proceedings and to disseminate FISA information; and
- Serve, through the Assistant Attorney General for National Security, as the Department's primary liaison to the Director of National Intelligence.

Counterterrorism:

- Promote and oversee a coordinated national counterterrorism enforcement program, through close collaboration with Department leadership, the National Security Branch of the Federal Bureau of Investigation (FBI), the Intelligence Community, and the 93 United States Attorneys' Offices;
- Oversee and support the Anti-Terrorism Advisory Council (ATAC) program by collaborating with prosecutors nationwide on terrorism matters, cases, and threat information; by maintaining an essential communication network between the Department and United States Attorneys' Offices for the rapid transmission of information on terrorism threats and investigative activity; and by managing and supporting ATAC activities and initiatives;
- Consult, advise, and collaborate with prosecutors nationwide on international and domestic terrorism investigations, prosecutions, and appeals, including the use of classified evidence through the application of the Classified Information Procedures Act (CIPA);
- Share information with and provide advice to international prosecutors, agents, and investigating magistrates to assist in addressing international threat information and litigation initiatives; and
- Develop training for prosecutors and investigators on cutting-edge tactics, substantive law, and relevant policies and procedures.

Counterespionage:

- Supervise the investigation and prosecution of cases involving espionage and related statutes;
- Support and oversee the expansion of investigations and prosecutions into the unlawful export of military and strategic commodities and technology by assisting and providing guidance to United States Attorneys' Offices in the establishment of Export Control Proliferation Task Forces;
- Coordinate and provide advice in connection with cases involving the unauthorized disclosure of classified information and support resulting prosecutions by providing advice and assistance with the application of CIPA; and
- Enforce the Foreign Agents Registration Act of 1938 (FARA) and related disclosure statutes.

Oversight:

- Oversee foreign intelligence, counterintelligence, and other national security activities to ensure compliance with the Constitution, statutes, and Executive Branch policies to protect individual privacy and civil liberties; and
- Monitor the intelligence and counterintelligence activities of the FBI to ensure conformity with applicable laws and regulations, FISC orders, and Department procedures, including the foreign intelligence and national security investigation provisions of the Attorney General's Guidelines for Domestic FBI Operations.

Law and Policy:

- Oversee the development, coordination, and implementation, in conjunction with other components of the Department as appropriate, of legislation and policies concerning intelligence, counterintelligence, counterterrorism, and other national security matters;
- Provide legal assistance and advice, in coordination with the Department's Office of Legal Counsel as appropriate, to the Division, other components of the Department, the Attorney General, the White House, and Government agencies on matters of national security law and policy;
- Perform prepublication classification review of materials proposed to be published by present and former Department employees;
- Produce guidance on the interpretation and application of new terrorism statutes, regulations, and policies; and
- Serve as the Department's representative on interagency boards, committees, and other groups dealing with issues related to national security.

Foreign Investment:

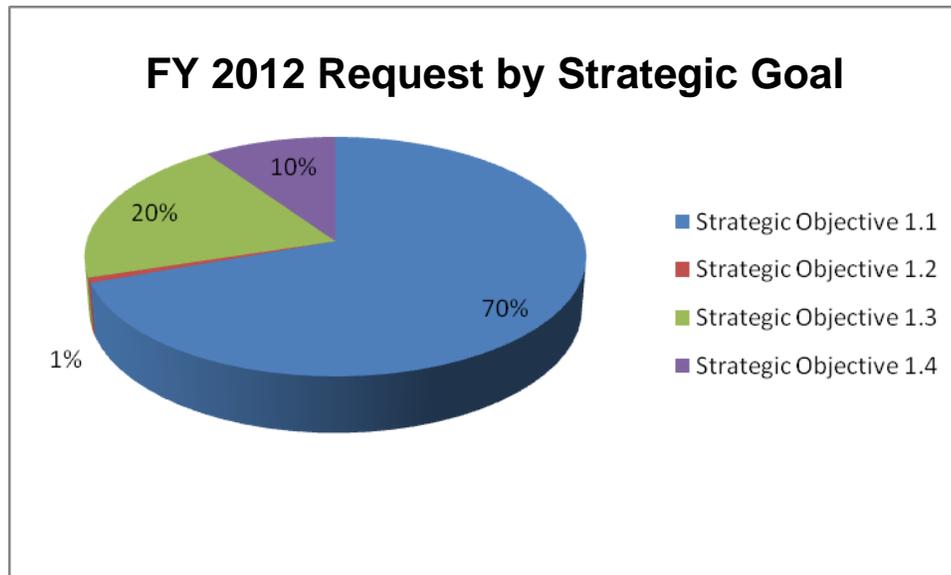
- Perform the Department's staff-level work on the Committee on Foreign Investment in the United States (CFIUS), which reviews foreign acquisitions of domestic entities that might affect national security and makes recommendations to the President on whether such transactions should be allowed to proceed, or if they have already occurred, should be undone;
- Track and monitor certain transactions that have been approved, including those subject to mitigation agreements, and identify unreported transactions that might merit CFIUS review;
- Respond to Federal Communication Commission (FCC) requests for the Department's views relating to the national security implications of certain transactions relating to FCC licenses; and
- Track and monitor certain transactions that have been approved, including those subject to mitigation agreements filed with the FCC.

Victims of Terrorism:

- Establish and maintain the Office of Justice for Victims of Overseas Terrorism as required by Section 126 of the Department of Justice Appropriations Act of 2005 to ensure that the investigation and prosecution of terrorist attacks that result in the deaths and/or injuries of American citizens overseas remains a high priority within the Department; and
- Ensure that the rights of victims and their families are honored and respected, and that victims and their families are supported and informed during the criminal justice process.

Strategic Goals and Accomplishments

The NSD supports the Department's Strategic Goals and Objectives in the areas of intelligence, strengthening partnerships, counterterrorism, and counterespionage.



DOJ Strategic Goal 1: Prevent Terrorism and Promote National Security

Objectives:

- 1.1 Prevent, disrupt, and defeat terrorist operations before they occur
- 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents
- 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States
- 1.4 Combat espionage against the United States

National Security Division Accomplishments:

The NSD's achievements include:

- Improved coordination between prosecutors and law enforcement agencies, on one hand, and intelligence attorneys and the Intelligence Community, on the other, to strengthen the effectiveness of the government's counterterrorism and counterespionage efforts.
- Re-organized the Office of Intelligence Policy and Review into the new Office of Intelligence, with three new sections to handle increased Foreign Intelligence Surveillance Act (FISA) workload, better coordinate FISA litigation and improve national security and intelligence oversight.

- Staffed a new Office of Law and Policy to harmonize national security legal and policy functions for the entire Department.
- Enhanced national security oversight to ensure FBI national security investigations comply with the nation's laws, rules and regulations, including privacy interests and civil liberties.
- Launched the National Export Enforcement Initiative to combat the growing threat posed by illegal foreign acquisition of controlled U.S. military and strategic technologies.
- Promoted a national counterterrorism enforcement program through collaboration with Department leadership, the FBI, the Intelligence Community and the U.S. Attorneys' Offices.
- Processed a very high number of FISA applications in 2009 (1,376 applications filed with the FISA Court); NSD projects that the number of applications in upcoming years will approach the 2,000 case per year benchmark.
- Funded and provided staffing for the Office of Justice for Victims of Overseas Terrorism, and designated 156 international terrorism events to allow for U.S. victim reimbursement.
- Detailed positions to the Foreign Investment Review Staff to handle a dramatically increased workload in connection with the Committee on Foreign Investment in the United States.

C. Program Assessment

No programs in this budget account have been subject to an OMB program assessment.

D. Full Program Costs

The NSD has a single decision unit. Program activities include intelligence, counterterrorism, counterespionage and strengthening partnerships which are related to Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security, and its four Objectives. The costs by program activity include the base funding plus an allocation of the management and administration and the Law and Policy costs. The methodology used to allocate the overhead costs is based on the percentage of the total cost of the four program activities. These percentages are used to allocate the overhead costs.

E. Performance Challenges

The top priority for the Department is to protect the nation from terrorist attacks while ensuring citizens' civil liberties are protected. The NSD has a dedicated Oversight Section to ensure that national security investigations are conducted in a manner consistent with the nation's laws, regulations, and policies, including those designed to protect the privacy interests and civil liberties of U.S. citizens. This means NSD must broaden the scope of its national security oversight well beyond the Department's traditional oversight role, which was primarily focused on the FBI's use of FISA authorities. With NSD's creation, Justice Department attorneys have

the clear mandate to examine aspects of the FBI's national security program for compliance with laws, regulations, and policies.

The increased workload in oversight responsibilities is imposed by a number of statutory and other legal authorities and Inspector General investigations, including oversight of FBI use of national security letters, and by the increased use of FISA collection, which in turn creates an enhanced need to ensure compliance with legal requirements. These new, complex and time-consuming missions brought challenges to keep up with adequate oversight attorney staffing and support personnel.

F. Environmental Accountability

The National Security Division (NSD) is actively involved in a variety of programs and activities that promote environmental responsibility. The NSD has participated in environmental awareness education through two informational sessions conducted by its Executive Office where the coordinator of the Department of Justice (DOJ) recycling program spoke to NSD staff. Educational materials on recyclable items as well as guidelines on how to routinely conserve energy were distributed. This resulted in NSD purchasing additional recycling bins for its staff that is now more active in the recycling program. In addition, NSD has been making significant efforts toward becoming as paperless as possible through automated processes and systems. The Executive Office has developed several systems that will significantly reduce the amount of paper used for day-to-day transactions, including an automated requisition process tool as well as tools for financial, budgetary, and personnel tracking. Furthermore, the Foreign Agents Registration Act Unit has developed a fully automated electronic filing system that allows users to register and pay registration fees online. This has significantly decreased the amount of paper and toner usage and various other costs associated with printers and copier machines. Finally, the NSD participates in DOJ environmental initiatives, including the toner cartridge recycling and transit subsidy programs. The NSD will continue to organize similar informational sessions to further educate the staff, implement systems that support the NSD's commitment toward environmental wellness, and participate in DOJ's green programs.

II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Counterterrorism and Investigation Prosecution	Resources to allow CTS to strengthen investigative and prosecutorial capabilities in order to more effectively identify, track, and prevent terrorist cells from operating in the US and overseas and improve information sharing and coordination with federal, State, local and foreign partners.	2	1	\$274	32
Export Enforcement and Counterespionage Prosecution	Resources to allow CES to strengthen its investigative and prosecutorial capabilities to more effectively identify, track, prevent, and prosecute export enforcement violations and acts of espionage.	2	1	\$298	35
International Terrorism/National Security Law & Policy	Resources to allow L&P to establish and strengthen international partnerships in order to further national security interests, including but not limited to counterterrorism activities.	1	1	\$157	39
Contractor Efficiencies	Contractor offset	13	7	(\$1,190)	43
FARA Fee Increase	Increased registration fee offset	0	0	(\$158)	45
Administrative Efficiencies	Administration Efficiencies	0	0	(\$59)	49
Technology Refresh	Technology Refresh	0	0	(\$41)	51
TOTAL, NSD		18	10	(\$719)	

III. Appropriations Language and Analysis of Appropriations Language

Appropriations Language

NATIONAL SECURITY DIVISION

Federal Funds

SALARIES AND EXPENSES

For expenses necessary to carry out the activities of the National Security Division, \$87,882,000; of which not to exceed \$5,000,000 for information technology systems shall remain available until expended: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Note.—A full-year 2011 appropriation for this account was not enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 111–242, as amended). The amounts included for 2011 reflect the annualized level provided by the continuing resolution.

Analysis of Appropriations Language

No substantive changes proposed.

Note: The FY 2012 President’s Budget uses the FY 2011 President’s Budget language as a base so all language is presented as new.

