

**TREASURY AND GENERAL GOVERNMENT  
APPROPRIATIONS FOR FISCAL YEAR 2003**

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**HEARINGS**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE  
ONE HUNDRED SEVENTH CONGRESS  
SECOND SESSION

ON

**H.R. 5120/S. 2740**

AN ACT MAKING APPROPRIATIONS FOR THE TREASURY DEPARTMENT,  
THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF  
THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2003, AND FOR OTHER PUR-  
POSES

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**Department of the Treasury  
Executive Office of the President**

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# CONTENTS

THURSDAY, MARCH 14, 2002

	Page
Department of the Treasury: Office of the Secretary .....	1

WEDNESDAY, MARCH 20, 2002

Executive Office of the President: Office of Management and Budget .....	53
--	----

WEDNESDAY, APRIL 17, 2002

Department of the Treasury: Office of Enforcement .....	95
U.S. Secret Service .....	112
Bureau of Alcohol, Tobacco and Firearms .....	126
Financial Crimes Enforcement Network .....	143
Federal Law Enforcement Training Center .....	152

THURSDAY, APRIL 18, 2002

Department of the Treasury: U.S. Customs Service .....	193
--	-----

WEDNESDAY, APRIL 24, 2002

Executive Office of the President: Office of National Drug Control Policy .....	237
---	-----

WEDNESDAY, MAY 15, 2002

Department of the Treasury: Internal Revenue Service .....	293
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# **TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2003**

**THURSDAY, MARCH 14, 2002**

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

The subcommittee met at 2:21 p.m., in room SD-138, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan and Reed.

## **DEPARTMENT OF THE TREASURY**

**OFFICE OF THE SECRETARY**

**STATEMENT OF HON. PAUL H. O'NEILL, SECRETARY  
ACCOMPANIED BY EDWARD KINGMAN, ASSISTANT SECRETARY FOR  
MANAGEMENT AND CHIEF FINANCIAL OFFICER**

### **OPENING REMARKS**

Senator DORGAN. The hearing will come to order. First, let me apologize to the Secretary. We had a vote that is still underway and we were delayed. Some of my colleagues will be here shortly, but I want to begin the hearing knowing that your time requirements are tight. We thank you, Mr. Secretary, for joining us today. This is the hearing of the Subcommittee on Treasury and General Government Appropriations subcommittee to talk about funding for those functions that exist in your agency.

Let me make just a couple of brief comments. I will put my entire statement in the record and then we will hear from you, Mr. Secretary, and have some questions. This hearing kickoff the subcommittee's series of hearings on President Bush's Fiscal Year 2003 budget request for the Treasury Department and other agencies under our jurisdiction.

To no one's surprise, this is going to be a very difficult budget year. The anticipated budget surpluses have vanished and our resources are stretched thin. We have had an economic slowdown, a recession of sorts. We are not sure how deep and whether we are completely out of that recession, but we also face a war against terrorism, both at home and abroad. So things have changed dramatically since the last time we met.

The Treasury Department is a key player in all of these activities. At a hearing 2 years ago I held up an orange rubber cone and talked about northern border security and the fact that at many

ports of entry on the northern border that rubber cone represented America's security after 10:00 at night. I proposed early last year a northern border initiative and included \$25 million in the budget to deal with that.

September 11, of course, intervened and we not only provided that \$25 million but also additional funding. That was made available for the Customs Service, the Border Patrol, and the INS. So we have had a lot to do with respect to the issue of border security. Mr. Secretary, you and I have had some meetings about the issue of the Customs Service and border security and the level of staffing that is required. I think that we on this subcommittee want to work with you to reach the right result in all of those areas.

One of the things that concerns me about this budget request, and we will want to talk about at some length today, is the Customs Service budget which relies in part, on a \$250 million fee. That fee to deal with the issue of ACE and other related issues, in many ways, is a substitute for a tax increase. Congress has rejected similar fees on previous occasions and will again this year likely reject it. So the question is, if that funding mechanism is not approved, what will be the method by which we fund these issues?

I am going to talk a little today, Mr. Secretary, in my questions about the issue of tax shelter abuses and the amount of resources you believe we ought to provide to combat that because I fear that what we have is a proliferation of tax shelter abuses. Having chaired some of the Enron hearings and knowing that hundreds of their subsidiaries have been run out of one post office box in the Cayman Islands, I am very concerned about what has been happening with respect to these tax shelter abuses. There have been some announcements by the Treasury Department that have concerned me so I want to talk about that.

I think accounting firms, lawyers, and others have become very aggressive in trying to find ways for their clients to avoid taxes. In fact overly aggressive in my opinion that requires us to provide the resources necessary to try to thwart this kind of activity so that those big institutions can begin to pay their fair share of the cost of Government for America as well. So I want to talk a little about that today.

I want to congratulate you, Mr. Secretary, on another matter, for your willingness to take a good look at the issue of debt relief and development in the Third World. Yesterday, Mr. Bono of U2 came by. He has met with many people in this town. He has a great passion, of course, for these issues, and he spoke very highly of your focus and the discussions apparently you have had. He is a very articulate and interesting person.

I understand that you are going to be in Africa in May taking a look at some of these issues dealing with the plague of AIDS in Africa, which is also something this country has to be greatly concerned about.

#### PREPARED STATEMENT

So with that as a brief introduction, let me ask Senator Reed if he has some introductory comments and then we will hear from the Secretary.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

Welcome Mr. Secretary. We are pleased that you are here today to kick-off this Subcommittee's series of hearings on President Bush's fiscal year 2003 budget request for the Treasury Department and other agencies under our jurisdiction.

To no one's surprise this will be a difficult budget year. The anticipated budget surpluses have vanished and our resources are stretched thin by the war against terrorism both at home and abroad.

The Treasury Department is a key player in this war.

At a subcommittee hearing 2 years ago, I held up an orange rubber traffic cone and stated that the cone was our nighttime guardian at far too many ports of entry along our northern border. I used the orange cone to illustrate a chronic lack of attention to security resources on that 4,000 mile long border. The attempted incursion by Rexam—the so-called Millennium bomber—at a border crossing in Washington State 2 years ago served as a wake-up call. The tragic events of September 11 brought the needs of our northern border into clear focus.

I am pleased that the Administration has listened to the concerns of northern border Members and others regarding the need for additional resources along this vast frontier. Indeed, page 21 of the President's budget document has a color photo of a northern border point of entry patrolled by orange cones.

I think we can jointly state today that the era of the orange traffic cone is over.

It took us awhile to get to this point, however.

You and I had a difference of opinion about the need for the Customs Service to have additional people and resources post September 11. I understand your belief that a business case must be made before dumping more money on a given program. But I suggest that law enforcement requirements should be justified differently than those for office supplies or computer systems. I do not think you can make a sound "business" case for placing two law enforcement officers at non-24 hour ports-of-entry which have fewer than 50 cars entering the country on a given day. But you certainly can make a strong "national security" case for the enhanced presence of those law enforcement personnel.

That said, I think we can agree that the resources the Congress provided to the Customs Service in December appear to be well targeted. And I agree that it probably makes sense for us to pause this year and allow Customs to hire the new personnel and get the new technology in place before we attempt to add additional resources.

But it seems to me that the message still may not be getting through. Your budget request to fund a significant portion of the Customs Service budget relies on a \$250 million tax increase. Yes—it is couched as a "user fee"—but that is merely a tax increase under a different name. When the last Administration tried to fund part of Customs operations using this increase, Congress did not go along. I doubt that we will this time. But times have changed since then. We face a war against terrorism at home. Customs and Treasury are key players in this war. The Defense Department and Justice Department are budgeted for significant, "hard dollar" increases. Yet we appear to be playing budgetary games with the Customs Service. To me, this demonstrates a lack of seriousness on the part of the Treasury Department when it comes to the war on terrorism which I will want to further explore with you when we get to the questions.

Mr. Secretary, I will also want to focus my questions on the Administration's apparent lack of zeal when it comes to pursuing tax shelter abuses. If you need additional resources to combat the war on terrorism, I suggest you and your staff review this policy. The last Administration aggressively started this process, yet you and your team have changed course. For instance, I have read that Enron was able to operate more than 600 firms through one post office box in the Cayman Islands. Cracking down on this tax avoidance is one way to find the funds to fight the war while at the same time ensuring a level of tax fairness for the American taxpayer.

Finally, on the issue of appropriate staffing and policy direction when operating within limited budgets, I want to get into the targeting of your Department's limited resources. Specifically, I want to address the aggressive pursuit of U.S. citizens traveling to Cuba by the Office of Foreign Assets Control instead of the aggressive pursuit of foreign terrorists' assets.

We welcome you here this afternoon and look forward to your testimony. But first, let me turn to my Ranking Member, Senator Campbell, for any remarks he wishes to make.

## STATEMENT OF SENATOR JACK REED

Senator REED. Thank you, Mr. Chairman, and thank you, Mr. Secretary. Welcome. We appreciate your appearance this afternoon. We all understand the challenges this year in the budget because of many factors, not the least of which is the September 11 attack and its aftermath.

## PREPARED STATEMENT

Indeed, that attack has underscored the many law enforcement responsibilities that the Department of Treasury has. I know that there has been some increases particularly in those areas, but I would suspect that we still have significant challenges facing IRS and Customs modernization, also bringing online and increasing the Financial Crimes Enforcement Network. There is a host of other issues that I would like to deal with in my questions, but thank you very much, Mr. Secretary, for joining us this afternoon. [The statement follows:]

## PREPARED STATEMENT OF SENATOR JACK REED

Thank you Mr. Chairman. I appreciate the appearance of Secretary O'Neill before the Subcommittee this afternoon, so that we may get a better picture of what the Administration believes are its priorities for the coming year at the Treasury Department.

I recognize the tightness of budgets this year, and I appreciate that the Department does have an overall increase, particularly in homeland defense areas. It is critical that we increase our efforts at protecting our borders through Customs, as well as aggressively go after financial terrorist infrastructures through the Financial Crimes Enforcement Network (FinCen), and just as important, prevent terrorists from gaining access to firearms.

However, I believe that we probably still have many areas where there are a lack of increases, which are critical to other domestic needs. This includes continued IRS and Customs modernization projects. In addition, I do have several other issues that I would like to pursue with the Secretary.

Senator DORGAN. Mr. Secretary, you may proceed. We will include your entire statement as a part of the record. You may summarize. And if you would introduce your colleague as well we would appreciate it.

## STATEMENT OF SECRETARY PAUL O'NEILL

Secretary O'NEILL. With me today is Assistant Secretary Kingman. I am happy for him to be here. I am happy for him to be on board. He is a very talented individual. He has had years of progressively responsible experience in the private sector. I think he is on his way to making a great contribution in the public sector as well.

Mr. Chairman, and Senator Reed, thank you very much for inviting us here today to testify on the budget. I would like to insert my full statement, as you suggest, in the record and then I will make an abbreviated statement just for openers.