IV. Decision Unit Justification

National Security Division

<i>National Security Division</i>	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	346	346	\$87,938
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions and Supplementals	346	346	\$87,938
2011 CR	346	346	\$87,938
Adjustments to Base and Technical Adjustments	0	0	663
2012 Current Services	346	346	88,601
2012 Program Increases	5	3	729
2012 Program Offsets	13	7	(1,448)
2012 Request	364	356	87,882
Total Change 2010-2012			(\$56)

National Security Division-Information Technology Breakout (of Decision Unit Total)	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	6	6	\$9,372
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions and Supplementals	6	6	\$9,372
2011 CR	6	6	\$12,055
Adjustments to Base and Technical Adjustments	0	0	0
2012 Current Services	6	6	\$12,055
2012 Program Increases	9	9	\$10,895
Total Change 2010-2012			\$1,523

1. Program Description

The National Security Division (NSD) is responsible for overseeing terrorism investigations and prosecutions; handling counterespionage cases and matters; and assisting the Attorney General and other senior Department and Executive Branch officials in ensuring that the national security-related activities of the United States are consistent with relevant law.

In coordination with the FBI, the Intelligence Community, and the U.S. Attorneys Offices, the NSD's primary operational functions are to prevent acts of terrorism and espionage from being perpetrated in the United States by foreign powers and to facilitate the collection of information regarding the activities of foreign agents and powers. The NSD advises the Attorney General on all matters relating to the national security activities of the United States. The NSD administers the U.S. Government's national security program for conducting electronic surveillance and physical search of foreign powers and agents of foreign powers pursuant to the Foreign Intelligence Surveillance Act of 1978 (FISA), as amended, and conducts oversight of the FBI's

foreign intelligence and counterintelligence investigations pursuant to the Attorney General's guidelines for such investigations.

The NSD prepares and files all applications for electronic surveillance and physical search under FISA, represents the government before the Foreign Intelligence Surveillance Court, and when evidence obtained under FISA is proposed to be used in a criminal proceeding, NSD obtains the necessary authorization for the Attorney General to take appropriate actions to safeguard national security. The NSD assists government agencies by providing legal advice on matters of national security law and policy, participates in the development of legal aspects of national security and intelligence policy, and represents the DOJ on a variety of interagency committees such as the Director of National Intelligence's FISA Working Group and the National Counterintelligence Policy Board. The NSD comments on and coordinates other agencies views regarding proposed legislation affecting intelligence matters. The NSD serves as adviser to the Attorney General and various client agencies, including the Central Intelligence Agency, the FBI, and the Defense and State Departments concerning questions of law, regulations, and guidelines as well as the legality of domestic and overseas intelligence operations. The NSD also works closely with the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence to ensure they are apprised of Departmental views on national security and intelligence policy and are appropriately informed regarding operational intelligence and counterintelligence activities.

The NSD also serves as the Department's representative on the Committee on Foreign Investment in the United States (CFIUS) which reviews foreign acquisitions of domestic entities affecting national security and makes recommendations to the President on whether such transactions should be allowed to proceed or, if they have already occurred, should be undone. In this role, NSD evaluates information relating to the structure of the transaction, any foreign government ownership or control, threat assessments provided by the United States Intelligence Community, vulnerabilities resulting from the transaction, and ultimately the national security risks, if any, of allowing the transaction to proceed as proposed or subject to any conditions that may be necessary. In addition, NSD tracks and monitors certain transactions that have been approved subject to mitigation agreements and seeks to identify unreported transactions that may require CFIUS review. On behalf of the Department, NSD also responds to Federal Communication Commission (FCC) requests for Executive Branch determinations relating to the national security implications of certain transactions that involve FCC licenses. The NSD reviews such license applications to determine if a proposed communication provider's foreign ownership, control or influence poses a risk to national security, infrastructure protection, law enforcement interests, or other public safety concerns sufficient to merit mitigating measures or opposition to the transaction.

The Office of Justice for Victims of Overseas Terrorism (OVT) was established as required by Section 126 of the Department of Justice Appropriations Act of 2005. OVT originally operated out of the Criminal Division before being transferred to the NSD in 2006 when the NSD was established. American victims of terrorist attacks overseas are entitled to the same rights as victims of crimes in the U.S. This Office ensures that the investigation and prosecution of terrorist attacks against American citizens overseas are a high priority within the Department of Justice. Among other things, OVT is responsible for monitoring the investigation and prosecution of terrorist attacks against Americans abroad; working with other Justice Department components to ensure that the rights of victims of such attacks are honored and

respected; establishing a Joint Task Force with the Department of State to be activated in the event of a terrorist incident against American citizens overseas; responding to Congressional and citizen inquiries on the Department's response to such attacks; compiling pertinent data and statistics; and filing any necessary reports with Congress.

2. Performance Tables

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: National Security Division											
DOJ Strategic Goal/Objective: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur; 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist activities; 1.3 Prosecute those who have committed, or intended to commit, terrorist acts in the United States; and 1.4 Combat espionage against the United States.											
WORKLOAD/ RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Workload											
Cases Opened ¹		117		133		119		5		124	
Cases Closed ¹		95		98		97		5		102	
Matters Opened ¹		25,415		33,160		25,430		34		25,464	
Matters Closed ¹		25,351		33,811		25,366		26		25,392	
FISA Applications Filed ^{1, 2}		CY 2010: 2,083		CY 2010: 2,000		CY 2011: 2,000		0		CY 2012: 2,000	
National Security Reviews of Foreign Acquisitions ¹		250		245 ³		250		-50		200	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		346	87,938	346	87,938	346	87,938	18	-56	364	87,882
TYPE/ STRATEGIC OBJECTIVE		Final Target		Projected Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Program Activity		Intelligence		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		215	61,789	215	61,789	215	61,789	6	-704	221	61,085
Output Measure (discontinued beginning FY 2011)		FISA Minimization Reviews		CY: 31		CY: 30 ⁴		NA		NA	
Output Measure (discontinued beginning FY 2011)		National Security Reviews		CY: 20		CY: 20		NA		NA	
Output Measure (new beginning FY 2011)		Intelligence Community Oversight Reviews		NA		NA		89		0	
Efficiency Measure (discontinued beginning FY 2011)		Percentage of FISA Emergency Applications processed within 7 days		CY 2010: 100%		CY 2010: 100%		NA		NA	
Efficiency Measure (discontinued beginning FY 2011)		Resolution of Compliance Matters		CY 2010: 60 days		CY 2010: 77 days ⁵		NA		NA	

Note: No program or policy increases are reflected in this table.

¹ Workload measures are not performance targets, rather they are estimates to be used for resource planning. In addition, these measures do not take into consideration potential policy changes.

² FISA applications filed data is based on historical averages and do not represent actual data, which remains classified until the public report is submitted to the Administrative Office of the US Courts and the Congress in April for the preceding calendar year.

³ The FY 2010 National Security Reviews of Foreign Acquisitions target was not met because less cases were filed than anticipated.

⁴ The FY 2010 target of FISA Minimization Reviews was not met because one review was cancelled. 30 minimization reviews were completed.

⁵ The CY 2010 target for the resolution of compliance matters within 60 days was not met. Instead, in CY10, compliance matters were resolved in an average of 77 days. The amount of days it may take to resolve a matter involving another agency's non-compliance with relevant statutes, regulations, court orders, or court rules can be impacted by a variety of circumstances, mostly outside of the NSD's control.

PERFORMANCE AND RESOURCES TABLE

Decision Unit: National Security Division

DOJ Strategic Goal/Objective: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur; 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist activities; 1.3 Prosecute those who have committed, or intended to commit, terrorist acts in the United States; and 1.4 Combat espionage against the United States.

WORKLOAD/ RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Program Activity	Strengthen Partnerships	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		6	609	6	609	6	609	0	3	6	612
Output Measure	Percent Increase in the Number of US Victims of Overseas Terrorism Identified Since Program Inception (Baseline: 50)	60% (increase from 250 to 400)		113% (increase from 250 to 532)		50% (increase from 532 to 800)		13%		13% (increase from 800 to 900)	
Efficiency Measure	Percentage of victims provided with service and/or compensation information within 3 business days of victim response to OVT outreach	80%		95%		80%		0%		80%	
Program Activity	Counterterrorism	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		86	17,264	86	17,264	86	17,264	3	434	89	17,698
Outcome Measure	Percentage of CT cases favorably resolved	90%		100%		90%		0		90%	
Output Measure (discontinued beginning FY 2011)	Percentage of international training needs met	75% (45 of 60)		100% (13 out of 13) ⁶		NA		NA		NA	
Outcome Measure	Percentage of CT cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	99%		100%		99%		0		99%	
Program Activity	Counterespionage	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		39	8,268	39	8,268	39	8,268	2	219	41	8,487
Outcome Measure	Percentage of CE cases favorably resolved	90%		94%		90%		0		90%	
Output Measure	FARA Inspections	15		15		15		0		15	
Output Measure (discontinued beginning FY 2011)	Mitigation monitoring actions completed	120		132		NA		NA		NA	
Output Measure (new beginning FY 2011)	High priority national security reviews completed	20		28		25		5		30	
Outcome Measure	Percentage of CE cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	99%		100%		99%		0		99%	

Note: No program or policy increases are reflected in this table.

⁶ The responsibilities for meeting requests for international training were transferred out of the Counterterrorism Section (CTS) during FY 2010. While CTS handled international trainings, there were 13 requests made and fulfilled. The total number of requests for the entire Division is higher.

PERFORMANCE MEASURE TABLE

Decision Unit: National Security Division

Performance Report and Performance Plan Targets		FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure, discontinued beginning FY 2011	FISA Minimization Reviews	N/A	N/A	N/A	N/A	N/A	CY 2007: 34	CY 2008: 31	CY 2009: 35	CY 2010: 31	CY 2010: 30 ¹	NA	NA
Performance Measure, discontinued beginning FY 2011	National Security Reviews	N/A	N/A	N/A	N/A	N/A	CY 2007: 15	CY 2008: 15	CY 2009: 18	CY 2010: 20	20	NA	NA
Performance Measure, new beginning FY 2011	Intelligence Community Oversight Reviews	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	NA	NA	89	89
Efficiency Measure, discontinued beginning FY 2011	Percentage of FISA Emergency Applications Processed within 7 days	N/A	N/A	100%	100%	100%	100%	100%	100%	100%	100%	NA	NA
Efficiency Measure, discontinued beginning FY 2011	Resolution of Compliance Matters	N/A	N/A	400 days	247 days	158 days	110 days	62 days	80 days	60 days	77 days ¹	NA	NA
Output Measure	Percent Increase in the Number of US Victims of Overseas Terrorism Identified Since Program Inception (Baseline: 50)	N/A	N/A	N/A	N/A	N/A	N/A	Baseline - 50	400% (increase from 50 to 250)	60% (increase from 250 to 400)	113% (increase from 250 to 532)	50% (increase from 532 to 800)	13% (increase from 800 to 900)
Efficiency Measure	Percentage of victims provided with service and/or compensation information within 3 business days of victim response to OVT outreach	N/A	N/A	N/A	N/A	N/A	N/A	N/A	80%	80%	95%	80%	80%
Outcome Measure	Percentage of CT cases favorably resolved	N/A	N/A	N/A	N/A	N/A	98%	97%	100%	90%	100%	90%	90%
Performance Measure, discontinued beginning FY 2011	Percentage of international training requests met	N/A	N/A	N/A	N/A	N/A	79% (27 of 34)	60% (30 of 50)	78%	75% (45 of 60)	100% (13 out of 13) ¹	NA	NA
Outcome Measure	Percentage of CT cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	N/A	N/A	N/A	N/A	N/A	N/A	100%	100%	99%	100%	99%	99%
Outcome Measure	Percentage of CE cases favorably resolved	N/A	N/A	N/A	N/A	N/A	96%	92%	98%	90%	94%	90%	90%
Performance Measure	FARA inspections completed	N/A	N/A	N/A	N/A	N/A	0	13	14	15	15	15	15
Performance Measure, discontinued beginning FY 2011	Mitigation monitoring actions completed ²	N/A	N/A	N/A	N/A	N/A	CY 2007: 13	CY 2008: 23	FY 2009: 112	FY 2010: 120	132	NA	NA
Performance Measure, new beginning FY 2011	High priority national security reviews completed	N/A	N/A	N/A	N/A	N/A	N/A	N/A	27	20	28	25	30
Outcome Measure	Percentage of CE cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	N/A	N/A	N/A	N/A	N/A	N/A	100%	100%	99%	100%	99%	99%

Note: No program or policy increases are reflected in this table.

¹ See Performance, Resources and Strategies section for explanations for missed targets.

² Mitigation monitoring actions has a broader definition in 2009 and 2010 than in previous years, and therefore there is a significant increase in the number of targeted mitigation monitoring actions completed. In addition, beginning in FY 2009, the data for this measure will be collected on a fiscal year basis. Therefore there will be some overlap in the data between CY 2008 and FY 2009.

3. Performance, Resources, and Strategies

For performance reporting purposes, resources for NSD are included under DOJ Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security. Within this Goal, the NSD resources address all four Objectives: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur; 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents; 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States; and 1.4 Combat espionage against the United States. Based on these four objectives, performance resources are allocated to four program activities: Intelligence, Counterterrorism, Counterespionage, and Strengthen Partnerships.

a. Performance Plan and Report for Outcomes

Intelligence Performance Report

Measure (discontinued beginning FY 2011):

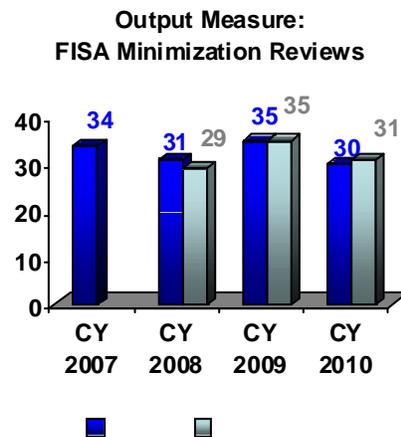
FISA Minimization Reviews

CY 2010 Target: 31

CY 2010 Actual: 30

Discussion: This measure will be discontinued beginning in FY 2011. FISA Minimization Reviews will be counted as a part of Intelligence Community Oversight Reviews.

Additionally, the FY 2010 target of FISA Minimization Reviews was not met because one review was cancelled. Thirty minimization reviews were completed.



Data Definition: FISA Minimization/Accuracy Reviews: An

oversight process by which NSD attorneys analyze whether information acquired by the FBI pursuant to the Foreign Intelligence Surveillance Act has been acquired, retained, and disseminated by the FBI in accordance with the minimization procedures set forth in Foreign Intelligence Surveillance Court (FISC) orders. In addition, NSD attorneys conduct a line-by-line review of certain applications presented to the FISC to ensure that the FBI possesses supporting documentation for each case-specific fact asserted therein; thereby maintaining the integrity of the applications presented to the FISC and the FISC's confidence in the information presented to it by the Government.

Data Collection and Storage: The information collected during each review is compiled into a review report, which is then provided to FBI OGC and either the FBI field office reviewed or FBI Headquarters. The information collected during each review, as well as the review reports, are stored on a classified database.

Data Validation and Verification: Minimization reports are reviewed by NSD management before being released.

Data Limitations: None identified at this time.

Measure (discontinued beginning FY 2011):

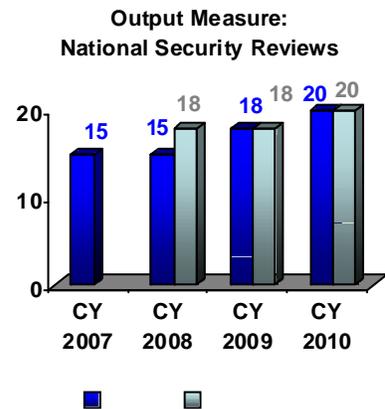
National Security Reviews

CY 2010 Target: 20

CY 2010 Actual: 20

Note: NSD estimates that it will not be able to meet the target of 20 National Security Reviews for CY 2010 because of a shift in resources that were needed to meet statutory and court-ordered requirements.

Discussion: This measure will be discontinued beginning in FY 2011. National Security Reviews will be counted as a part of Intelligence Community Oversight Reviews.



Data Definition: National Security Review (NSR): An oversight process designed to ensure that FBI national security investigations are conducted in accordance with the Constitution, statutes, the AG Guidelines and internal FBI policy directives. The NSRs enable the DOJ to identify recurring issues and recommend changes where necessary.

Data Collection and Storage: The information collected during each review is compiled into a report, which is then provided to FBI OGC and the FBI field office reviewed. The information collected during each review, as well as the review reports, are stored on a classified database.

Data Validation and Verification: NSR reports are reviewed by NSD management before being released.

Data Limitations: None identified at this time.

Measure (new beginning FY 2011):

Intelligence Community Oversight Reviews

CY 2010 Target: NA

CY 2010 Actual: NA

Discussion: No discussion required

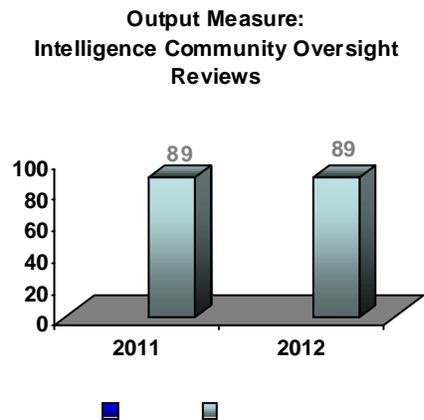
Data Definition: NSD attorneys are responsible for conducting oversight of certain activities of United States Intelligence Community components. The oversight process involves numerous site visits to review intelligence collection activities and compliance with the Constitution, statutes, AG Guidelines, and relevant Court orders.

Such oversight reviews require advance preparation, significant on-site time, and follow-up and report drafting resources. These oversight reviews cover many diverse intelligence collection programs. FISA Minimization Reviews and National Security Reviews will be counted as part of Intelligence Community Oversight Reviews.

Data Collection and Storage: The information collected during each review is compiled into a report, which is then provided to the reviewed Agency. Generally, the information collected during each review, as well as the review reports, are stored on a classified database. However, some of the data collected for each review is stored manually.

Data Validation and Verification: Reports are reviewed by NSD management, and in certain instances reviewed by agencies, before being released.

Data Limitations: None identified at this time.



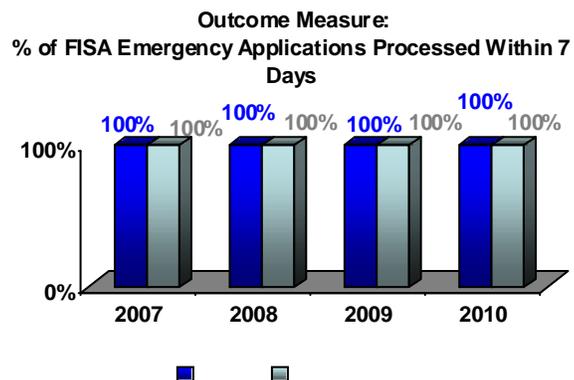
Measure (discontinued beginning FY 2011):
Percentage of FISA Emergency Applications
Processed Within 7 Days

CY 2010 Target: 100%

CY 2010 Actual: 100%

Discussion: No discussion required.

Note: The FISA statute requires that FISA Emergency Applications must be filed with the FISA Court within 7 days. This timeframe was previously 72 hours.



Data Definition: Percentage of applications prepared and filed within 7 days of an emergency authorization by the Attorney General pursuant to the statutory requirements of the Foreign Intelligence Surveillance Act.

Data Collection and Storage: Data for FISA Emergency Applications Processed within 7 days is provided by OI attorneys and maintained in the case tracking system, Case Tracking, ITKS.

Data Validation and Verification: Classified Information Management Unit Staff reviews the data on a daily basis.

Data Limitations: None identified at this time.

Measure (discontinued beginning FY 2011):

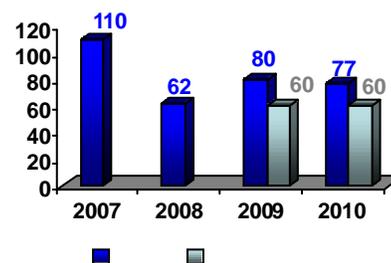
Resolution of Compliance Matters

CY 2010 Target: 60 days

CY 2010 Actual: 77 days

Discussion: The CY 2010 target for the resolution of compliance matters within 60 days was not met. Instead, in CY10, compliance matters were resolved in an average of 77 days. The amount of days it may take to resolve a matter involving another agency's non-compliance with relevant statutes, regulations, court orders, or court rules can be impacted by a variety of circumstances, mostly outside of the NSD's control.

Efficiency Measure:
Resolution of Compliance Matters



Data Definition: The number of days it takes from the opening of a compliance matter to the resolution of the compliance matter with a final notice. Compliance matters occur when an agency fails to comply with an order of the Foreign Intelligence Surveillance Court (FISC). A matter is opened when the Office Intelligence (OI) is notified by the agency regarding the possible non-compliance. OI reviews the matter and determines whether FISC notification is necessary. If so, a preliminary notice is filed with the FISC. Resolution of the matter is complete when a final notice is filed with the FISC or OI determines that a compliance incident did not occur.

Data Collection and Storage: Data collection and storage via Case Tracking.

Data Validation and Verification: Periodic verification by case managers and attorneys.

Data Limitations: None identified at this time.

Strengthen Partnerships Performance Report

Measure: Percent Increase in the Number of U.S. Victims of Overseas Terrorism Identified Since Program Inception (Baseline: 50)

FY 2010 Target: 100%

FY 2010 Actual: 113% (There were an additional 282 U.S. victims of terrorism identified in FY 2010. In FY 2010, the total victims identified increased from 250 to 532.)

Discussion: The title of this measure has been changed for clarity.

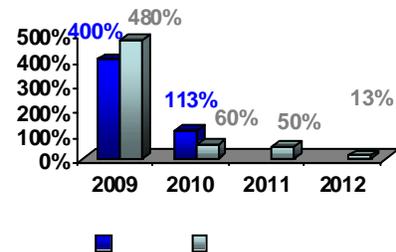
Data Definition: Victims: American citizens who are the victims of terrorism outside the borders of the U.S.

Data Collection and Storage: Data collection and storage is currently manual on a case by case basis. An electronic database for data collection and storage is under development.

Data Validation and Verification: Validation procedures will be established during database system design.

Data Limitations: Victim identification is a program challenge. The victim count is therefore significantly below anticipated levels.

Output Measure:
% Increase in the Number of Victims of Overseas Terrorism Identified Since Program Inception



Measure: Percent of U.S. Victims of Terrorism Provided with Service and/or Compensation Information w/in 3 Business Days of Victim Response to OVT Outreach

FY 2010 Target: 80%

FY 2010 Actual: 95%

Discussion: The title of this measure has been changed for clarity.

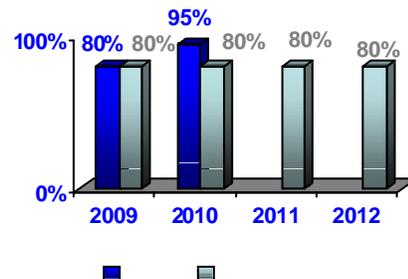
Data Definition: Victims: American citizens who are the victims of terrorism outside the borders of the U.S.

Data Collection and Storage: Data collection and storage is currently manual on a case by case basis. An electronic database for data collection and storage is under development.

Data Validation and Verification: Validation procedures will be established during database system design.

Data Limitations: None.