In the year since I spoke to this subcommittee the world has changed. The change is very evident at the U.S. Treasury where we are center stage for some of the toughest challenges facing our country. Treasury's top three priorities are familiar to every American. First, we are responsible for implementing the President's do-



mestic and international economic security agenda, creating jobs at home and boosting economic growth abroad.

Second, Treasury is securing our homeland through the work of the U.S. Customs Service, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and the Federal Law Enforcement Training Center.

Third, the Treasury is leading the financial war on terrorism. We have already blocked more than \$34 million in terrorist assets and our allies around the world have blocked more than \$70 million.

I know that this committee appreciates the importance of these tasks and in a moment I will highlight six critical budget items that we need most to achieve our objectives for the year. But I would first like to comment on our efforts to make Treasury a world-class organization because my top priority as Secretary of the Treasury is to lead this organization to excellence.

A world-class organization treats all of its people with dignity and respect, gives them the tools to do meaningful work, and recognizes them for their accomplishments. It sets goals at the limits of possibility and then stretches to meet them, measuring results, not just efforts. At Treasury, we are a long way from achieving true excellence. Computer systems do not lead excellence. Dollars do not lead excellence. People lead excellence.

We need to develop a team of people who know what world-class looks like. This is never easy, but it is especially difficult for a Government enterprise which has so many constraints on its options.

The first thing I did when I got this job was to ask every one of our bureaus and offices to review what they do and why they do it. The review is not finished but we are already making progress. For example, early in the review process I discovered that every year it takes 5 months to close the books of the department. That just did not make any sense to me. How can we say to people that their work is important when they are required to rework the numbers for 5 months every year?

I know from experience that companies as large as the Treasury Department close their books in a matter of days. So I asked our people to figure out how to close the books faster. We examined the process, we streamlined it, and now we are closing the books in an average of 3 days.

I will give another example. When we looked at the IRS large case audits we found that 40 percent of the resources were spent on compliance issues for just two regulations: the research and experimentation tax credit and the capitalization guidance. We resolved the confusion in these regulations and now we can devote those audit resources to more pressing, important issues.

Of course, this is just plucking hairs off the tax code beast. Ideally we would revamp the whole thing to make it easier, to make it possible in fact to administer the tax code at a reasonable cost for taxpayers and the Government alike.

These examples show a few early efforts to find and fix institutional problems at the Treasury. But many of our problems and their solutions are buried beneath decades of business as usual bad habits. For example, over the years there have been at least 29 audit findings showing material weaknesses in Treasury oper-

ations, some dating back to the 1980s. Few have been corrected, and we find this unacceptable.

The Treasury management team is dedicated to diagnosing our problems and implementing step by step solutions that produce real measurable value for the American taxpayers, our shareholders. We do not have all the answers yet. In fact I do not think we even have all the questions yet, but we intend to keep you, the Congress, our Board of Directors, fully informed of our progress.

Let me comment further on some of the most important requests in our budget for the coming year. First in the area of information technology, this year's budget includes significant increases for two information technology projects in the Treasury Department: the IRS business systems modernization and the Customs Service automated commercial environment. We are continuing these projects but we are also relooking at them.

We are asking fundamental questions such as, is IT platform design part of the core Treasury mission or central competency? If not, why are we designing and building these systems in-house? Why are we buying computer hardware that is likely to be obsolete by the time it is in full use? Can we streamline deployment so that we see a return on investment sooner and so that we avoid the risk of ugly surprises when we flip the switch at the end?

We do need to invest in these technology upgrades to begin raising department productivity to 21 century levels, just as the private sector has raised productivity through technology investment over the past decade. Higher productivity means taxpayers get more service for less money. But we are not stamping approval on projects because they are already underway.

Second on the subject of resource levels for the Treasury Department law enforcement activities. As I said, much of homeland security takes place at Treasury. I believe that our budget represents the funding levels necessary to accomplish the current missions of the Treasury law enforcement activity. As the committee knows, outside of our proposed business strategy adjustment, our fiscal year 2003 request maintains the current program levels of Treasury law enforcement.

As I testified last year, if there is a solid business case to increase the funding level for a Treasury program I will be the first to request that increase. But I do not believe in spending tax dollars when we have no way of measuring whether we are successful. Every dollar spent on Treasury law enforcement we believe should produce a more secure homeland.

Third, with regard to improving the performance of the IRS, under the leadership of Commissioner Rossotti, the IRS has made progress toward improving customer satisfaction and improving compliance rates. While the Commissioner and I have no intention of returning the IRS to peak employment levels, we do feel that the IRS needs to increase its staffing in order to provide America's taxpayers with top quality service. This year's funding will enable us to better promote electronic filing, stabilize audit rates, and increase IRS efforts to combat money laundering.

In the area of information technology modernization, this year's budget includes significant increases for the two information technology projects that I have already mentioned. We are just now be-

ginning to see the benefits of these efforts, and we must maintain the momentum with full funding in order to achieve IRS and Customs core missions.

The Treasury Departmental Offices develop the Executive Branch's domestic and international fiscal policy, oversee nearly 40 percent of Federal law enforcement, and manage the Government's finances, all on about 1 percent of the overall Treasury budget. In fiscal year 2002, the Departmental Offices hit a 5 percent shortfall in mandatory costs and as a result we put into place tighter management processes for all staffing and expenses. We have instituted a hiring chill, cut travel, and streamlined procurement. The funding level we are requesting is the minimum to maintain the effectiveness of the Department Offices.

On the issue of, Mr. Chairman, a Customs user fee, as you said this budget does propose a \$250 million increase in the user fee to fund an equivalent amount of Customs Service operations for enhanced homeland security. These user fees have not increased since 1985, and based on inflation and our increased scrutiny of incoming air and sea passengers since September 11 I believe this increase is a reasonable fee to be charged. We need to enact it by July 1, 2002 to ensure uninterrupted Customs functioning.

Finally, with regard to the business strategy adjustment that I know the committee will have some interest in, throughout my career in both business and Government I have challenged my organization to reduce cost through increased efficiency. I started this cost-cutting process last year at the Departmental Offices. This year I have asked each Treasury bureau to follow suit and examine the way they do business in order to identify and eliminate low value activities. Specifically, I have asked everyone to identify savings equal to 25 percent of the Administration's projected non-pay inflationary increases.

#### PREPARED STATEMENT

I thank you for your consideration today. With your support we can and we will make the United States Treasury Department a world-class organization that will be a model for Government and deserving of support from America's taxpayers. Finally, Mr. Chairman and Mr. Reed, I would say to you, we will know we have arrived when the private sector comes to see how to do things better. [The statement follows:]

#### PREPARED STATEMENT OF SECRETARY PAUL H. O'NEILL

Mr. Chairman, Senator Campbell, and members of the Committee, I appreciate this opportunity to discuss Treasury's fiscal year 2003 budget request.

As you know, Treasury plays a crucial role in the core functions of government, and serves as tax administrator, revenue collector, law enforcer, financial manager, as well as leading policymaker for tax policy, banking policy and international and domestic economic policy.

For fiscal year 2003, we are proposing a performance budget that will enable Treasury to continue to provide the American public with both the service and program reliability it expects and deserves. I have challenged each of my bureaus to carefully examine their operations to achieve improved effectiveness in business practices. I expect that Treasury can realize reasonable savings from this type of review through reviewing programmatic efforts on a continual basis and reducing or removing those producing little or no value.

Our budget request totals \$16.654 billion for all operations. Taking into account the offset from the proposed \$250 million dedicated toward Customs commercial op-

erations, our program level totals \$16.903 billion, compared to \$16.5 billion appropriated in fiscal year 2002, and \$14.8 billion in fiscal year 2001.

Mr. Chairman, the budget request includes the impact of proposed legislation for retirement and health costs for Federal employees and I will speak to that proposal later in my statement. However, I do want to note that the budget presents for the Committee the comparative information on this proposal for prior fiscal years, in order to not materially affect the real changes being proposed and reviewed by the Committee for fiscal year 2003.

We have provided the Committee with a detailed breakdown and justification for Treasury's fiscal year 2003 budget request. I would like to take the opportunity today to highlight four important areas of focus for fiscal year 2003.

Treasury's fiscal year 2003 budget recognizes the importance of, and provides adequate and appropriate funding for, the following:

- Protecting our Nation from Terrorists and Terrorist Activity;
- Stewarding Change through Technological Improvement;
- Improving Customer Service & Compliance at the Internal Revenue Service;
- Achieving the President's Management Agenda.

*FIRST.*—In light of the recent events concerning terrorism in the U.S., I would like to discuss Treasury's role in protecting our Nation from terrorists and terrorist activity.

The tragic events of September 11, 2001 sparked a Nation-wide effort to prevent and combat terrorism. Treasury has been at the forefront of these efforts with all of its law enforcement bureaus participating in counter-terrorism functions, including internal bureau and agency security and ensuring the continuity of operations. We bear the responsibility of protecting the Nation on three fronts:

- At its borders;
- In the banks; and
- At home.

In fiscal year 2002, Treasury received \$683 million in additional counter-terrorism funding through the Emergency Supplemental. In the proposed fiscal year 2003 budget, the follow-on costs associated with the funding provided in fiscal year 2002 have been estimated in the amount of \$518 million.

Our nation's first line of defense against terrorists and terrorist activity is the security of our borders.

Following the attacks of September 11, the border threat level was raised from Alert Level 4 (normal operations) to the highest level, Alert Level 1 (Code Red). The Customs Service, our Nation's first line of defense at 301 ports of entry into the Nation, has made the fight against terrorism its number one priority. In response to this heightened state of alert, Customs has hired additional personnel to staff our borders and seaports, and has engaged members of the National Guard to increase security around our Nation's borders.

Customs received almost \$400 million in new fiscal year 2002 appropriations for addressing homeland security matters (in addition to \$65 million provided through separate presidential releases). Of this amount, \$235 million is being used for a combination of personnel and new equipment in ports of entry on the northern border and at critical seaports, along with selected investments on the southern land border.

Customs has set out an expenditure plan for this funding for Congressional review that responds to both short and long-term security concerns. The recurring cost of labor-intensive efforts will be coupled with technology investments that will increase efficiencies and enhance the level and degree of scrutiny for various ports of entry.

The fiscal year 2003 proposal for the U.S. Customs Service includes \$365 million to fund counter-terrorism efforts in the second year, continuing to focus principally on Northern Border and Marine Port security efforts, but also addressing other areas of vulnerability, such as: international money laundering, security infrastructure, southwest border staffing, and funding for the backup of commercial data facilities. Ports of Entry (POE) have been identified as main entry points for terrorists as well as the most likely avenue for them to introduce implements of terror into the country. The danger this presents has become a focus for the fiscal year 2003 request.

In fiscal year 2003, Customs will add 626 new positions, in addition to the 1,075 positions allocated in fiscal year 2002, to vulnerable locations on the northern and southern land borders, and in seaports with the highest volume of containerized cargo. They will counter the terrorist threat while facilitating legitimate trade and travel.