Efficiency Measure:
% of Victims Provided w/ Service &/or Compensation Info w/in 3 days



Counterterrorism (CT) Performance Report

Measure: Percentage of CT Cases Favorably Resolved

FY 2010 Target: 90%

FY 2010 Actual: 100%

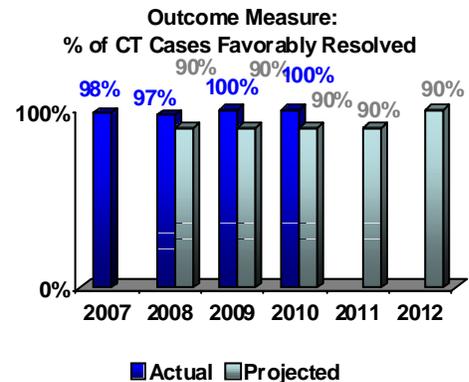
Discussion: No discussion required.

Data Definition: Cases Favorably Resolved include those cases closed during the fiscal year that resulted in court judgments favorable to the government.

Data Collection and Storage: Attorneys provide data which is stored in the ACTS database.

Data Validation and Verification: Data validation and verification is accomplished via quarterly review by CTS Chief.

Data Limitations: None identified at this time.



Select Recent Counterterrorism Prosecutions:

U.S. v. Umar Farouk Abdulmutallab –(Eastern District of Michigan): On December 25, 2009, Abdulmutallab, a Nigerian national, caused a fire on board Northwest Airlines flight 253, en route from Amsterdam to Detroit, Michigan, when he unsuccessfully attempted to detonate an explosive device hidden in his clothing. Abdulmutallab is charged with: one count of terrorism transcending international boundaries, in violation of 18 U.S.C § 2332b; one count of attempted use of a weapon of mass destruction, in violation of 18 U.S.C. § 2332a(a)(2); one count of attempted murder, in violation of 18 U.S.C. § 1113 and 49 U.S.C. § 46506; one count of willful attempt to destroy and wreck an aircraft, in violation of 18 U.S.C. §§ 32(a)(1) and (8); one count of willfully placing a destructive device in, upon and in proximity to an aircraft, in violation of 18 U.S.C. § 32(a)(2); and three counts of possession of a firearm/destructive device in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c). On January 25, 2011, in the, a status hearing was held in the case of Umar Farouk Abdulmutallab. The Judge set the trial for October 4, 2011, with the court stating that because of the numerous foreign witnesses involved, this would be a firm date.

U.S. v. Tarek Mehanna and Ahmad Abousamra --(District of Massachusetts): On November 5, 2009, Tarek Mehanna and Ahmad Abousamra were charged in a ten count indictment with providing and conspiring to provide material support to terrorists, conspiracy to kill in a foreign country, conspiracy to provide false information to law enforcement, and a number of false statements counts. The Indictment alleges that, beginning in or about 2001 and continuing until in or about the date of the return of the Indictment, Mehanna and Abousamra conspired with each other, and others, to provide material support to terrorists knowing that their support would be used in preparation for, and in carrying out, a conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country, as well as for the extraterritorial homicide of a U.S. national. Additionally, according to the Indictment, between 2001 and the date of the return of the Indictment, Mehanna and Abousamra conspired to kill in a foreign country. Finally, the

Indictment alleges that between 2003 and the date of the return of the Indictment, Mehanna and Abousamra conspired to provide false information to law enforcement, and on specific occasions, made false statements. Mehanna was previously indicted in January 2009 for making false statements to members of the FBI's JTTF in connection with a terrorism investigation. On October 21, 2009, he was arrested and has been detained pending a hearing in U.S. District Court in Boston. Abousamra currently resides in Syria.

U.S. v. Daniel Boyd, et. al. –(Eastern District of North Carolina): This case arose after a long-term FBI investigation into Boyd's efforts to recruit and facilitate travel for young men to engage in violent jihad overseas. Boyd temporarily lived in Pakistan during the late 1980's, claims to have fought against the Soviet Union in Afghanistan, and believes in violent jihad as an obligation as well as a means of obtaining martyrdom. The FBI investigation revealed that Boyd and his co-conspirators were recruiting young men to fight jihad overseas and assisting their travel by raising funds for them. During the course of the investigation, and in an effort to engage in violent jihad, Boyd, his sons Zakaria and Dylan, and Hassan and Yaghi traveled to Israel and Jordan. Co-defendant Jude Mohammad traveled to the Federally Administered Tribal Areas (FATA) and Hysen Sherifi traveled to Kosovo. None of these trips proved successful. Sherifi returned from Kosovo in order to obtain funds with the intent of returning to Kosovo and assist "the brothers" in violent jihad. With the exception of Jude Mohammed (currently being sought), all defendants were arrested on July 27, 2009, and remain incarcerated at this time. At the time of arrest, Sherifi and Boyd's sons had tickets to travel overseas less than a month later. Boyd himself was making efforts to sell his home and travel overseas as well. In preparation for their travel, they engaged in live fire weapons training on two separate occasions. As the mobilization of Boyd and his co-conspirators drew closer, Boyd began to formalize a contingency plan involving a domestic attack should travel overseas be prevented. On November 29, 2010, in the, a Grand Jury returned second superseding indictment charging **Anes Subasic** with two counts unlawful procurement of naturalization, in violation of 18 U.S.C. § 1425(a). These allegations stem from answers provided by Subasic on his own immigration paperwork in which he falsely represented that he had never been charged with any criminal conduct. The evidence displays that in fact Subasic had been charged in Serbia with committing crimes on at least ten occasions. Subasic cut a fellow student in the leg with a knife while at school, on another occasion fired a 7.62 weapon into the hand of a student, on another occasion discharged two magazines (60 rounds) from a 7.62 caliber firearm causing property damage and striking one victim in the leg and a second in the shoulder, on a separate occasion fired a 7.62 cal. striking a victim in the leg, in a separate incident fired shots from a pistol into a dance club ceiling and threw a grenade into the club injuring 8 people, on another occasion unlawfully entered a warehouse and stole cigarettes valued at 49,220 German Marks, on another occasion beat an individual in the head with a pistol over a parking space, in a separate instance beat an individual with electrical cables, and on a separate occasion and in an attempt to avoid arrest placed a trip mine of 200 grams of PED explosives above a doorframe along with an antipersonnel mine in the hallway of his apartment.

United States v. Barry Walter Bujol, Jr. - (Southern District of Texas, Houston Division): On June 3, 2010, a federal grand jury returned a two-count indictment against Barry Walter Bujol, Jr. ("Bujol") for attempting to provide material support to a designated foreign terrorist organization, pursuant to 18 U.S.C. § 2339B; and aggravated identity theft, pursuant to 18 U.S.C. § 1028A(a)(2). The indictment charges that Bujol attempted to provide material support to al-Qaeda in the Arabian Peninsula ("AQAP") in the form of personnel, currency, pre-paid telephone calling cards, mobile telephone SIM cards, global positioning system receivers, public access-restricted United States military publications, including one involving unmanned aerial vehicle (UAV) operations and another involving the effects of United States military weapon systems in operations in Afghanistan, a military issue compass, and other materials. Bujol, 29, a United States citizen described by the Federal Bureau of Investigation ("FBI") as a "lone wolf," was the subject of a sting operation conducted by the Houston FBI Joint Terrorism Task Force on May 30, 2010 at the Houston Port of Entry. Bujol, in coordination with a Confidential Human Source ("CHS") who Bujol believed to be a U.S.-based AQAP operative, used a false Transportation Security Administration identification badge to enter the Port and board a freight ship docked at the Port on the belief that he would be traveling overseas to join AQAP as a mujahideen. Shortly after boarding the ship, Bujol was arrested while in possession of the various "material support" items described in the indictment. Prior to the sting operation and the introduction of the confidential source, Bujol had made three prior unsuccessful attempts to depart the United States to travel to the Middle East. Evidence obtained pursuant to criminal search warrants executed on Bujol's email accounts in 2009 also revealed that Bujol had previously communicated with Anwar Al-Aulaqi, a known associate and propagandist for AQAP.

United States v. Michael Finton - (Central District of Illinois): Finton, a.k.a. Talib Islam was arrested after he attempted to detonate a truck bomb outside the Federal Building and Courthouse in Springfield, Illinois on September 23, 2009. The vehicle used by Finton contained an inert device provided by the FBI. Finton parked the vehicle in front of the building and attempted to remotely detonate the bomb via his cellular phone. During the course of the undercover operation, Finton expressed his desire to undergo military training to become a mujihadeen fighter in Pakistan, Afghanistan and Somalia. Finton ultimately chose a local target, conducted surveillance, and indicated that he knew the one-ton truck bomb would cause civilian casualties. On October 7, 2009, the grand jury returned an indictment charging Finton with one count of attempted murder of federal officers or employees and one count of attempted use of a weapon of mass destruction. If convicted, Finton faces a maximum penalty of life in prison. On September 23, 2010, the trial of *United States v. Michael C. Finton* was continued to March 14, 2011. The Court also declared the case "complex and extended."

United States v. Mohamed Osman Mohamud - (District of Oregon): Mohamud, 19, a naturalized U.S. citizen from Somalia and resident of Corvallis, Oregon, was arrested in the evening of November 26, 2010, after he attempted to detonate what he believed to be an explosives-laden van that was parked near the tree lighting ceremony in Portland's Pioneer Courthouse Square. The arrest was the culmination of a long-term undercover operation, during

which Mohamud had been monitored closely for months as his alleged bomb plot developed. The device was in fact inert. On November 29, 2010, Mohamed Osman Mohamud was indicted for attempting to use a weapon of mass destruction, in violation of 18 U.S.C. § 2332a. Mohamud also made his initial appearance on the charge in federal court in Portland on November 29, 2010. Mohamud faces a maximum statutory sentence of life in prison and a \$250,000 fine if convicted of the charge of attempting to use a weapon of mass destruction.

United States v. Moalin, et. al. - (Southern District of California): On Friday, January 14, 2011, a Grand Jury sitting in the Southern District of California, returned a superseding indictment in *United States v. Moalin, et al.*, a prosecution for material support violations arising from Operation *Green Arrow*. Basaaly Moalin, Mohamed Mohamed Mohamud, Isse Doreh and Ahmed Nasir conspired to raise funds among the San Diego and Anaheim, California, Somali diaspora for the designated foreign terrorist organization al- Shabaab, and other militia groups engaged in violence intended to topple the Somali Transitional Federal Government (TFG). On October 22, 2010, Moalin, Mohamud, and Doreh were indicted in the Southern District of California, with conspiracy to provide material support to terrorists, in violation of 18 U.S.C. § 2339A; conspiracy to provide material support to a designated foreign terrorist organization, al-Shabaab, in violation of 18 U.S.C. § 2339B; conspiracy to kill, kidnap, maim or injure abroad, in violation of 18 U.S.C. § 956; and conspiracy to launder monetary instruments, in violation of 18 U.S.C. § 1956(h). At the time of the original indictment, Nasir was out of the country. In order to ensure Nasir's return, he was charged separately with the same violations as the other co-conspirators, in a sealed indictment. The sole purpose of this superseding indictment, is to add Ahmed Nasir as a defendant with his co-conspirators. Now that the superseding indictment has been returned, the prosecutors plan to dismiss the Nasir Indictment without prejudice.

U.S. v. Mohamud Abdi Yusuf - (Eastern District of Missouri): Mohamud Abdi Yusuf and Duane Mohamed Diriye are charged by indictment with providing material support to al-Shabaab, a designated terrorist organization, in violation of 18 U.S.C. § 2339B. The indictment also charges Yusuf and Abdi Mahdi Hussein with conspiring to structure transactions to Somalia in order to prevent licensed money remitting businesses from keeping accurate records, in violation of 18 U.S.C. § 371. Yusuf is also charged with lying to immigration authorities, in violation of 18 U.S.C. § 1015(a). Yusuf, a Somali born taxi driver residing in St. Louis, Missouri, was arrested at the St. Louis Taxi Commission on November 1, 2010. Diriye, an ethnic Somali who lives in Kenya, remains at large. On November 3, 2010, Diriye gave an interview to BBC Radio Somalia about his case. Diriye expressed shock at the indictment and said that he was a mere businessman who traveled to Mogadishu for business opportunities. Diriye said that he was approached by armed guards who told him about the death of martyrs and their need for a truck for between \$5,000 and \$6,000. Diriye said that he called Yusuf in the United States to solicit funds from him. Diriye said that he paid the money to guarantee his safety. Diriye admitted to using code words in his conversations with Yusuf, but he explained that everyone used code words to avoid being overheard. Yusuf raised funds for al-Shabaab from within the Somali diaspora in Missouri and elsewhere. He sent funds to Diriye in Somalia

for al-Shabaab to purchase a tactical vehicle that Diriyee said would cost \$5,000, and for general support of the al-Shabaab fighters. Diriyee acted as a conduit for al-Shabaab, providing Yusuf with up-to-date information about the battle on the ground in Somalia. Diriyee also introduced Yusuf to al-Shabaab leaders via the phone. When talking on the phone, Yusuf and Diriyee used code words to refer to al-Shabaab. Yusuf also sent money to al-Shabaab through his former neighbor, Basaaly Moalin. Moalin and Yusuf originally sent funds to al-Shabaab's senior commander, Aden Hashi Ayrow. After Ayrow was killed by a missile on May 1, 2008, Yusuf and Moalin struggled to find another highly-placed al-Shabaab leader to receive their funds. Yusuf and the other conspirators used fictitious names and phone numbers to hide the nature of their transactions. Hussein, an employee of a licensed money remitting business, helped Yusuf avoid leaving a paper trail by structuring transactions for Yusuf into low dollar amounts and by using false information. On December 9, 2010, in the Eastern District of Missouri, Judge Adelman granted the government's motion requesting that the case be designated as complex pursuant to 18 U.S.C. § 3161(h), and granted the government's motion for a protective order governing dissemination of previously classified materials. Yusuf remains held without bond pending the next status conference in February 2011. Hussein remains free on his personal signature bond of \$25,000.

Fourteen Charged with Providing Material Support to al-Shabaab - In August 2010, the Justice Department announced that that four separate indictments were unsealed in the District of Minnesota, the Southern District of Alabama and the Southern District of California charging 14 individuals with terrorism violations for providing money, personnel and services to the foreign terrorist organization al-Shabaab. In the Southern District of Alabama, prosecutors unsealed a superseding indictment charging Omar Shafik Hammami, a U.S. citizen and former resident of Alabama, with providing material support to al-Shabaab. Separately, prosecutors in the Southern District of California unsealed an indictment charging Jihad Serwan Mostafa, a U.S. citizen and former resident of California, with providing material support to al-Shabaab. In the District of Minnesota, prosecutors unsealed two indictments. One indictment charges Amina Farah Ali and Hawo Mohamed Hassan with providing funds to al-Shabaab. These two defendants were arrested. Separately, prosecutors unsealed a third superseding indictment charging 10 men with terrorism offenses for leaving the United States to join al-Shabaab. Seven of these defendants had been previously charged by either indictment or criminal complaint.

Since late-2008, CTS has been assisting an AUSA in the District of Minneapolis during the investigation into men leaving the Minneapolis area to fight in Somalia against the Ethiopians or on behalf of al-Shabaab. CTS trial attorneys have served as co-counsel and will be co-counsel at the upcoming trial in July 2011 against Omer Abdi Mohamed and the upcoming trial of Mahamud Said Omar, who is currently in custody in the Netherlands contesting his extradition to the United States. CTS trial attorneys have appeared in magistrate and district court proceedings and in the grand jury over the last two years. CTS trial attorneys have taken grand jury testimony without an AUSA from Minneapolis being present. At present, a CTS trial attorney is accompanying the assigned AUSA to Canada take testimony from percipient

witnesses. The CTS trial attorney will be conducting the direct examination of the primary witness over two days. MLATs have previously been sent to the Netherlands and the UK. The role of the CTS trial attorney has taken on more responsibility when, in mid-December, 2010, the only AUSA assigned to the investigation in Minneapolis left the USAO for private practice. The new AUSA has been getting up to speed on the investigation since late November 2010. His task is substantial. To date, the USAO and CTS have indicted approximately 17 people and convicted five. Two trials are pending, as are the sentencings of four defendants. The investigation has also lead to charges being filed against other defendants in judicial districts around the country.

Measure (discontinued beginning FY 2011): Percentage of International Training Needs Met

FY 2010 Target: 75%

FY 2010 Actual: 100%

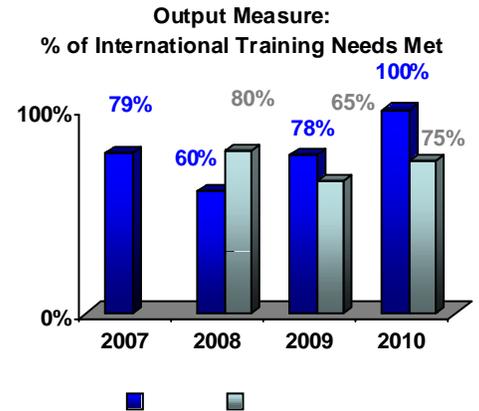
Discussion: NSD will no longer report on this measure beginning in FY 2011. Additionally, the responsibilities for meeting requests for international training were transferred out of the Counterterrorism Section (CTS) during FY 2010. While CTS handled international trainings, there were 13 requests made and fulfilled. The total number of requests for the Division is higher.

Data Definition: International Training Requests: requests for training or participation in bilateral or multilateral efforts to improve other nations' counterterrorism efforts, particularly in regard to investigations, prosecutions, legislative drafting, relationship building and related matters.

Data Collection and Storage: Data collection and storage is manual.

Data Validation and Verification: Data validation and verification is accomplished via quarterly review by CTS Chief.

Data Limitations: None identified at this time.



Measure: Percentage of CT Cases Where Classified Information is Safeguarded (according to CIPA requirements) Without Impacting the Judicial Process

FY 2010 Target: 99%

FY 2010 Actual: 100%

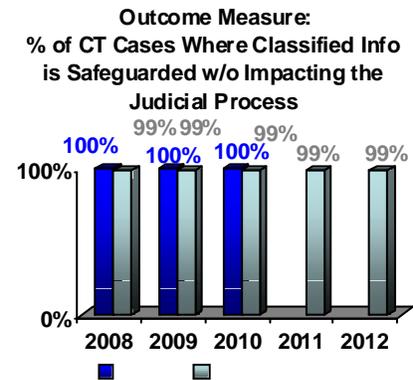
Discussion: No discussion required.

Data Definition: Classified information - information that has been determined by the United State Government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data as defined by the Atomic Energy Act of 1954. Safeguarded - that the confidentiality of the classified information is maintained because the Government has proposed redactions, substitutions or summarizations pursuant to CIPA which the Court has accepted. Impact on the judicial process - that the Court does not exclude certain evidence, dismiss particular counts of the indictment, or dismiss the indictment as a remedy for the Government's insistence that certain classified information not be disclosed at trial.

Data Collection and Storage: Data collection and storage is manual.

Data Validation and Verification: Data validation and verification is accomplished via quarterly review by CTS Chief.

Data Limitations: None identified at this time.



Counterespionage (CE) Performance Report

Measure: Percentage of CE Cases Favorably Resolved

FY 2010 Target: 90%

FY 2010 Actual: 94%

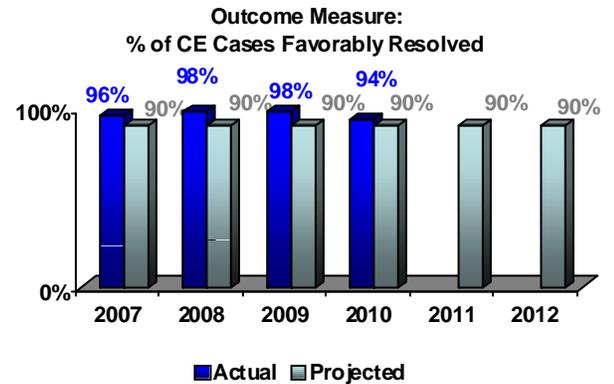
Discussion: No discussion required.

Data Definition: Cases Favorably Resolved include those cases closed during the fiscal year that resulted in court judgments favorable to the government.

Data Collection and Storage: Attorneys provide data which is stored in the ACTS database.

Data Validation and Verification: Quarterly review of database records and data updates from CES attorneys in order to insure that records are current and accurate.

Data Limitations: Reporting lags.



Select Recent Counterespionage Prosecutions:

Walter and Gwendolyn Myers Plead Guilty in 30-Year Cuba Espionage Conspiracy – (District of Columbia): In November 2009, Walter Kendall Meyers, a former State Department official, and his wife, Gwendolyn Meyers, pleaded guilty to federal charges stemming from their roles in a 30-year conspiracy to provide classified national defense information to the Republic of Cuba. Kendall Meyers pleaded guilty to one count of conspiracy to commit espionage and two counts of wire fraud, while his wife pleaded guilty to one count of conspiracy to gather and transmit national defense information. As part of his plea agreement, Kendal Myers agreed to serve a life prison sentence and to cooperate fully with the United States. Gwendolyn Myers agreed to serve a sentence of between six and seven and a half years in prison and to cooperate fully. In 1979, a Cuba intelligence officer recruited both of them to be clandestine agents, a role in which they served for the next 30 years. In April 2009, the FBI launched an undercover operation against the pair, during which the Myerses made a series of statements about their past activities on behalf of Cuban intelligence which the FBI was able to corroborate through other evidence gathered in the investigation, resulting in their arrest in June 2009.

Fondren Convicted of Providing Classified Information to Chinese Agent – (Eastern District of Virginia): In September 2009, James Wilbur Fondren Jr., a Pentagon official who served as the Deputy Director of the Washington Liaison Office, U.S. Pacific Command, was convicted by a federal jury in the Eastern District of Virginia on one charge of unlawfully communicating classified information to an agent of the People’s Republic of China (PRC) and two counts of making false statements to the FBI. From November 2004 to February 2008, Fondren provided certain classified Defense Department documents and other information to Tai Shen Kuo, an agent of the PRC who he was aware maintained a close relationship with an official of the PRC. Fondren provided classified information via “opinion papers” that he sold to Kuo. Fondren also provided Kuo with sensitive, but unclassified Defense Department publications. Fondren was

sentenced to 36 months in prison.

Nicholson Pleads Guilty to Conspiring to Serve as Russian Agent – (District of Oregon): In August 2009, Nathaniel J. Nicholson pleaded guilty to conspiracy to act as an agent of the Russian government and conspiracy to commit money laundering. Nathaniel’s father, Harold J. Nicholson, a former CIA employee, is serving a 283-month prison sentence for a 1997 conviction for conspiracy to commit espionage. According to a 2009 indictment charging both Harold and Nathaniel Nicholson, Harold Nicholson while in prison worked through his son to receive cash proceeds for his past espionage activities from agents of the Russian Federation between 2006 and 2008. In pleading guilty, Nathaniel Nicholson admitted that he met several times in prison with his father, who provided him directions regarding contact with Russian Federation agents. Nathaniel Nicholson admitted that he then met with Russian Federation agents outside the United States and received money that he later distributed to Nicholson family members as directed by his father. Nathaniel Nicholson admitted that the funds he received were proceeds from his father’s past espionage activities. Nathaniel Nicholson was sentenced to probation. Harold Nicholson pleaded guilty to conspiracy and was sentenced to an additional 8 years in prison.