The fiscal year 2003 request also includes a large complement of inspection and targeting technology (including a modest research component), a further expansion

of the Advance Passenger Information System (APIS) to real-time processing capability, and technology to expedite the passage of goods imported by highly trusted entities.

Finally, low volume Ports of Entry would be protected through “hardening” measures including physical barriers, sensors and monitoring devices to prevent and detect unauthorized crossings. Customs serves as the lead agency for Operations Green Quest and Shield America. These multi-agency task forces are dedicated to: (1) identifying, disrupting, and dismantling terrorist financing sources and systems, and (2) ensuring that munitions and sensitive U.S. technologies are not unlawfully exported into the hands of terrorists. The fiscal year 2003 budget supports and maintains these critical task forces.

Equally important with protecting our Nation’s borders is deterring the terrorists from being able to finance their operations.

Treasury’s Financial Crimes Enforcement Network (FinCEN), along with the Office of Foreign Assets Control (OFAC), lead the Nation’s war against global terrorism financing.

In his November 7 address at Treasury, President Bush proclaimed that “the first strike in the war against terror targeted the terrorists’ financial support.” Following the attacks, FinCEN and OFAC were able to identify and stymie numerous supporters of the Al Qaida and other terrorist organizations by freezing \$34 million in terrorist assets and working with allies overseas to freeze over \$45 million. Funding levels proposed for fiscal year 2003 will better enable FinCEN to sustain and maintain these activities.

While leading protection efforts on the borders and in the banks, Treasury has also placed an increased emphasis on security within the Nation in the protection of our Nation’s leaders, foreign dignitaries and, ultimately, our Nation’s freedom. The United States Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Federal Law Enforcement Training Center are at the forefront of these efforts.

The United States Secret Service is the only Federal Government entity charged with the challenging mission of protecting the President and foreign dignitaries. In response to increasing homeland security threats, the Secret Service has been assigned new protectees and has seen significant workload increases in its protective functions. The fiscal year 2003 budget provides funding to enable the Secret Service to meet its protective requirements, including funding for travel, overtime, and follow-on costs associated with Special Agents and Uniformed Division Officers hired in fiscal year 2002.

Around the world, firearms and explosives are the most frequent tools of terrorist attacks. The Bureau of Alcohol, Tobacco and Firearms is charged with enforcing Federal laws relating to commerce in, and the criminal misuse of, firearms and explosives, and ATF’s authority and technical expertise is an integral component in fighting the Nation’s war against terrorism. Through the awareness that terrorists need funds to operate, ATF has found that illegal commerce in alcohol and tobacco products serve as attractive and lucrative sources for generating funds for illegal activities.

As new law enforcement officials are being recruited and hired to fulfill the various positions critical to the Nation’s war on terrorism, training for these individuals to perform their duties in a safe and highly proficient manner has become an immediate necessity. The Federal Law Enforcement Training Center (FLETC) serves as the Federal Government’s leading provider of law enforcement training. FLETC currently provides training for 74 Federal Partner Organizations, and also for State, local and international law enforcement organizations on a reimbursable basis. Training is provided in the most cost-effective manner by taking advantage of economies of scale available only from a consolidated law enforcement training organization. The fiscal year 2003 request provides funding to maintain current levels prior to the September 11 terrorist attacks, while also providing additional funding to support the training of new agents hired as a result of the attacks.

*SECOND.*—The fiscal year 2003 budget is Treasury’s continuing commitment to stewarding change through technological improvement. This effort entails modernizing two of Treasury’s mission-critical technological systems.

The budget continues critical support for the IRS computer modernization. The Internal Revenue Service is committed to providing excellent customer service and takes pride in the integrity of their systems. As a result, they are continually making improvements in operations efficiency and performance by adopting best business practices and state-of-the-art technology.

The IRS is replacing its antiquated computer system with an information technology capacity that is appropriate for the new century. Modernizing the agency’s technology will enable it to deliver on its pledge to provide better customer service for all.

The Business Systems Modernization effort was begun not just to keep up with modern systems, but also because it was a necessity due to the fundamentally deficient nature of the IRS core data systems. The Master File system, on which all taxpayer accounts reside, is based on outdated 1960s technology.

It is important, if the agency is to provide quick and reliable service to its customers, to continue the ongoing shift to modern standards of technology by adopting a new architecture. As this is the project's fourth year, much has been achieved, but the process is still incomplete.

This multi-year endeavor is providing IRS with the technological tools and revamped business processes needed to deliver first class customer service to American taxpayers and to ensure that compliance programs are administered efficiently and fairly.

Fiscal year 2002 and fiscal year 2003 are key transition years for IRS Modernization efforts, as the foundation of our Nation's tax system is being replaced, building a bridge to providing interactive and improved customer service.

The Department's fiscal year 2003 budget provides \$450 million for the continuation of effort in re-engineering business processes and developing new business systems to replace their antiquated and obsolete system. This amount is \$58 million above the fiscal year 2002 enacted level of \$392 million, and \$378 million above the fiscal year 2001 enacted level of \$72 million.

The budget also continues important investments initiated for the Customs modernization effort. Illegitimate trade and contraband trafficking have been of the utmost concern to the Department, the Administration, the Congress and the American public. This concern was heightened due to the tragic events of September 11, and increased pressure has been placed on the Customs Service to inspect all cargo entering and exiting the United States.

The strains on our Customs Service are growing increasingly severe every day. Since the Customs Modernization Act was passed in 1993, the value of exports has grown by 36 percent while the value of imports has risen by 51 percent. The agency is required to cope with this sharp rise in input and export volumes with the same outdated technology it had when the Act was passed.

Customs is not alone in having to work with antiquated technology. We believe we are on the right track in our efforts to modernize IRS technology and we have learned a great deal from this experience. Given the critical role of Customs in handling enormous volumes of goods and in combating drug and other types of trafficking, it is important that they are equipped with the best tools available to fulfill these goals.

In fiscal year 2003, the Customs Service expects to process 27 million formal trade entries. Customs is dedicated to replacing the outdated and unreliable Automated Commercial System (ACS), which has been subject to an increasing number of system outages, with the Automated Commercial Environment (ACE). The replacement system will enable Customs to adopt a paperless, account-based process for importers. Fiscal year 2003 marks the third year of funding for this modernization effort.

Besides trade facilitation and compliance, ACE will play an integral role, in conjunction with other targeting and inspection tools, in assisting Customs with the evaluation of high-risk cargo for possible contraband as it passes the Nation's borders.

The Department's fiscal year 2003 proposal provides for: (1) additional investments in the automation modernization program to further develop and migrate to the Automated Commercial Environment (\$307.5 million), as well as continued funding for a government-wide trade data interface through the International Trade Data System (\$5.4 million); and (3) sufficient funding to maintain the existing Automated Commercial System while modernization efforts are underway.

*THIRD.*—Our fiscal year 2003 budget request addresses the improvement of customer service and compliance at the Internal Revenue Service. This has been of significant concern to the Committee and the Department, and the Internal Revenue Service has been making great strides for improvement in this area.

To achieve its mission of "providing America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all," the IRS has realized that organizational improvements and increased employee satisfaction lead to improved customer satisfaction. As a result, strategic objectives focus not only on the taxpayer, but also on the improvement of the bureau as a whole.

Under the leadership of Commissioner Rossotti, the IRS has already made impressive progress towards providing a more responsive and effective service to its customers. But there is still more to accomplish. An inefficient tax system imposes costs on all. The longer it takes to implement improvements, the greater the cost to the consumer and the economy.

The IRS is well down the road towards modernizing its organizational structure and computer systems. Although the IRS has no intention of returning to its peak employment, recognizing that real productivity has made the agency more effective and efficient, modest staffing increases, along with improvements from systems modernization are needed to provide the best service in both compliance and customer service areas.

This is the ideal moment to re-engineer the agency to serve all Americans by providing the most effective, up-to-date service possible. We must not allow this opportunity to pass us by.

During its strategic planning and budget process, the IRS identified \$260 million in requirements to improve processing, customer service and compliance across its organization as part of its tax administration responsibilities. Using a combination of strategic redeployment of staff and identification of labor savings programs, the IRS has been able to internally redirect \$158 million from existing resources to focus on customer service, compliance and workload requirements.

The fiscal year 2003 request seeks additional funding for the remaining requirement of \$102 million needed to meet this mission-critical goal. The request supports efforts that are already underway to improve customer service and compliance operations. Re-engineering and Quality Improvement projects and programs are focusing on redesigning internal processes, policies and procedures. These additional resources, in addition to the redirected resources discussed earlier, will be realized by the American taxpayer through the following improvements:

- Providing additional assistance and forms, schedules and new return types to its e-file website in order to meet the Congressional goal of having 80 percent of all returns filed electronically;
- Through effective implementation of the e-file and e-services programs, the IRS will save more than 500 FTE to be redirected to assist in achieving other parts of this initiative.
- Hiring of lower-cost employees to handle the submission processing growth anticipated increase from new tax returns filed, reducing the number of high cost employees needed for compliance during filing season;
- Increasing the level of telephone service to taxpayers with respect to tax law inquiries;
- Providing almost instant access to return at Customer service sites, assisting staff in providing top-quality customer service to business taxpayers.

*FOURTH.*—And overriding area of focus for this year's request, addresses Treasury's role in becoming a results-driven organization, consistent with the President's Management Reform Agenda. Although it may be referred to as the President's Management Agenda, the concept of the agenda is very similar to the types of results this Committee is concerned with.

The Agenda's five areas of emphasis are:

- Strategic Management of Human Capital;
- Expanded Electronic Government;
- Improved Financial Performance;
- Budget and Performance Integration; and
- Competitive Sourcing.

Only through the delicate balance of all five Presidential Management Initiatives can an organization achieve true world class performance.

In working to achieve world-class status, the Department emphasizes the importance of leadership, accountability, excellence, people, trust and integrity, and improving the work environment. In addition, as the principal custodian of the revenue collected and debt issued on behalf of the Federal Government, the Department strives to demonstrate fiscal stewardship of each congressionally authorized dollar by linking investments with specific, measurable results.

*Presidential Management Initiative 1: Strategic Management of Human Capital*

Treasury's most valuable and strategic asset is its employees, who are responsible for carrying out the Department's vast array of duties which affect the lives of every American citizen. Without employees, the Department would be unable to meet the obligations placed on it by the American public. I have reemphasized the importance of my employees and have made every effort to ensure that each employee is (1) used to their full potential, (2) working in a safe and positive environment, and (3) providing value-added work to the organization.

I have emphasized that organizations known for excellence are built on a foundation of dignity and respect for its employees. The Department is focused on evaluating its work and processes so that each and every employee feels that their work is meaningful and contributes to the mission and objectives of the organization. In addition, because job satisfaction is a number one priority for many employees, I

am dedicated to creating a work culture of performance, challenge, meaning, and dignity, while providing employees with flexibility to balance their work and personal lives. Examples of this flexibility include tele-work and flexiplace programs, alternative work schedules, and offering family-sensitive benefits.