“Russian Illegals” Plead Guilty to Conspiracy – (Southern District of New York): On June 27 and 29, 2010, eleven individuals were arrested on two complaints stemming from their long-term, “deep-cover” assignments in the United States on behalf of the Russian Federation. Vicky Pelaez and the defendants known as “Richard Murphy,” “Cynthia Murphy,” “Juan Lazaro,” “Michael Zottoli,” “Patricia Mills,” “Donald Howard Heathfield,” “Tracey Lee Ann Foley,” and “Christopher R. Metsos” were charged with conspiracy to act as unregistered agents of a foreign government and conspiracy to commit money laundering, in violation of 18 U.S.C. §§ 371 and 1956. Anna Chapman and Mikhail Semenko were charged via a separate complaint with conspiracy to act as unregistered agents of a foreign government, in violation of 18 U.S.C. § 371. On July 8, 2010, ten of these individuals pleaded guilty to conspiring to serve as unlawful agents of the Russian Federation within the United States. Under their plea agreements, the defendants were required to disclose their true identities and to forfeit certain assets attributable to the criminal offenses. The United States Government agreed to transfer these individuals to the custody of the Russian Federation; in exchange, the Russian Federation agreed to release four individuals incarcerated in Russia for alleged contact with Western intelligence agencies.

Gowadia Convicted of Providing Defense Information to PRC (District of Hawaii): On August 9, 2010, a federal jury found Noshir S. Gowadia guilty of five criminal offenses relating to his design for the People’s Republic of China (PRC) of a low-signature cruise missile exhaust system capable of rendering a PRC cruise missile resistant to detection by infrared missiles. The jury also convicted Gowadia of illegally communicating classified information on three other occasions and unlawfully exporting technical information on those three occasions, illegally retaining defense information, and filing false tax returns for the years 2001 and 2002. Gowadia was an engineer with Northrop Grumman Corporation from approximately 1968 to 1986, during which time he contributed to the development of the unique propulsion system and low-

observable capabilities of the B-2 Spirit bomber, a/k/a the “Stealth” bomber. From July 2003 to June 2005, Gowadia took six trips to the PRC and was paid at least \$110,000 to provide defense services in the form of design, test support, and test data analysis of technologies for the purpose of assisting the PRC with its cruise missile system by developing a stealthy exhaust nozzle. The jury convicted Gowadia of two specific transmissions of classified information: a PowerPoint presentation concerning the exhaust nozzle of a PRC cruise missile project and an evaluation of the effectiveness of a redesigned nozzle, and a computer file providing his signature prediction of a PRC cruise missile outfitted with his modified exhaust nozzle and associated predictions in relation to a U.S. air-to-air missile. Gowadia was sentenced to 32 years in prison.

Select Recent Counterproliferation Prosecutions:

Specialized Metals For Iranian Missile Program – (District of Columbia): In February 2011, an indictment returned on July 21, 2010, was unsealed charging Milad Jafari, an Iranian citizen and resident, with illegally exporting and attempting to export specialized metals from the United States through companies in Turkey to several entities in Iran -- including entities sanctioned for involvement in ballistic missile activities. The Treasury Department also designated Jafari, several of his family members, associates, and corporate entities in Iran and Turkey, under Executive Order 13382, which targets for sanctions the proliferators of weapons of mass destruction and their supporters – thereby isolating them from the U.S. financial and commercial systems. According to the Treasury designation, Jafari and his associates operate a procurement network that provides direct support to Iran’s missile program by securing metal products, including steel and aluminum alloys, for subordinates of Iran’s Aerospace Industries Organization. The indictment alleges that Jafari and others operated Macpar and STEP, businesses with locations in Istanbul and Tehran. From February 2004 through August 2007, Jafari and his conspirators solicited orders from customers in Iran and purchased goods from U.S. companies on behalf of these Iranian customers. Jafari and others allegedly wired money to the U.S. companies as payment, concealed from the U.S. companies the end-use of the goods, and caused the goods to be shipped to Turkey and later to Iran.

Radiation-Hardened Semiconductor Devices to China – (Western District of Washington): In December 2010, Lian Yang, a resident of Woodinville, Washington, was arrested pursuant to a criminal complaint charging him with conspiracy to violate the Arms Export Control Act. According to the complaint, Yang attempted to purchase and export from the United States to China 300 radiation-hardened, programmable semiconductor devices that are used in satellites and are also classified as defense articles under the U.S. Munitions List. The complaint alleges that Yang contemplated creating a shell company in the United States that would appear to be purchasing the parts, concealing the fact that the parts were to be shipped to China. Yang allegedly planned that false purchasing orders would be created indicating that parts that could be legally exported were being purchased, not restricted parts. Yang and his co-conspirators allegedly wire-transferred \$60,000 to undercover agents as partial payment for a sample of five devices. As part of the conspiracy, Yang allegedly negotiated a payment schedule with the

undercover agents for the purchase and delivery of the remaining 300 devices in exchange for a total of \$620,000.

Electronics Used in Military Radar & Electronic Warfare to China – (District of Massachusetts): In May 2010, Zhen Zhou Wu, Yufeng Wei and Chitron Electronics, Inc. were convicted at trial of conspiring to violate U.S. export laws over a period of ten years and illegally exporting defense articles and Commerce Department-controlled electronics equipment from the United States to China. The defendants illegally exported military electronic components that are primarily used in military phased array radar, electronic warfare, military guidance systems, and military satellite communications. Wu founded and controlled Chitron, with headquarters in Shenzhen, China and a U.S. office located in Waltham, Mass., where defendant Wei served as Manager. Wu and Chitron sold electronics from the U.S. to Chinese military factories and military research institutes, including numerous institutes of the China Electronics Technology Group Corporation, which is responsible for the procurement, development and manufacture of electronics for the Chinese military. Co-defendant Bo Li, aka Eric Lee, previously pled guilty to making false statements on shipping documents. Yufeng Wei was sentenced 36 months in prison, and Zhen Zhou Wu was sentenced to 97 months in prison. Their company, Chitron Electronics, Inc. was fined \$15.5 million.

U.S. Missile Components to Iran – (Southern District of Florida): In May 2010, Yi-Lan Chen, aka Kevin Chen, of Taiwan, and his Taiwan corporation, Landstar Tech Company Limited, pleaded guilty to a three-count criminal information charging them with illegally exporting dual-use commodities to Iran that have potential military applications. According to court documents in the case, customers in Iran affiliated with that nation's missile program sent orders by e-mail to Chen for specific goods. Chen then requested quotes, usually by e-mail, from U.S. businesses and made arrangements for the sale or shipment of the goods to one of several freight forwarders in Hong Kong and Taiwan. Once in Hong Kong or Taiwan, the goods were then shipped to Iran. Among the customers in Iran were buyers for Electro SANAM Industries, which has been linked to Iranian ballistic missile programs. Agents learned of Chen's efforts after he attempted to obtain and export to Iran some 2,000 detonators from a California company. Chen was sentenced to 42 months in prison.

U.S. Fighter Jet Engines and Parts to Iran – (Southern District of Alabama): In November 2009, Jacques Monsieur, a Belgian national and resident of France suspected of international arms dealing for decades, pleaded guilty in the Southern District of Alabama to conspiracy to illegally export F-5 fighter jet engines and parts from the United States to Iran. Monsieur was arrested on Aug. 28, 2009 after arriving in New York aboard a flight from Panama. During a series of e-mails and meetings in Paris and London with undercover federal agents, Monsieur requested engines and parts for the F-5 fighter jet for export to Iran. Monsieur allegedly requested that the items be routed through Colombia and the United Arab Emirates on their way to Iran. He also allegedly arranged for a wire transfer of \$110,000 as payment for F-5 fighter jet parts and indicated to undercover agents that a deposit of \$300,000 would be forthcoming as payment for two F-5 fighter jet engines. Monsieur was sentenced to 23 months in prison.

Measure: Percentage of CE Cases Where Classified Information is Safeguarded (according to CIPA requirements) Without Impacting the Judicial Process

FY 2010 Target: 99%

FY 2010 Actual: 100%

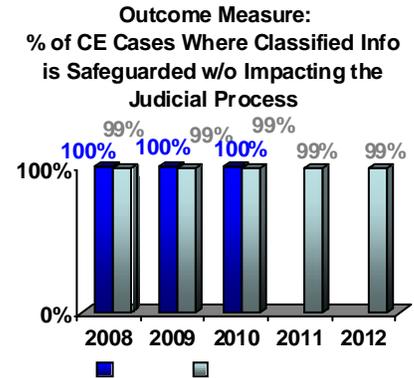
Discussion: No discussion required.

Data Definition: Classified information - information that has been determined by the United State Government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data as defined by the Atomic Energy Act of 1954. Safeguarded - that the confidentiality of the classified information is maintained because the Government has proposed redactions, substitutions or summarizations pursuant to CIPA which the Court has accepted. Impact on the judicial process - that the Court does not exclude certain evidence, dismiss particular counts of the indictment, or dismiss the indictment as a remedy for the Government's insistence that certain classified information not be disclosed at trial.

Data Collection and Storage: CES attorneys provide data concerning CIPA matters handled in their cases as well as the status or outcome of the matters, which we then enter into the ACTS database

Data Validation and Verification: Quarterly review of database records and data updates from CES attorneys in order to insure that records are current and accurate.

Data Limitations: Reporting lags.



Measure: Targeted FARA Inspections Completed

FY 2010 Target: 15

FY 2010 Actual: 15

Discussion: No discussion required.

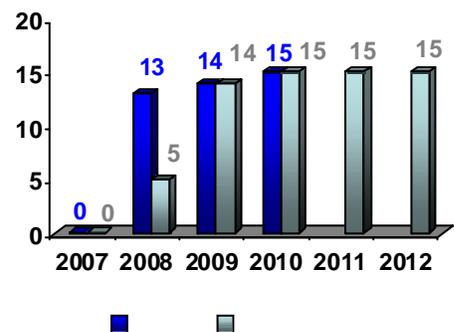
Data Definition: Targeted FARA Inspections are conducted routinely. There can also be additional inspections completed based on potential non-compliance issues. Inspections are just one tool used by the Unit to bring registrants into compliance with FARA.

Data Collection and Storage: Inspections reports are prepared by FARA Unit personnel and stored in manual files.

Data Validation and Verification: Inspections reports are reviewed by the FARA Unit Chief.

Data Limitations: None identified at this time

**Output Measure:
FARA Inspections Completed**



**Measure (discontinued beginning FY 2011):
Mitigation Monitoring Actions Completed**

FY 2010 Target: 120

FY 2010 Actual: 132

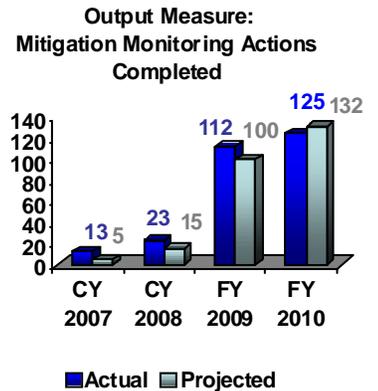
Discussion: This measure will be discontinued beginning in FY 2011. Mitigation Monitoring Actions Completed will be counted as a part High Priority National Security Reviews Completed.

Data Definition: A Mitigation Monitoring Action includes full site visits, review of documents and reports submitted pursuant to mitigation agreements, and other methods of monitoring to ensure compliance with mitigation agreements to which DOJ and/or FBI is a party. Mitigation monitoring traditionally covers CFIUS as well as mitigation requirements generated via DOJ application reviews of foreign acquisitions impacting FCC licensing matters.*
Data Collection and Storage: Data is collected manually and stored in generic files; however, the program manager is reviewing the possibility of utilizing a modified automated tracking system.

Data Validation and Verification: Data is validated and verified by the program manager.

Data Limitations: While data accuracy is not a concern, given the expanding nature of the program area – a more centralized data system is desired.

Note: Mitigation monitoring actions has a broader definition in 2009 and 2010 than in previous years, and therefore there is a significant increase in the number of targeted mitigation monitoring actions completed. In addition, data collection will be on a fiscal year basis beginning FY 2009. Therefore there will be some overlap in the data between CY 2008 and FY 2009.



Measure (new beginning FY 2011): High Priority National Security Reviews Completed

FY 2010 Target: 20

FY 2010 Actual: 28

Discussion: No discussion required.