In order to implement this Presidential Management Initiative, the Department is continually reassessing its human resource strategies and support systems to strengthen the quality of both its workforce and its management.

In the aftermath of September 11, 2001, an increasing number of Americans have become eager to consider service opportunities in government. It is imperative that the Department exploits this opportunity and is able to recruit the best and brightest. As a result, innovative approaches to recruit high-caliber candidates into mission-critical positions are underway.

A broad variety of private industries have experienced a direct correlation between employee satisfaction and customer satisfaction. Similarly, I believe that high levels of employee satisfaction within the portfolio of Treasury employees will lead to enhanced service provided to its citizens, thus yielding higher customer satisfaction from both stakeholders and service users.

*Presidential Management Initiative 2: Expanded Electronic Government*

In addition to the strategic management of human capital, the use and improvement of information technology will assist the Department in providing solutions to common challenges facing all areas of the Department. The benefits of these improvements will not only improve the effectiveness of Treasury operations, but they will also produce tangible benefits for the American public.

Treasury is currently in the process of reviewing its IT portfolio for adherence to common standards, and updating and maintaining cost-benefit analyses for new and ongoing systems. This will yield an integrated comprehensive enterprise architecture at the Department level that saves money and reduces the cycle time of major products.

For example, the Internal Revenue Service continues to work towards the Congressional goal of having 80 percent of all tax and information returns filed electronically by 2007. As this method of tax filing becomes more popular, the IRS has reduced processing costs significantly per document, with less input errors and reduced handling time and storage costs as well.

Working with the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms continues to operate systems that electronically capture revenue and allow forms to be electronically submitted for tobacco taxation collection.

In efforts to streamline human resources applications, HR Connect, which is currently operational in six Treasury bureaus, serves as a single, integrated automated environment for human resource operations across all Treasury bureaus. When fully operational, HR Connect will replace the 90+ legacy stand-alone human resources systems that currently exist. HR Connect will provide standardized information and will facilitate results-driven decision-making.

As a highly visible agency, Treasury maintains websites that are among the most frequently accessed, and are therefore tailored to the specific needs of its customer base—citizens, businesses and other government agencies. The following are examples of Treasury bureau websites that were created with the customer in mind, while improving the cost effectiveness of Treasury:

The U.S. Mint offers a large portion of their services, resources and products through the Internet. Recognized as one of the top 30 “e-tailers” in the Nation in fiscal year 2000, the Mint’s Web sales exceeded \$109 million and their return on investment has reached 20 percent.

Working closely with the Financial Management Service, Mellon Bank, MasterCard and IBM, the Bureau of Public Debt now sells U.S. Savings Bonds to the public on a 24/7 basis over the Internet. Within the first 10 months of its operation, the Savings Bond Connection generated \$63 million in bond sales, resulting in a 180 percent return on investment.

*Presidential Management Initiative 3: Improved Financial Management*

Treasury has the responsibility of principal custodian of the revenue collected and debt issued on behalf of the Federal Government. To improve financial performance and expand electronic government, it is imperative that the Department implement modern financial management systems that are capable of providing timely, accurate and reliable information.

In recognizing that real-time information is much more valuable than information that is 5 months old, I have challenged each of the bureaus to improve their reporting capabilities by moving to a 3-day, monthly closing of their books by no later than July 3, 2002.



Once all bureaus are implementing a 3-day, monthly close, they will be able to submit better financial data for consolidated reporting to bureau and Department. This will enable bureau and Department management to make results driven decisions, instead of spending the majority of time aggregating the data. This will also contribute to increased employee job satisfaction by showing employees that the work they do contributes to the overall decision-making process.

Bureaus are also in the process of conducting internal risk assessments focusing on payment controls, determining and investigating those areas that contain the most potential risk for improper payments. These assessments will result in improved operational performance, which will contribute to improved customer service.

*Presidential Management Initiative 4: Budget and Performance Integration*

Integrating performance information into the budget decision-making process allows agencies to more directly focus their resource decisions on strategies and programs that produce desired results. This effort has been evolving and ongoing for the past 6 years. The following are examples of Departmental improvements in this area:

- Bureaus have submitted performance information along with their budget requests to the Department for several years. The Department is moving to target better use of this information, lining up resources, performance data and metrics to become a more effective decision-making tool for the bureau, the Department, OMB and Congress, as senior officials are better able to make resource decisions based on the performance of programs and initiatives.
- Work continues on presenting bureau measures, which address key activities using balanced, results-oriented performance measures, and on improving the quality of this data.

*Presidential Management Initiative 5: Competitive Sourcing*

Treasury continues its efforts in competitive sourcing, utilizing contractors whenever necessary to meet its goals. Expanded steps are underway with each bureau, to enhance competitive sourcing knowledge sharing, and knowledge management Department-wide so that necessary sourcing competitions can begin as soon as possible. The Department is committed to evaluating the merits of its internal efforts, by understanding competitive sourcing options—migrating to those outsourced options when it makes sense for the American people based on cost and value, while retaining those specific mission areas that are inherently governmental. A number of the Department's bureaus rely heavily on the private sector.

- The Bureau of Alcohol, Tobacco and Firearms employs a broad array of contractors to support its mission, and integrates in-house solutions with outsourced vendors. This allows ATF's leadership team to focus on their core deliverables and mission-oriented goals.
- At the Financial Management Service, contractors are involved in 41 percent of the total management support functions.
- The U.S. Mint contracted out 26 percent of its operating expenses in fiscal year 2000. These contractors performed not only administrative tasks, but were also responsible for other functions at the Mint such as advertising, public relations, printing, numismatic order processing, telemarketing services, and custodial and facilities management operations. During late fiscal year 2001 and early fiscal year 2002, the U.S. Mint built a strategic plan that ensures its employee focus on those critical areas of performance. They have leveraged the actual business execution of their operations using contractors, while their core employee base provides leadership, direction and critical business efforts.
- IRS and the Department will study the possibilities of outsourcing some aspects of the collection process.

LEGISLATIVE PROPOSAL ON RETIREMENT AND HEALTH COSTS

Mr. Chairman, our budget includes the impact of proposed legislation for the full funding of certain Federal employee retirement and health costs. Because Treasury has the third largest agency financial impact with the implementation of this proposal, I'd like to provide the some additional background for the Committee.

The President's fiscal year 2003 Budget corrects a long-standing understatement of the true cost of thousands of government programs.

For some time, the accruing charge of costs associated with the Federal Employee Retirement System (FERS) and Military Retirement System (MRS), and a portion of the old Civil Service Retirement System (CSRS), have been allocated to the affected salary and expense accounts, and the remainder (a portion of CSRS, other small retirement systems, and all civilian and military retiree health benefits) has been charged to central accounts.

The President's Budget presents the amounts associated with shifting this cost from central accounts to affected program accounts, starting in fiscal year 2003, predicated on the enactment of authorization legislation. By shifting this cost to the affected salary and expense accounts, budget choices for program managers and budget decision-makers will not be distorted by inaccurate cost information. The proposal does not increase or lower total budget outlays or alter the surplus/deficit, since the higher payments will be offset by receipts in the pension and health funds. This change in treatment of costs is the first in a series of steps that will be taken to ensure that the full annual cost of resources used—including support services, capital assets and hazardous waste—is charged properly in the budget presentation.

#### CONCLUSION

Mr. Chairman, let me conclude on a personal note. Since becoming Treasury Secretary last year, I have been deeply impressed by the intelligence, professionalism and dedication of the people with whom I have worked, and together, we are working to making this Department a model for management and service to the American people. I hope the Committee shares my confidence in the uses that are being made of taxpayer's funds. In that spirit, I ask that you approve our fiscal year 2003 budget request to support the work of the Treasury Department in fulfilling its wide range of responsibilities in serving the American people. I look forward to working with you, Mr. Chairman, as well as members of the Committee and your staff, to come up with a budget that maximizes Treasury's resources in the best interest of the American people and our country. Thank you again for giving me the opportunity to meet with you and personally present the Department's budget. I am willing to answer any questions the Committee may have concerning the Department's fiscal year 2003 budget.

#### REACTION TO IMMIGRATION AND NATURALIZATION SERVICE PUBLICITY

Senator DORGAN. Mr. Secretary, thank you very much. Let me ask a series of questions about a range of issues and then I will call on Senator Reed.

Let me ask you a question that has nothing to do with your agency. Yesterday when I was eating Grape Nuts in the morning I read the Washington Post and the front page story about the INS sending out a couple of approved visas to Mohamed Atta and one of the other terrorists. That is not your agency but I assume you saw that as all of us did and said, what on earth could allow this to happen, because all of us have systems in our agencies that deal with massive numbers of names and information. Give me your reaction to having read that. You are a businessman. What do we do about things like that?

Secretary O'NEILL. I tell you, my first instinct was to say, it is unimaginable that this could happen with the two individuals who have become so well known through the media coverage of September 11. I must tell you my second reaction was to feel sorry for the employees of the INS. This comes, I suppose, from having been a Federal Government lifer for 15 years and knowing what it is like to wear the shame of this kind of an event when it clearly was not done intentionally. Systems fail.

We tend to make an awful lot of these kind of symbolic things when they happen in Washington. I understand why we do that but I have got to tell you, my heart goes out to the people who work in that agency, who would like to take pride in what they do. From the reaction to yesterday's revelation I think, now you have got thousands of people who feel that they are on the defensive, whose intelligence is under question. So that was my quick reaction.

And third, a sense—it is partly what I had in mind when I said to you, we will know we have really succeeded in being an excellent

organization at the Treasury Department when the private sector comes to see how to do it. It is a reflection of how I felt when I was here before.

When I came here in 1961 and received 18 months of training in designing computer systems, I had a high degree of confidence that I was working for the leading edge organization in the application of computer technology. Because when I went out to find out what was going on in Pittsburgh, to see what U.S. Steel was doing, I came back reassured that they would never catch up with us because we were so good at taking this new, marvelous computer technology and applying it to the mass problems that we had to deal with in those days with Social Security and veterans benefits programs, both insurance and dependent benefits. We were so good at what we did and so proud of what we were doing.

I think for a variety of reasons we have lost that edge. But I am convinced that we can have that edge again. It is mostly not about huge increases in funding. It is about leadership. It is about continuity. It is about understanding what excellence really is. And it is about the deployment of good ideas and equipment in a sensible way.

So my hope is that the INS people will pick themselves up and they will demonstrate to the world that American citizens should be proud of the people who work for their Government.

Senator DORGAN. The reason I ask that question, and I appreciate your response, is in putting Customs officers at our borders we are trying to control our borders. We do not want to keep people out of this country but we certainly do not want to let terrorists in, or those who associate with terrorists. In order to do that we have to have some confidence in the systems that we have established by which we grant visas and grant entry to our country.

#### CUBAN TRAVEL

Let me ask a series of questions. One, you know I would ask about OFAC and Cuba. If you were a retired, little old lady from Illinois, a schoolteacher who is now interested in bicycling and joined a Canadian bicycle tour of Cuba and then a year and-a-half later got a fine from the Treasury Department of \$9,500 you would be apoplectic about it.

I guess I understand that the law is the law. But I am wondering whether you think it is a particularly wise use of resources to ratchet up more energy towards enforcing the law like this at a time when in OFAC we are trying to chase terrorists. I wonder whether it is not a lower priority or should not be a lower priority with you to use those numbers of people in OFAC to track terrorist activities and leave the little old ladies that are riding bicycles alone for a while?

Secretary O'NEILL. Senator, let me agree with you and with the implication of your question and then I think I have to at the same time disagree. If I were responsible for doing this function in the private sector, and I had the discretion to decide where to deploy my resources, I would agree with you completely. I would follow the 80/20 rule. I would concentrate on those areas that were going to produce the most value. So sentimentally I want to agree with you.

But I do not know how to bring the notion of discretion to a law that I feel tells us that we do not have discretion. Now if we could agree that we could amend the law so that in fact we did have discretion, then I think we would be on much better ground.

In fact, as a general proposition, I think we would be so much better off if we did a thorough review of the laws that tell us what we should do and must do, and provide a sensible discretion of the sort that you are suggesting. We would get much more value for the American people. We would give much more freedom to the people who are supposed to be making decisions on the operating activities of the Government. So I am very much inclined to want to be where you are and it would be very helpful if we could work together to figure out a way that we can not put ourselves in violation of the law because we exercised what seemed like common sense discretion and in fact then get hauled up for failing to uniformly enforce the law.

Senator DORGAN. Our job in Congress is to repeal the travel restriction with respect to Cuba. But to the extent it exists, I simply observe that all law enforcement has discretion. If there is jaywalking occurring at the same time that a bank robbery is occurring, law enforcement officers will move to deal with the bank robbery. So that discretion exists all over. I guess my hope would be that OFAC would understand that there is a greater good these days to deal with the terrorist threat than the threat of a retired teacher bicycling in Cuba.

#### DISCLOSURE OF ENFORCEMENT ACTIONS

Having said that a quick question. The Washington Post had a story on March 6 about OFAC secretly settling more than 100 enforcement actions in 1998 to 2000 against corporations, banks, and other entities, for violating the trade embargoes against Cuba and other countries. That is before you came to the Treasury Department.

The information was disclosed only because of a suit filed by public interest groups. I am wondering, because OFAC is being forced by a lawsuit to disclose the settlement of these cases, will future settlements be made public as a matter of course?

Secretary O'NEILL. It is an issue I think we should look at. As I have looked at some of the individual cases that are involved here, it is not clear to me from looking at the law that it was the intent of Congress to hold people up to public humiliation for agreeing to settle some of the allegations that are made. These are not of a class where people have—basically they have stipulated to an allegation or to a settlement. So I think we need to look at that and see.

One of the things I find interesting in the way the language was used, in this particular story the term secret was used, although to me secret conveys a sense of a willful intent to hide. I do not think that that is an appropriate characterization of what took place in this particular case. I do not think there was a willful intent to restrict access to things.

Senator DORGAN. Except there was not willful disclosure, and those who wanted it had to actually file actions in order to get it. I understand the Commerce Department, State Department, and

others that take enforcement actions routinely disclose the results of those settlements. I would encourage you to take a hard look at that. I do not believe it ought to have to be pried out of the agency.

Again, this story is about a time when you were not there, but I would encourage you to take a look at it because I think this information ought to be public.

Secretary O'NEILL. Senator, we will do that. We will do that and we will work with the committee and see if we cannot find a road that seems sensible.

#### JOINT BORDER AGENCY

Senator DORGAN. Mr. Secretary, it is my understanding that Governor Ridge is moving closer to a proposal that would combine the Customs Service in some sort of joint border agency with other agencies such as the Immigration Service under the Department of Justice perhaps.

I am wondering how you feel about that and how would the revenue-generating responsibilities of the Customs Service, for example, fit in with such a plan? Especially given the news this week with respect to the INS, I am wondering if there are some concerns about that, and what kind of discussions are now underway. I have only heard them rumored, but they have obviously been in print with those rumors. What is your impression of what is happening there, and how do you feel about it?

Secretary O'NEILL. I will not just tell you my impression, I will tell you what the facts are. Since the terrorist events of September 11 and the President's appointment of Governor Ridge as our Director of Homeland Security, we have been asking ourselves a wide-ranging set of questions about how do we imagine and envision what homeland security should mean and what we should be striving for going forward.

For most of us, I guess I would say for all of us, this is a whole new area of inquiry, because we have never really had to think, I think, in the past about what is now a current reality of being attacked on American soil. It is a very different proposition. I think all of us believe that we need to rethink the mission.

The example you cited with the two orange cones in the middle of the road as though that was somehow keeping people out of the United States is an absurdity on the face of it. And probably the absurdity was not so awful so long as it was believable that we were not subject to terrorist attack. That is clearly not the case anymore.

So indeed, we have had wide-ranging, ongoing conversations about this question of how to organize so that we can give assurance to the American people that we have thought about the right questions, and we have distributed resources in the way most likely to avoid more American casualties.

I think we are getting close to a Presidential decision. In fact, I told you I would tell you what is going on. At 5:00 this afternoon we have another meeting on this subject. There have been lots of papers written, I am sure, because you are a student of Government and you know these things. The subject of changing the organization of border-related activities is one that has been studied in the public administration community I think for 40 years or so.

There are all kinds of papers available on the Internet on the subject. We have looked at all of that.

I would say to you at the outset, I do not know of any institutions, public or private, who rush to change. So as you might imagine, the immediate response to any idea that anything is not perfect is, for every individual organization, to put on the brakes and say, we are perfect; how could we be any better? So if there is going to be consolidation it ought to be under our flag. Those are all natural, human reactions.

I think the process of deliberation we are having is a thorough going over. It involves, for my money, from an executive branch point of view, all of the correct people that need to be involved in these considerations. I suspect in the not-too-distant future the President will decide what he thinks of all of this analysis work that has been done and then we will see what we should do.

Let me tell you from my point of view, I have had an opportunity to visit some Customs locations and to get to know some of the Customs people and other bureau and departmental people in the Treasury. These are great people. I was down in Jacksonville a few weeks ago and I had an opportunity to go out and look at our aircraft that is doing surveillance work in, if I can call it, the Latin cone. I talked to the people there. Their sense of dedication and determination and purpose is something really to be highly admired I think.

I went out on the wharf and looked at the new electronic surveillance equipment that the Congress has funded and provided to see how we are now able to electronically scan containers that are coming into the country. I think one of the great things about the Customs Service is what I said about the people in the INS, these people believe in what they do. They believe in the Customs Service. They believe in the tradition. It is a thing to be highly prized and valued.

So as long as we are organized the way we are, I am proud to carry the flag. If the President with his perspective, and after listening to all the arguments decides there is a better way to give the right assurance to the American people, I will be the advocate for that.

Senator DORGAN. Mr. Secretary, thank you very much. I want to ask just a couple additional questions if Senator Reed is not time constrained, and then I will recognize Senator Reed and then come back and ask a couple of additional questions. Just one follow-up point. Do you have any notion of when we might expect a recommendation or a decision by the President on this?

Secretary O'NEILL. I will know better after 5:00 today. I do not know. Frankly, I came directly here from the President's speech announcing a new \$5 billion initiative to get results in the area of economic development and I just arrived back 15 minutes before I got in the car with him from New York so I do not really know.

Senator DORGAN. But is it days or weeks or months?

Secretary O'NEILL. I would say certainly less than months. The President, I expect, will make a decision—I guess I would say weeks if those are my choices; no more than weeks.

## ABUSIVE TAX PRACTICES

Senator DORGAN. Let me ask just a couple of questions about tax shelters. I have a couple of charts that describe some of what has happened with respect to reporting. I expect most of it is accurate but you correct it if it is not. These are mostly Wall Street Journal stories. There was a report in March that suggested there is going to be an easing with respect to the curbs on tax shelters.

The previous Administration under Secretary Summers said, look, we have got a huge problem here. The tax advisors, accountants, and attorneys are really trying to find the edge with their clients. They are becoming very aggressive—very aggressive in trying to find ways to avoid taxes and we really need to clamp down on this. As I indicated to you, I have been chairing some Enron hearings and Enron alone has something over 800 subsidiaries in the Cayman Islands and other tax haven countries to avoid paying taxes, I assume. I assume people do not establish a post office box and a company in the Cayman Islands because that is where their customers are. That is just symbolic of how aggressive all of this has become.

I have become very concerned about it because there are estimates by some that we are losing, some say \$10 billion, some say up to \$30 billion a year through these aggressive tax shelters that really require us to clamp down. Some of the headlines suggest—I will not go through all of this but I want to give you a chance to respond to some of it. If I might show the rest of the charts.

One, says that the Bush Administration appears to ease curbs on tax shelters. The next one, this is March 1, 2002, the Washington Post, tax shelter disclosure falls short and agencies seek to halt corporate abuses. This deals with a specific effort that they expected would have a lot of companies providing information about the advice they give to clients; very few of them in fact are.

If I might show the last one. U.S. corporations are using Bermuda to slash tax bills. That is February 2002. The point is—I think you understand my meandering question. The point is, about a year and-a-half, 2 years ago it looked like we were going to start to squeeze this lemon called tax shelters in an aggressive and an appropriate way in my judgment.

News reporting has suggested that this Administration thinks they want to move in the other direction. I would be very concerned about that—am very concerned about that. So can you tell me what is behind the headlines here? What are you doing and how do you feel about these tax shelters?

Secretary O'NEILL. Yes, I am delighted to have an opportunity to respond to this set of questions. Let me begin by saying, I think tax shelters is a really bad phrase because it is a value-laden phrase that I do not think we should use. As a matter of fact when I work with my public relations people—they will tell you—and I see those words, I write in what I think the real intention is, which is abusive tax practices.

Now when I went to school, and it was a long time ago, I was taught these things about taxes. That they are due and payable, and that those who do not meet their responsibility are either guilty of evasion, which is illegal—that is to say, they did not do

what they were supposed to do, or of finding a way under the law to avoid paying the taxes that someone thought they should pay. There is a distinction between what is illegal, which is evasion, and what for one reason or another is not illegal because it has not been specifically banned, which is avoidance.

It leads me to a conclusion I am happy to say all over the country, and I do on every opportunity. Our tax code, Senators, is an abomination. We would not have either evasion or avoidance if we did not have 10,000 pages of code and legislation that takes a genius to understand. I would be willing to bet you that most of the corporate CEOs could not find their way through the tax code. They have legions of the smartest people in the country trying to figure out how to avoid—not to evade, for the most part, but to avoid-taxes, which is a legal, lawful activity in our society.