Data Definition: High Priority National Security Reviews include (1) CFIUS case reviews of transactions in which DOJ is a co-lead agency in CFIUS due to the potential impact on DOJ equities; (2) CFIUS case reviews which result in a mitigation agreement to which DOJ is a signatory; (3) Team Telecom case reviews which result in a mitigation agreement to which DOJ is a signatory; and mitigation monitoring site visits.

Data Collection and Storage: Data is collected manually and stored in generic files; however, the program manager is reviewing the possibility of utilizing a modified automated tracking system.

Data Validation and Verification: Data is validated and verified by the program manager.

Data Limitations: While data accuracy is not a concern, given the expanding nature of the program area – a more centralized data system is desired.



V. Program Increases by Item

A. Counterterrorism Investigation and Prosecution

Item Name: Counterterrorism Investigation and Prosecution

Budget Decision Unit: National Security Division

Strategic Goal & Objective: 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States.

Organizational Program: Counterterrorism Section

Component Ranking: 1

Program Increase: Positions 2 Atty 1 FTE 1 Dollars \$273,578

Description of Item

This request provides 2 additional positions to the Counterterrorism Section (CTS) which includes 1 attorney and 1 paralegal position.

Justification

The Counterterrorism Section requests one paralegal position to support our increase in investigative and prosecutorial capabilities in order to more effectively identify, track, and prevent terrorist cells from operating in the U.S. and overseas; to further develop and maintain a cadre of terrorism expert prosecutors; and to enhance information sharing and coordination with federal, State, local and foreign partners, consistent with the Attorney General's priorities. Protecting our Nation by preventing future acts of terrorism remains the Department's number one priority, and CTS directs all its resources to achieve this goal. Terrorists increasingly use advances in technology, use of the internet, and compartmented cells to recruit, radicalize, raise funds, train, plan, communicate, and carry out terrorist acts requiring us to enhance our capabilities so that we can adequately staff increasingly sophisticated and complex investigations and prosecutions and keep pace with current and future workloads. Additionally, CTS requests one attorney position to devote to a new Cold Case initiative to review its unsolved acts of international terrorism.

Attorney

CTS is requesting one attorney to support a new Cold Case initiative to review its unsolved acts of international terrorism. In conjunction with the Office of Justice for Victims of Overseas Terrorism, whose mission it is to keep international cases a high priority within the Department of Justice, this attorney will work with the FBI to facilitate the investigation of identified cases. This attorney will serve as the facilitator coordinating a working group to identify and bring

these cases to the forefront.

Paralegal Specialist

The current paralegal team is extremely pressed in providing adequate support to its complex and resource intensive terrorism investigations and prosecutions. These cases are characterized by mountains of documents which require significant expenditures for litigation support as well as teams of attorneys and support staff to properly organize, review and analyze investigative materials. We must continue to augment our resources so that we can properly staff the growing number of complex cases which CTS handles, with each case frequently requiring two to four attorneys plus multiple support staff. We are requesting an additional paralegal to support the increase in the number and complexity of terrorism prosecutions. This paralegal will be integrated into the litigation teams and assist the terrorism prosecutors in conducting factual and legal research, organizing case and discovery material, utilizing litigation support document and database management systems, assisting in trial preparation, and fulfilling numerous other litigation support tasks.

Many U.S. Attorneys Offices are unable to meet the resource demands of new cases, and CTS increasingly must augment U.S. Attorney Office staffing, share the cost of litigation, and/or assume sole responsibility for these cases. Many complex terrorism cases require extraordinary litigation effort and costs which cannot be shouldered by the U.S. Attorneys Offices alone. Automated litigation support, which encompasses a wide range of professional services and products that help our terrorism prosecutors acquire, organize, produce and present evidence throughout the course of litigation is essential in these cases. The services included document discovery, imaging, optical character recognition, database creation and utilization, and various pre-trial and trial support tasks including exhibit management and courtroom presentations. In addition, these specialized professional services include professional language translation and interpretation services, jury consultants and expert witness support.

Fulfilling our FOIA obligations continues to be a priority in the Section. By having an additional paralegal specialist on board, we will be able to more timely respond to the numerous FOIA requests.

Impact on Performance

The request for resources for CTS relates directly to the Department's highest priority: Prevent Terrorism and Promote the Nation's Security. Additional CTS resources will enable attorneys and support staff to more effectively identify, track, and prevent terrorist cells from operating in the United States and overseas. These additional resources will also allow CTS to enhance its efforts to combat the increasing use of advanced technology, particularly the internet, by terrorist organizations.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)
71	53	71	\$13,987	71	53	71	\$13,937	71	53	71	\$14,092

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Reduced	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012) (\$000)
Attorney (GS-15)	\$171	1	\$171	\$70
Paralegal (GS-9)	103	1	103	17
Total Personnel	\$274	2	\$274	\$87

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012) (\$000)
Total Non-Personnel			\$0	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (change from 2012) (\$000)
Current Services	71	53	71	\$14,092	\$0	\$14,092	\$14,092
Increases	2	1	1	274	0	274	87
Grand Total	73	54	72	\$14,366	\$0	\$14,366	\$14,179

B. Export Enforcement and Counterespionage Prosecution

Item Name: Export Enforcement and Counterespionage Prosecution

Budget Decision Unit: National Security Division

Strategic Goal & Objective: Prosecute those who have committed, or intend to commit, export enforcement violations and/or espionage.

Organizational Program: Counterespionage Section

Component Ranking: 2

Program Increase: Positions 2 Attorney 1 FTE 1 Dollars \$297,820

Description of Item

This request would provide one attorney and one intelligence research specialist to NSD's Counterespionage Section to support a classified multi-agency initiative that currently does not have any devoted positions.

Justification

As part of a classified multi-agency initiative supported by the National Security Council, NSD's Counterespionage Section (CES) is requesting one attorney and one intelligence research specialist to strengthen its investigative and prosecutorial capabilities to more effectively identify, track, prevent, and prosecute export enforcement violations and acts of espionage. Keeping U.S. weapons technology and other restricted materials from falling into the hands of hostile foreign states, terrorist organizations, and criminal groups to protect the U.S., its allies, U.S. troops overseas, and Americans at home is a top counterintelligence priority of the Department of Justice. The increasingly complex methodology used by individuals to illegally export controlled technology requires CES to enhance its prosecutorial capabilities so that it can adequately staff and support increasingly sophisticated and complex investigations and prosecutions and keep pace with current and future workloads.

Prosecutorial and Investigative Resources

CES is requesting additional resources to help coordinate export and espionage investigations and prosecutions that result from a classified multi-agency initiative supported by the National Security Council. The agencies participating in this initiative have coordinated to request resources that will complement the intelligence and law enforcement goals of the group. As part of the law enforcement request, the FBI, Department of Commerce, Drug Enforcement Agency, Department of Defense, and other agencies are hiring agents and intelligence analysts.

The requested CES attorney will be responsible for providing guidance and assistance to United States Attorneys' Offices on charging strategy, declassification of intelligence information, discovery, motion practice, and litigation. More specifically, the CES attorney will focus on more complex and resource-intensive export and espionage investigations that are often characterized by technology being sent through multiple countries, and the use of foreign front companies to disguise the end-user and end-use of controlled technology. Such work may involve requests for discovery or other information pursuant to Mutual Legal Assistance Treaties, work with foreign law enforcement and prosecution offices, and coordination with multiple Washington, D.C.-based DOJ offices. The CES attorney will be best suited to assist Assistant United States Attorneys (AUSAs) by coordinating these efforts in Washington D.C. based on CES's location and frequent interaction with these DOJ offices.

The CES attorney will also be able to provide advice and support on dealing with the increasing use of modern communication and information technology exporters use to communicate with manufacturers, make purchases, and create front companies. Current internet applications – including chat rooms, instant messaging and e-mail – along with its multimedia capabilities – including audio and video streaming, blogs and newsrooms – are accessible at a low cost and therefore facilitate these illegal exports. With additional resources, CES will develop the in-house expertise to investigate and prosecute abuses of modern technologies to track and hopefully prevent illegal exports through targeted investigations and prosecutions.

Finally, the CES attorney will be the DOJ representative to the classified multi-agency coordination working-group meetings. These meetings will allow the attorney to receive frequent updates on new intelligence, and also provide a forum for the CES attorney to update other members of the group on investigations and prosecutions that may impact other criminal or intelligence investigations.

Intelligence Specialist

CES requests an intelligence specialist to balance its prosecutorial responsibilities with its increased intelligence obligations to support the classified multi-agency initiative. The intelligence specialist will help track export cases around the country to identify trends in technology procurement by country, trans-shipment points, cover-companies, and end-use. The intelligence specialist will also help AUSAs with similar cases around the country connect and provide support that may not be available to AUSAs in small districts.

In addition to supporting and tracking investigations and prosecutions, the intelligence specialist will also review and analyze large amounts of intelligence data and financial records produced by other agencies that relate to current investigations to ensure coordination in the event of overlapping intelligence and criminal investigations. The intelligence specialist will serve as the initial point of contact for intelligence material and will establish lines of communication with the reporting agencies to obtain supplemental information when needed. The intelligence specialist will generate meaningful intelligence summaries, create link analyses, and cull

information in reports that highlight items of particular significance to matters within CES. The intelligence specialist will also be responsible for entering intelligence gleaned in investigations and debriefings into classified databases to support the classified multi-agency initiative. This research will enable CES to be proactive in developing leads, investigative plans, and strategies in close coordination with investigative agents and AUSAs.

In addition, the intelligence specialist in CES will provide national guidance to intelligence specialists located in the U.S. Attorneys' Offices.

Impact on Performance

As described above, the requested resources will be applied to investigating export and espionage cases as part of a classified multi-agency initiative supported by the National Security Council. Further, the request relates directly to one of the Department's highest priorities: keeping U.S. weapons technology and other restricted materials from falling into the hands of hostile foreign states, terrorist organizations, and criminal groups to protect the U.S., its allies, U.S. troops overseas, and Americans at home. In support of this initiative, and the Department's goals, it is imperative that CES be able to meet the needs of the AUSAs and investigative agencies around the country. With the additional requested resources, CES will be able to better manage cases on a national level, and assist AUSAs around the country to more effectively identify, track, and prevent illegal exports from the United States and prosecute export enforcement and espionage cases. These resources will also allow CES to enhance its efforts to combat the increasing use of advanced technology, particularly the internet, by exporters.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
32	21	32	\$6,699	32	21	32	\$6,699	32	21	32	\$6,750

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012) (\$000)
Attorney (GS-15)	\$171	1	\$171	\$70
Intelligence Research Specialist (GS-13)	127	1	127	48
Total Personnel	\$298	2	\$298	\$118

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Total Non-Personnel			\$0	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	32	21	32	\$6,750	\$0	\$6,750	\$6,750
Increases	2	1	1	298	0	298	118
Grand Total	34	22	33	\$6,890	\$0	\$6,890	\$6,868

C. International Terrorism/National Security Law and Policy

Item Name: International Terrorism/National Security Law and Policy

Budget Decision Unit: National Security Division (NSD)

Strategic Goals & Objectives: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur; and
1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents.

Organizational Program: Law and Policy Section

Component Ranking: 3

Program Increase: Positions 1 Atty 0 FTE 1 Dollars \$157,000

Description of Item

This request provides one intelligence research specialist to NSD's Law and Policy Section (L&P) to support the new international program. This position will also be available for other work in Law and Policy as required.

Justification

The NSD's Law and Policy Section requests certain targeted staff positions to support the efforts of its attorneys to establish and strengthen our international partnerships in order to further our national security interests, including but not limited to our counterterrorism activities. Protecting our Nation by preventing future acts of terrorism remains the Department's number one priority and L&P provides a unique capability to achieve this goal and to support the efforts of other components of the Department in their respective spheres of operation. The L&P attorneys are becoming subject matter experts in the legal systems of our key partner nations in order to aid those nations in the prosecution of cases that affect the national security of the United States. In order to effectively accomplish this goal, the L&P attorneys need assistance in accessing the numerous intelligence databases and require support staff to prepare the necessary briefing materials related to the international program.