Now, I believe deeply that Americans and American institutions should pay their tax bills. So what we have underway right now are several different efforts at the same time. One, a series of white papers in the individual income tax area and in the corporate tax area, that goes to the heart of the issue of simplification. Because I think the more we can simplify, the more likely we will have an enforceable tax code that does not take tens of millions of people to administer.

Two an effort to tighten up this area of tax avoidance by forcing, through a series of penalties, corporations to self-report where they are walking the edge between avoidance and evasion. I think most often to give the filers the benefit of the doubt, where people have found a crease in the law that was written by the Congress and they are using that crease as a way to decrease their tax liability.

Senator DORGAN. Mr. Secretary, I apologize for interrupting you, but often those creases are created by the taxpayers themselves coming to Congress and saying, create this crease for us.

Secretary O'NEILL. I agree with you.

Senator DORGAN. Congress does it. Having been a tax administrator for many years, I know that most of those 10,000 pages are there because someone came to lawmakers to say, by the way, here is a little thing you ought to do to change it or tweak it for us because it gives us an advantage. So page after page after page is complexity that is induced by those who want advantage in the system. Those little creases you talk about, most of those are put there by people coming here wanting advantage.

Secretary O'NEILL. I certainly agree with you. I think there are no words in the tax code that are the result of immaculate conception.

Senator DORGAN. Do not be so sure about that. If you have ever witnessed a conference committee from the inside you will see—

Secretary O'NEILL. I take your point, Senator.

Senator DORGAN. I want to be more specific about tax shelters. Let me just ask one final question. Your predecessor, Secretary Summers called, let me use your term, abusive tax practices, the most serious compliance issue facing the American tax system today. Do you feel that?

Secretary O'NEILL. No, I think this is a terrible problem, but I think the complexity of our tax code is the most crucial problem facing our society, in this way, Senator. I am very concerned—this



is from working around the world in lots of different countries and seeing where complexity becomes the enemy of civil society and a sense of civil duty. You get to a point where people say, the Government will not know whether I did the right thing or not because even they cannot figure it out. I will not name names, but there are countries that are today going down the drain because only 40 percent of the people pay the taxes that are theoretically due and owing.

I worry a lot about this issue of so complicating the code, maybe with the best of intentions, that it turns us into—maybe this is not too pejorative—a banana republic in terms of how we run our fiscal system. It is a dangerous thing.

Senator DORGAN. I will come back to this issue.

Senator Reed, thanks for being indulgent.

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS)

Senator REED. Thank you, Mr. Chairman. Again, thank you, Secretary O'Neill. As my initial comment suggested, September 11 highlighted the law enforcement aspects of the Department of Treasury; some aspects that most people do not associate with the Department of Treasury, and several agencies. One is the Bureau of Alcohol, Tobacco and Firearms.

I met several weeks after September 11 with officials of the ATF and they indicated to me that FBI officials compared the audit log of approved gun sales under the NICS system to the Government's terrorist watch list based on their request. We later read about this in the New York Times. It was made public. So it was clear that at that moment of incredible danger and vulnerability, many seasoned law enforcement people felt that this system, this NICS system, had very valuable information to preempt another attack.

But since that time the Department of Justice and the Attorney General have suggested that Federal law prohibits any type of comparison of the NICS records with terrorist records. I wonder, since the request emanated from your department, Mr. Secretary, what are your thoughts on the Justice Department's position and would you support legislation that would make these records available in antiterrorism investigations?

Secretary O'NEILL. I must say I have not looked at this issue in detail but let me give you a general answer to your question that flows directly from what I have heard the President say over and over again. I think we should use all of the sources and resources that are available to us to track down, interdict and stop terrorist activity—all of the sources that we have. So I would not agree that we should in any way limit our ability to go after people with evil intent.

Senator REED. Thank you, Mr. Secretary. I followed up my meeting with a letter and asked the Attorney General what were the results of this matching process, and you might not have specific information, but if you could for the record later provide it. He responded to me, "Following the September 11 attack the FBI requested that the Bureau of Alcohol, Tobacco, and Firearms compare ATF databases related to multiple sales, stolen firearms, and trace crime guns with the watch list arising out of the investiga-

tion. The FBI was advised there were six matches from this comparison.”

I wonder if you have any information on what those matches might be in terms of the types of weapons or anything else.

Secretary O’NEILL. No, I am sorry, we do not, but we will provide that for the record, Senator.

[The information follows:]

#### USE OF ATF DATABASES FOR FIREARMS TRACING

The names of 8 individuals from the terrorist watch list matched the names of individuals found in records of 47 previously traced firearms or 2 multiple sales reports. These records included traces of 32 pistols, 10 rifles, 5 shotguns and 2 revolvers.

#### GUN SHOWS

Senator REED. Thanks very much, Mr. Secretary.

Mr. Secretary, there is another area that has been a persistent focus of attention, and particularly my attention, and that is the area of gun shows. In January 1999, a report by the Department of Treasury entitled, Gun Shows, Brady Checks, and Gun Crime Traces, concluded that, “a review of ATF’s recent investigations indicates that gun shows provide a forum for illegal firearms sales and trafficking.”

My question would be if that is still the position of the Department? And regardless, would you support closing the gun show loophole, the provision in the law that allows private sellers to continue and operate without background checks at gun shows?

Secretary O’NEILL. I know this is the eggshell area and I have not, frankly, personally looked at it close enough to give you an off-the-top-of-the-head answer. So rather than lurch into an area without consideration, I would rather give you an answer for the record.

[The information follows:]

The Administration supports in principle amending the Brady Act to require background checks for all firearms transactions at gun shows. We must ensure that terrorists and other criminals are prevented from purchasing weapons at gun shows through an instant criminal background check that does not unduly burden the law-abiding gun buyers at these events.

Secretary O’NEILL. But I want to go back just for one second to your earlier question, if I may, and offer this to you. If you see things that do not make any sense to you in this area of terrorism, I wish you would feel free to call me or have one of your staff people call me on the phone so that we can take immediate action. We should not wait until we have a formal hearing. If you have knowledge or suspicion that we are not using all the resources appropriately in our society working on these terrorist things, believe me, the President has made it clear to me I do not have a higher priority than this. I will take your call immediately if you have any concerns.

#### EXCLUSION OF SPORTING GUN FIREARMS FOR IMPORTATION

Senator REED. Thank you, Mr. Secretary. I certainly appreciate the fact that you want to present an informed answer so it is entirely fair that you do so on the record subsequently. I also appreciate your offer of contacting. You have been very responsive in our previous relationship and I appreciate that very much.

This other question might go in that same category of I'll get back to you. Under Title XVIII, the bureau has the right to exclude from importation firearms that "are not generally recognized as particularly suitable for or readily available to sporting purposes." I wonder if you might comment on this now or later, particularly since there has been some, at least in the media, discussion of weapons like .50 caliber sniper rifles and others which do not seem to be of a sporting purpose.

Secretary O'NEILL. We will be happy to give you something for the record.

[The information follows:]

#### POLICY FOR IMPORTATION OF FIREARMS

The Bureau of Alcohol, Tobacco and Firearms has determined that a .50 caliber rifle is importable as a sporting firearm because it is particularly suitable for, or readily adaptable to sporting purposes. Specifically, ATF's longstanding interpretation of "sporting purposes" includes competitive shooting events. In the United States, there exist numerous organizations that sponsor competition in silhouette and target shooting events for .50 caliber rifles.

#### ADEQUACY OF ATF BUDGET

Senator REED. Thank you very much, Mr. Secretary.

Mr. Secretary, let me just ask one other question which I think you might be able to respond to now. That is your estimate of the adequacy of the ATF's budget this year to meet all the issues we talked about, and issues emerging each day with respect to terrorism. Do you think it is adequate?

Secretary O'NEILL. I think we are fine, and if it looks like we are not going to be able to fully discharge our responsibility in a professional way we will come back to you.

#### PROGRESS OF ACE MODERNIZATION SYSTEM

Senator REED. Thank you, Mr. Secretary. One final question and that is with respect to the Customs Service. They are in an effort to replace their automated commercial system with the new automated commercial environment. Are you pleased with the progress to date? Do you see there are any problems that Customs might be facing? Generally what is your assessment?

Secretary O'NEILL. In my oral comments at the beginning I indicated, and let me maybe even sharpen a little bit what I intended with my comments, both about the so-called ACE system and the IRS modernization. Over the last 25 years or so that I was in the private sector, I was involved both as a board member and as a CEO working on adoption of very large computer systems, and I have some scar tissue that I would show you to prove it.

This whole business of using and deploying complex systems, and hardware and software technology is one where it is more frequently the case than not that when you get to that switch-flipping stage at the end where you hope and pray everything works, it does not work quite the way you thought.

When I came and began getting briefed on these systems, I must tell you I was concerned about the development period, for this reason. In my experience, if you have a very long development system for computer-based systems, by the time you get to the end of a

very long period, say 10 years, the world is so changed that you never arrive at the intersection. The intersection never comes.

As a consequence of that, since Assistant Secretary Kingman has been on board the last few months, I have asked him and his staff to give a really concentrated look at these things because I know that there have been troubles in the past with IRS modernization, and there has been some skepticism and concern about the ACE system.

I want to be able to make a personal representation to you, off the work the Assistant Secretary and his people are doing, that we buy where we are, and we have confidence in what we are doing. It would probably take us another 3 or 4 months to be at a stage where we are willing to say, this is it and we own it.

Because I think we have that obligation to you all, that even though this was not begun on our watch, that we owe it to you and the American people to say, we own this. Because it would really be unfortunate to deploy a whole lot more money, and then have us or some subsequent administration official say, we are sorry, for 10 different reasons it did not work.

So we are hard at work trying to get to a point that we can make a representation to you that we can stand behind with some confidence.

Senator REED. Thank you, Mr. Secretary.  
Thank you, Mr. Chairman.

#### ABUSIVE TAX PRACTICES

Senator DORGAN. Mr. Secretary, let me go back to the tax issue. When I showed you the Wall Street Journal articles and the Washington Post article you did not respond with vigor so I do not—let me try to understand how you feel about this and what you are doing as Secretary.

In recent months Treasury and IRS have announced an amnesty program of sorts for corporations who have used tax shelters to come in and abate part of the penalty, have chosen not to appeal a Federal court ruling against the IRS and a decision that appears to open the door to some companies to double deduct certain losses from subsidiaries, signalled they would issue more generous standards for deducting some business investments, largely along the lines favored by some people that have lobbied very hard.

The implication of these stories that would be, for somebody taking a look at it, that it looks like we're stepping back here from an aggressive enforcement regime with respect to abusive tax practices. Is that what is happening?

Secretary O'NEILL. Let me respond in a real sharp way: absolutely not. If anything, I think we are more dedicated to operating the Government with excellence than maybe anybody who has ever been here before. We have had some capable people come to work in this Administration. People who have proven they can do it. It is not a theory.