The sophistication and ingenuity of terrorists in operating in the international environment and exploiting the complexities of disparate legal systems and security regimes has been clearly demonstrated. Bilateral and multilateral engagements and, even more important, long term relationships with international law enforcement, security, prosecutorial, and judicial partners are essential elements in the Department's efforts to prevent terrorist acts and prosecute those responsible for such crimes when they do occur. The minimal staff support requested will allow

L&P's attorneys to maximize their efforts in establishing and enhancing such relationships, as well as provide direct support to U.S. Attorneys Offices and other components of the Department when operating in the international realm.

Intelligence Research Specialist

L&P requests one intelligence research specialist to support its attorneys, each of whom is assigned one or more countries, regions, geographic, or substantive areas of responsibility. In today's threat environment, having the right information at the right time is essential to protecting national security. The intelligence research specialist will review and cull the vast amounts of intelligence data available from the U.S. Intelligence Community (USIC) as well as search broader counterterrorism and law enforcement-related materials necessary to build and maintain the NSD's specialized knowledge base and facilitate its information exchanges with its foreign partners. Since few attorneys are trained intelligence professionals, it is not efficient nor a prudent use of attorney-time to have each L&P attorney searching the vast amounts of information generated by the USIC. By more efficiently assembling the necessary materials, the work of the intelligence research specialist will enable L&P attorneys to focus on relationships with international partners and allow NSD to be proactive in developing the policies which must accompany such relationships.

In addition, materials assembled by the intelligence research specialist will contribute to population of the NSD's International Matters Database. This database is expected to be made broadly available to U.S. Government personnel with access to SECRET-level electronic systems, including all U.S. Attorneys Offices and all Department attorneys, whether located within the United States or deployed abroad.

The Database is intended to provide in one easily-accessible location all of the essential information a Department attorney would need to know regarding the criminal justice regimes of various countries. Initially, population of the database will focus on those countries with the greatest nexus to U.S. counterterrorism efforts and eventually encompass all countries with which the United States might have to deal on terrorism-related matters. Intelligence-derived information relating to a country's criminal justice system, *e.g.*, prevalence of corruption or external control by political elements within the country, is as essential for pre-engagement planning and management of expectations for prosecutors seeking assistance or cooperation from a foreign legal regime as is intelligence relating to specific terrorists and their operations within a country. Culling through the vast amount of information generated by the USIC for such information is uniquely appropriate for the type of intelligence specialist L&P is requesting.

The L&P intelligence specialist will not duplicate but, rather, will compliment the two intelligence specialists now assigned to NSD's Counterterrorism Section (CTS) who support NSD's prosecutorial efforts by developing case-specific leads, investigative plans and strategies in close coordination with investigative agents and terrorism prosecutors. L&P already supports CTS and the enhanced international relationships which L&P is developing will further that

combined effort. The requested L&P intelligence analyst, while directly supporting L&P's relationships building and policy development, from which CTS will benefit, will also be available to augment CTS' own analysts during those unpredictable but inevitable crises which accompany each up-tick in terrorist activity.

Impact on Performance

As described above, the request for resources for L&P relates directly to the Department's highest priority: Prevent Terrorism and Promote the Nation's Security. Additional L&P resources will enable attorneys to more effectively engage with our international partners and enhance the assistance and cooperation which is essential to the worldwide counterterrorism effort. The additional resources will also allow L&P to enhance its support to U.S. Attorneys Offices as well as the Department's attorneys, both stateside and abroad, with valuable information essential to pre-engagement planning and development of long term relationships with our justice sector counterparts abroad.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
26	23	26	\$3,668	26	23	26	\$3,668	26	23	26	\$3,696

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012) (\$000)
Intelligence Research Specialist (GS-14)	157	1	157	78
Total Personnel	\$157	1	\$157	\$78

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Total Non-Personnel			\$0	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	26	23	26	\$3,696	\$0	\$3,696	\$3,696
Increases	1	0	1	157	0	157	78
Grand Total	27	23	27	\$3,812	\$0	\$3,812	\$3,774

VI. Program Offsets by Item

A. Contractor Efficiencies

Item Name: Contractor Efficiencies

Budget Decision Unit: National Security Division

Strategic Goal: Goal 1: Prevent Terrorism and Promote the Nation's Security

Component Ranking of Item: NA

Program Reduction: Positions 13 Atty 0 FTE 7 Dollars (\$1,190,000)

Description of Item

The NSD proposes to offset FY 2012 enhancement requests by converting onboard contractors to government positions. Replacement of 13 contractors with government employees would result in a cost savings of \$1.19 million. The conversion will include information technology, office and administration, security, and program and analytical support positions.

The Office of Management and Budget memorandum, Improving Government Contracting (M-09-25), dated July 29, 2009, called upon federal agencies to review existing contracts and acquisition practices. NSD performed an evaluation of contractor usage and determined that cost saving could be realized through insourcing. Converting contractor positions to government positions will afford an offset for NSD's FY 2012 budget request and help to support the Department's efficiencies initiatives outlined in the Attorney General's memorandum, Department of Justice Savings and Efficiencies, dated June 4, 2009.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

Non-Personnel Offset Cost Summary

Non-Personnel Item	Unit Cost (\$000)	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Contractor Offset	(\$1,190)	1	(\$1,190)	\$0
Total Non-Personnel	(\$1,190)	1	(\$1,190)	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	
Offsets	13	0	7	0	(1,190)	(1,190)	
Grand Total	13	0	7	\$0	(\$1,190)	(\$1,190)	

B. Foreign Agents Registration Act Fee Increase

Item Name: Foreign Agents Registration Act Fee Increase

Budget Decision Unit: National Security Division

Strategic Goal & Objective: Prosecute those who have committed, or intend to commit, export enforcement violations and/or espionage.

Organizational Program: Counterespionage Section

Component Ranking of Item: NA

Program Reduction: Positions 0 Atty 0 FTE 0 Dollars (\$157,470)

Description of Item

NSD proposes an offset provided by an increase in the registration fees that are collected by the Foreign Agents Registration Act (FARA) Unit.

Justification

Under the Foreign Agents Registration Act, as amended, 22 U.S.C. §§ 611 *et seq.* (FARA), certain agents of foreign governments and other foreign principals are required to register with the Department of Justice. This registration process requires the NSD's FARA Unit to perform services that serve as sources of revenue to recoup the Unit's operating costs. The NSD manages a FARA Unit Fees Account for that purpose. Public Law 102-395 (Oct. 6, 1992) authorizes the Attorney General to set and collect fees sufficient to recover the costs of administering the FARA operation. Under FARA, certain agents of foreign principals engaged in nonexempt registerable activity are required to register with the Department of Justice. These registrants are charged a filing fee for certain documents that they are required to file. These include the Exhibit A form and the supplemental registration statement. The Assistant Attorney General for National Security has the authority to adjust these fees from time to time to recover these FARA Unit operating costs. 28 C.F.R. Part 5 contains the current rates. Part (d) of 28 C.F.R. Part 5 gives the Assistant Attorney General, NSD the authority to adjust FARA fees. To implement the increase, NSD will amend 28 C.F.R. Part 5 to reflect the new rates.

To accurately capture the FARA Unit's costs of operation, a detailed operating budget was constructed. The direct costs (salaries, benefits, supplies, etc.) were identified for each of the services and the indirect costs (space, communications, etc.) were applied to each service based on the percentage of time the FARA Unit normally spends in providing that service. Once completed, the budget identified the appropriate user fee charges for each of the services

rendered by the FARA Unit. On August 11, 1993, the following rates became effective (see 28 CFR Part 5.5):

- Exhibit A Forms: \$305 per foreign principal not currently reported; and
- Supplemental registration statements: \$305 per foreign principal represented at any time during the six month reporting period.

The current rate structure is not adequate to cover the costs of the FARA Unit as required under Public Law 102-395. The passage of the Lobbying Disclosure Act (LDA) in 1995 caused a reduction in the number of registrants and foreign principals (registrants that used to be required to disclose their activities under FARA now fell under LDA and were no longer required to report to the Justice Department). The current rate structure created seventeen years ago in 1993 was based on a higher number of registrants as well as the operating expenses of that time.

The NSD proposes to increase the filing fee for Exhibit A forms from \$305 to \$450 each, as well as increase the filing fee for each foreign principal represented on a six month supplemental statement from \$305 to \$450 each.

The historical average of Exhibit A filings from FY 2005–FY 2009 is 160, and the historical average of supplemental filings for the same time period is 463. The increased fee would result in a realized cost savings of \$157,470. A chart showing this methodology is below.

FARA Registration History		
Fiscal Year	Foreign Principals	New Foreign Principals
	(supplemental filings – every 6 months)	(initial filings)
2005	484	160
2006	460	173
2007	451	152
2008	453	154
2009	468	161
Avg 2005-2009	463	160

	Fee	Registrants	Dollars
<u>Current Structure</u>			
Initial Filing	\$305	160	\$ 48,800
Supplemental Filing	\$305	463	\$282,430
		<i>Income</i>	\$331,230
<u>Proposed Structure</u>			
Initial Filing	\$450	60	\$ 72,000
Supplemental Filing	\$450	463	\$416,700
		<i>Income</i>	\$488,700
		Savings	\$157,470

Impact on Performance

An increase in the fee from \$305 per form to \$450 per filing will better allow the FARA unit to cover its costs as required under Public Law 102-395.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

Non-Personnel Offset Cost Summary

Non-Personnel Item	Unit Cost (\$000)	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Increase of Registration Fee Offset	(\$158)	1	(\$158)	\$0
Total Non-Personnel	(\$158)	1	(\$158)	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	
Offsets	0	0	0	0	(158)	(158)	
Grand Total	0	0	0	\$0	(\$158)	(\$158)	

C. Administrative Efficiencies

Item Name: **Administrative Efficiencies**

Budget Decision Unit: National Security Division

Strategic Goal: Goal 1: Prevent Terrorism and Promote the Nation's Security

Component Ranking of Item: NA

Program Reduction: Positions 0 Atty 0 FTE 0 Dollars (\$59,000)

Description of Item

The Department is continually evaluating its programs and operations with the goal of achieving across-the-board economies of scale that result in increased efficiencies and cost savings. In FY 2012, the Department is focusing on areas in which savings can be achieved, which includes: printing, publications, travel, conferences, supplies, and general equipment. For NSD, these administrative efficiencies will result in an offset of \$59,000.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

Non-Personnel Offset Cost Summary

Non-Personnel Item	Unit Cost (\$000)	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Technology Refresh	(\$59)	1	(\$59)	\$0
Total Non-Personnel	(\$59)	1	(\$59)	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	
Offsets	0	0	0	0	(59)	(59)	
Grand Total	0	0	0	\$0	(\$59)	(\$59)	

D. Technology Refresh

Item Name: Technology Refresh

Budget Decision Unit: National Security Division

Strategic Goal: Goal 1: Prevent Terrorism and Promote the Nation's Security

Component Ranking of Item: NA

Program Reduction: Positions 0 Atty 0 FTE 0 Dollars (\$41,000)

Description of Item

As desktops and laptops are used primarily for basic office automation applications (e.g., spreadsheets and word processing), replacing this inventory at a slower rate is expected to have minimal impact on Department operations. In FY 2012, the Department is proposing to extend the refresh rate of all desktops and laptops by one year, resulting in an offset of \$41,000 for the NSD.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

Non-Personnel Offset Cost Summary

Non-Personnel Item	Unit Cost (\$000)	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Technology Refresh	(\$41)	1	(\$41)	\$0
Total Non-Personnel	(\$41)	1	(\$41)	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2013 Net Annualization (Change from 2012) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	
Offsets	0	0	0	0	(41)	(41)	
Grand Total	0	0	0	\$0	(\$41)	(\$41)	

VII. Exhibits