Let me tell you why I did not react to these things. I will pay for this, but I am going to tell you anyway what I think about this. There is so much stuff in the newspapers parading as reports that is really editorial—that is to say, someone having an opinion—that I have just gotten immune to paying any attention to most of it.

There is so much of it that is not worth reading or knowing because it is misleading and misrepresenting what is truly going on. Somebody has an axe to grind.

I do not have enough time in my life to care about people who are out there, doing whatever they are doing in the newspapers. I am going to make the world better to the degree I can, using the great people that we have assembled. The people who get paid for writing this stuff for a living can go on doing whatever the hell they want.

Senator DORGAN. That was sharp enough.

Secretary O'NEILL. Not to be strong about it.

Senator DORGAN. That was sharper. Tell me then, as somebody who really believes that what is happening is very abusive out there, we are losing anywhere from \$10 billion to \$30 billion I think, and probably with transfer pricing even more. Tell me what is happening inside Treasury that demonstrates that this Treasury Department is really aggressive in going after these companies and those who are advocating tax shelters that are abusive.

Secretary O'NEILL. The Assistant Secretary for Tax Policy and his people are very close to having a set of proposals, some of which actually are not proposals, they are administrative actions we are going to take, and some that will require legislative action, to tighten the noose around people who would create abuses of the tax system, and to highlight what we would say are abusive practices.

Now as we agreed before, in most of these areas it is going to turn out that, by intent, the tax Code provided for people to do some of the things that are now being called abusive. We are going to have to work with the Congress one by one to change the language, if we can get the majority of members of both houses of Congress to agree to cut off this source of funds that people are taking advantage of. But we are going after this on a daily, tough-minded way and you will see something very soon.

Senator DORGAN. So if someone said, look, this is just a pro-business administration and when they see companies prying open the curtain and slipping through, there are folks in this Administration who say, we will just let them do that. They are our friends.

Secretary O'NEILL. You are not going to see any of that in this Administration. If anything, I think you are going to see people responding the way they responded to the ideas about CEOs being responsible for their behavior that the President put forward as a result of the task force that I led that said we should have a new standard, and CEOs should certify that they have told their shareholders and their employees every quarter everything they know that is material.

The screams and outcries from the community out there were quite loud. But, I think it demonstrates the intent of this President and this Administration to work for the highest standards, and the expectations of people obeying the law, and beyond obeying the law, following what I would characterize as the American value system of being able to trust each other.

#### OECD AND TAX HAVENS

Senator DORGAN. Mr. Secretary, when I tell you that the Enron Corporation had apparently over 800 subsidiaries in the Cayman

Islands and other tax haven countries, that is a startling number to me for the Enron Corporation. But the more I have looked at that corporation, the more I have understood that it was a company run by people searching for the edge so they could get near it and probably over it, if possible.

But this describes to me again why it is important for us to work through the OECD and with other countries in the OECD to take a good whack at these issues together. We are not in this alone. Every country has a similar interest in taking a look at these international enterprises that want to find a way to do business everywhere, make profits everywhere if possible, and pay taxes nowhere.

Are you interested in the work that is going on in the OECD with respect to mutual cooperation in tax abusive practices?

Secretary O'NEILL. Yes, indeed. I think you probably know this. At a hearing, I think it was last June with Senator Levin, we talked about the subject of the OECD project and the so-called tax haven work.

I said to him, I know it is probably unusual for witnesses to make a commitment off the top of their head, but I will commit to you that before a year passes, the United States will enter agreements, treaties with the so-called tax haven countries covering more than 50 percent of all the accounts that are known about in the so-called tax haven countries, that will permit us to interact and exchange information as never before. He told me on that occasion that he had been working on the problem since 1986 and no one had ever made such a commitment, no one had ever delivered that kind of a treaty response.

We are now over 50 percent, I think. Now my staff is going to die. We may be able to get to 75 percent before we get to the anniversary, because we have gone out there and we have created treaty agreements to exchange information with four new jurisdictions. We will be announcing some more fairly soon.

Again, Senator, I am really interested in producing results, not just rhetoric. Going back to Senator Levin's point, we are not just looking at the data since 1986 and lamenting the fact that we do not have any tax treaties. In 6 months, we have created more tax treaties covering more accounts than have been done, I think, in history, and we are going to keep at it.

Senator DORGAN. Mr. Secretary, I wonder if you would have your people working on the tax shelter issue just provide for the committee just a very short report describing what the goals are and what activities you are undertaking, what kind of legislation might be necessary to close some of these loopholes and shelters? That would be very helpful to us.

#### ADDITIONAL FUNDING REQUIREMENTS FOR FLETC

Let me talk just for a moment or ask you about FLETC, the Federal Law Enforcement Training Center. With the ramping up of resources in a number of areas in the Federal Government, especially including INS, Border Patrol, Customs, and also the Department of Transportation airport security, you have provided sufficient money I believe for current workloads, but it appears to me that beyond current workloads in training in the FLETC facilities we likely would have the opportunity and would want to train substantially

more people, especially those coming on board through the Department of Transportation. Have you thought about that, and if so, how would we fund that, the increases necessary for FLETC to be able to handle that?

Secretary O'NEILL. I think two things about this. First of all, I think this is a really first-rate organization. I had an opportunity to go down with George Bush, Sr. to dedicate the FLETC center. I was really impressed with what we have there. Sometimes I think you can be a little discouraged if you go look at things that are a little decrepit and have a sense of being a little shopworn. That is not the feeling about the FLETC training center. It is a fabulous place with great facilities and great trainers, I think with a capacity, if I remember right, of 2,200 students a day in that one facility. It is really quite impressive.

After we started talking about air marshals, I said to the President and my colleagues, this is the time when we should focus those resources on getting air marshals up fast, and then had some follow-on conversation with Pete Domenici about the New Mexico facility and what we could do there. Believe me, I think where we have great activity—I think this is great activity—we should use it to the fullest. I think we have the ability to be reimbursed from departments and agencies.

The concern that I had that my people taught me last year about this whole activity is that because of the delay in the appropriations process, departments and agencies hold back on making commitments to fill the slots in these wonderful training facilities, so we have been getting a very uneven utilization of the facilities, which does not make any sense to me at all. So I suggested that we needed kind of a working capital fund, if you will, in Treasury so that we could say to departments and agencies, we know you are going to eventually get your money. In effect, we will float you a loan so that we can keep the facilities open.

I continue to believe we ought to use that kind of innovation to make sure that we get full utilization that for silly budget reasons we do not have peaks and valleys in the utilization of facilities. So we will work with you to make sure that we have that result.

#### HEALTH OF THE AMERICAN ECONOMY

Senator DORGAN. All right. Let me ask you a question about the economy, if I might. The answer to the question of how we fund all of these things and what kind of a revenue stream we get in the Federal Government has a lot to do with the health of the American economy. We have had a recession, apparently a reasonably shallow recession of short duration. You have listened obviously to Mr. Greenspan's assessment of where we are. Can you give me your analysis of his assessment and then tell me where you think we are in this economy and what you expect for the coming year?

Secretary O'NEILL. I am happy to do that. In order to do it with a little sense of continuity let me go back, if I can, to September 10. I think the data show pretty clearly now that until September 10 we were in fact moving out of the shallowest period of the slow-down. That is to say, I think the lowest period was really experienced sometime back maybe in March or April of last year and

when we got to September we were already visibly moving out of the slow period into rates of growth that were not great, but they were not questionably positive; they were clearly positive.

The shock of September 11 turned our economy off for more than a week for airlines. I think because of what it did to us as a people in terms of people just sitting in shock and looking at their televisions and trying to take on board the implications of what terrorism was going to mean to our lives, it was not a surprise that the third quarter had a negative growth rate.

The day the numbers came out, I did a television interview and the people said, now we are going to have a recession for sure, and I said, I do not think so. At least I think there is still a possibility that the fourth quarter will be positive GDP, because as I talked to people that I know out in the country about what was going on, while most of them were wringing their hands, they were also taking action. They were taking action in eliminating inventories.

In December, there were no inventories in the automotive supply chain. When I went out to Cleveland in December and had breakfast meetings with suppliers to the assembly companies, to General Motors and Ford and Daimler-Chrysler, all of those people who supplied wiring harnesses and tires and the like had no inventory and no expectation of orders, so that they had really clamped down. So the reason we had a 5.2 percent productivity growth rate in the fourth quarter—which is unexperienced in our economy, to have a slow economic period and have productivity growth of over 5 percent. It is because out there millions of American business people took timely action.

It turned out, I am happy to say, I was right, the fourth quarter real GDP number was 1.4 percent. Now it is not heaven but it is certainly not zero and it is certainly not two quarters in a row of negative growth.

Where I think we are now is this, I think we are continuing to move away from the slow period. I think when the data that is available—this is dangerous; this is forecasting a little bit. But I think when the data is available for the first quarter it will show that the low period in this cycle, if you can call it a cycle, for company earnings, will turn out to be the fourth quarter of last year.

Part of the reason for that is it was still low, but it was also because there was an awful lot of housecleaning done in the fourth quarter of the year. Lots of companies said, this year, because of what happened in the third quarter, it was just a mess, and for all those things that we see we are going to have to write off; we are going to do it now. So there was a lot of clean-up in the fourth quarter, which means earnings are at a very low reported rate.

I think the first quarter is almost certain to be better than that, and the second quarter I think will be a continuation of growth. I am expecting by the fourth quarter that we are going to be operating at what one would like to see on a continuous basis of 3 percent to 3.5 percent real growth.

The important question here is what happens in the June, July, August period in terms of business decisions to invest. Again, from talking to business people, I am confident there are lots of projects that have been delayed that have economic return rates of 30 percent or more. Those projects will be funded when the optimism im-



proves out there in the leadership of the business community. That is critical to keeping this going.

#### TRADE DEFICIT

Senator DORGAN. You must be concerned about the trade deficit, are you not? Maybe you are not. I think I asked you that before.

Secretary O'NEILL. No, I am not.

Senator DORGAN. Bad question, for you at least. The trade deficit, in my judgment, certainly represents some storm clouds in the future, and also the fiscal policy budget deficit that we are facing is difficult.

#### CLOSING REMARKS

I just wanted to get your perspective of where we are. We have a series of other questions I would like to submit. I think that what I would like to do is ask if my staff can continue meeting with your key people.

Let me just say something that you alluded to. I too have visited facilities. I think the people who are working in Customs, and FLETC, and OFAC, and a whole series of areas in Treasury have been working very hard. I know I have gone to the border and I have seen people working 12 hours a day, 6 days a week. These are dedicated men and women and they do an excellent job and we want to commend them.

#### PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator Campbell had hoped to be back by the end of this hearing but he obviously has not been able to do that. He asked that I submit his statement for the record and ask for your indulgence. He had other business.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you, Chairman Dorgan. I, too, would like to welcome Secretary O'Neill. Thank you for appearing before the Subcommittee to discuss the fiscal year 2003 budget request for the Department of the Treasury. I would also like to congratulate Mr. Edward Kingman on his new position as the Assistant Secretary for Management and Chief Financial Officer in the Department of the Treasury—welcome.

The tragic events of September 11 put this nation into a tail spin, and we are all still trying to recover. The fight against terrorism has become the number one priority and the Department of the Treasury has stepped up to the plate and taken on some very challenging duties.

—The Financial Crimes Enforcement Network and the Office of Foreign Assets Control moved quickly to identify and freeze funds used for terrorist activities.

—The Bureau of Alcohol, Tobacco and Firearms worked along with others to sift through the rubble of terrorist attack sites to help recover remains and personal belongings, using techniques developed from years of investigating bombing and arson cases.

—The Customs Service has worked long and hard to make sure that our borders are secure.

—The Secret Service was given the task of making sure that events like the Superbowl and the 2002 Winter Olympic Games were safe for both athletes and spectators.

—And, the Federal Law Enforcement Training Center has geared up to train all the needed new Federal law enforcement officers, including air marshals.

The Department of the Treasury is one of the most diversified departments within the Federal Government and I look forward to learning more about the fiscal year 2003 resources needed to carry out the Department's key priorities:

—Protecting our nation from terrorists and terrorist activities,

- Necessary technological improvements,
- Improving customer service and compliance at the Internal Revenue Service, and
- Achieving the President's management agenda.

We are also interested in learning how the resources received to date by the bureaus have been used to help fight the war on terrorism.

Finally, Mr. Secretary, I think the lessons learned through the GREAT program, managed by the Bureau of Alcohol, Tobacco and Firearms, are very important resources for at-risk youth of our country. I appreciate your continued support.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator DORGAN. So what I would like to do is say that the record will remain open until the close of business tomorrow for anyone to submit additional questions or statements for the Secretary.

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

#### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

##### COBRA USER FEE PROPOSAL

*Question.* The Administration is claiming that the Customs Service fiscal year 2003 budget will receive an increase from fiscal year 2002. This is largely based on the Administration's proposal for a tax increase to cover \$250 million of homeland security efforts. It is my understanding that this user fee must be authorized by July 1, 2002 to begin accruing the total \$250 million. Are you working with the authorizing committees to pass this proposal and what plans do you have to cover the \$250 million shortfall if the legislation is not enacted?

*Answer.* The Administration will soon send a legislative proposal for a COBRA fee increase to the House Committee on Ways and Means and the Senate Committee on Finance. The Administration strongly urges the enactment of the fee increase because it is essential to the successful accomplishment of Customs' overall mission. The allocation of the fee increase would not be restricted to any aspect of that mission. Consequently, the Administration has not contemplated an operating approach for Customs based on resources that are \$250 million less than the total availability assumed in the budget request.

##### BUSINESS STRATEGY ADJUSTMENT

*Question.* You have mandated a business strategy adjustment for most of the agencies under the Department during fiscal year 2003. This is essentially forcing agencies in a very tight budget year with no programmatic increases, to find a total of \$84.7 million in savings. Only one agency, Treasury Inspector General for Tax Administration has addressed this with a proposal that would result in the elimination of 48 FTE. In addition, the Bureau of Alcohol, Tobacco, and Firearms could also be forced to decrease personnel as a result of absorbing these costs. How do you rationalize this policy if law enforcement agencies are forced to downsize personnel in a time when homeland security is most needed?

*Answer.* This type of business review is a common practice among America's most successful corporations and must occur continuously over the course of a fiscal year. Highly successful managers in these organizations seek better uses of limited resources to achieve improved outcomes at the same or lower cost.

Because this budget is proposed 8 months in advance of fiscal year 2003, this business review exercise is a work in progress. Bureau heads and financial plan managers are expected to work creatively on mid-course adjustments until the final quarter of fiscal year 2003, thereby achieving the most efficient use of all available resources and being able to more accurately predict fiscal year 2003 requirements.

The actual percentage decrease from fiscal year 2002 in the Treasury budget request as a result of the Business Strategy Adjustment is—0.5 percent or \$84.7 million, of which approximately half or \$38.5 million would be absorbed by the Internal Revenue Service. In the past decade, worker productivity has grown enormously, leading to growth in the economy. It is not too much to expect that, by fiscal year 2003, productivity will once again exceed 1 percent given continued process re-engineering and technology improvements. Therefore, it is safe to assume that Treasury can accommodate an adjustment downward of 0.5 percent.

## JOINT BORDER AGENCY

*Question.* It is my understanding that Governor Ridge is moving closer to a proposal combining the Customs Service in a joint border agency with other agencies such as the Immigration and Naturalization Service (INS) under the Department of Justice. Given the INS's poor record and this week's most recent blunder of sending approval letters for student visas of two of the terrorists from September 11, is it the most appropriate thing to combine these agencies at this time?

*Answer.* The President recognized the need to make fundamental changes in the organizational structure of the INS and proposed a restructuring of that agency last year. I am certain the President will take all issues into account when considering the recommendation from the Office of Homeland Security to consolidate border security agencies.

*Question.* Do you support Governor Ridge in his efforts to create a joint border agency and how would the revenue generating responsibilities of the Customs Service fit in with such a plan?

*Answer.* I am working with Governor Ridge and the Office of Homeland Security to ensure that the best advice and a full range of options are available to the President. It is premature to comment on specific border agency configurations, which may or may not be officially proposed to Congress. I am proud to have the U.S. Customs Service within the Department of the Treasury. The President is listening to all the arguments and considering various options. Whatever he decides, I will be an advocate for the President's proposal.

*Question.* What is the President's timeline for making a decision on this proposal?

*Answer.* The Office of Homeland Security has submitted a border security proposal to the President for his consideration. The White House has indicated the President will make his decision after a full review.

*Question.* What resulted from your 5pm meeting on March 14th, and any subsequent meetings, on this issue?

*Answer.* The Principals Committee, on which I serve, met and deliberated the border security proposal presented by Governor Ridge. Subsequently, Governor Ridge submitted a proposal to the President for review.

## COUNTERTERRORISM FUND

*Question.* The Treasury Counterterrorism Fund (CT Fund) was first appropriated in fiscal year 1997 as a central fund to reimburse any Treasury organization for the costs of providing support to counter, investigate, or prosecute terrorism, including payment of rewards in connection with these activities.

The President's fiscal year 2003 Budget attempts to transform the Counterterrorism Fund under the Department of Treasury into a reimbursable account for any agency in the Federal Government for its role in a National Special Security Event (NSSE). Congress has cautioned the Administration on the use of this fund to pay for events such as the Olympics and other NSSE's. Is it your intention that this fund be used to reimburse any agency for its participation in these events?

*Answer.* The Counterterrorism Fund is available to provide funding for costs associated with support to counter, investigate, or prosecute unexpected threats or acts of terrorism. The Fund can also be used to re-establish the operational capability of an office, facility, or other property damaged or destroyed as a consequence of any unexpected domestic or international terrorism act. This authority includes, but is not limited to, National Special Security Events (NSSEs). NSSEs are often unpredictable and expensive, and the Counterterrorism Fund has been an available source of funding that enables us to provide the level of security necessary for such events.

The U.S. Secret Service, in its responsibilities for designing, planning, and implementing security for events designated as NSSEs, is authorized to call on other Federal agencies to provide security support for NSSEs as may be necessary. The proposed language would enable those agencies to be reimbursed for costs associated with that support. The language with respect to authorization for reimbursement to any Federal agency for costs of providing security at NSSEs is also framed within limiting parameters: agencies may be reimbursed for costs of responding to the United States Secret Service's request to provide such security.

*Question.* Aren't you concerned that this fund will be depleted by planned activities that should be budgeted for in all affected agencies, rather than unforeseen events that will require the involvement of agencies within the Department of Treasury?

Answer. The language itself sets out the parameters for use of the Fund, and is very clear in that the Fund is to be used to reimburse the costs of providing support to counter, investigate, or prosecute unexpected threats or acts of terrorism.

Due to the limiting nature of the term “unexpected” which precludes the use of the Fund for activities or operations that are planned, as well as the level of Departmental oversight of the Fund’s administration, we are not concerned that this fund will be depleted by planned activities.

#### LAW ENFORCEMENT RESOURCE REQUIREMENTS

*Question.* In the past, we have not seen eye to eye on the need for additional resources for the Customs Service. Even after the events of September 11 and the clear evidence of shortfalls along our nation’s borders, the Department did not seek additional staffing resources necessary for the Customs Service. That is why I was very pleased to see the annualization of these resources in the fiscal year 2003 budget (with the exception of the proposed tax increase of \$250 million to cover much of these additional costs). In a time when homeland security is vital and the strengthening of our nation’s borders is a frontline defense requirement, what is your commitment to providing the U.S. Customs Service and all Treasury law enforcement agencies with the necessary resources and support they require from the Department?

Answer. The President and I are in agreement that the resource requirements for any given Federal agency must be evaluated in the context of government-wide coordination among agencies with related missions. To succeed in protecting our borders, we must be willing to reposition our human and financial resources to meet the shifting avenues for terrorist assault. We will beat terrorism only if we are more ingenious than the terrorists. Government is sometimes needlessly expensive and unproductive because there is not the drive to make effective resource allocation choices for the common good of the Nation. Each subsequent budget will give us the opportunity to rethink how best to direct taxpayer dollars to the critical issue.

*Question.* I understand your belief that a business case must be made before dumping more money on a given program. But I suggest that law enforcement requirements should be justified differently than those for office supplies or computer systems. I do not think you can make a sound “business” case for placing two law enforcement officers at now—24hr ports-of-entry which have fewer than 50 cars entering the country on a given day. But you certainly can make a strong “national security” case for the enhanced presence of those law enforcement personnel. In keeping with the need to secure our nation’s borders, will you also consider national security needs when determining resources?

Answer. I do not see a conflict between a sound business case for resource allocation and concerns for national security. The President has made homeland security a top priority in his budget and I intend to carry out that commitment by ensuring that the Federal resources we devote to homeland security are spent wisely, and in fact add to our Nation’s security.

#### NTIA NARROWBAND MANDATE

*Question.* All land mobile radios, principally used by law enforcement, must be replaced to meet NTIA’s narrowband mandate by January 1, 2005. The Department has been working on this effort since fiscal year 2001 and estimates a cost of \$362 million. With the amount included under the Administration’s fiscal year 2003 budget, we are looking at an estimated \$80 million shortfall that will require a request of \$191 million in fiscal year 2004. How does the Department plan on completing this vital technology conversion for law enforcement by the deadline within the current budget proposal? What will it mean for law enforcement if the conversion does not occur by January 1, 2005?

Answer. Based on the fiscal year 2003 President’s budget request, significant infrastructure requirements and implementation have been shifted into fiscal year 2004 and the first part of fiscal year 2005 in order to address the NTIA mandate. Budget policy for fiscal year 2004 and fiscal year 2005 will need to reconcile with the requirements of the Integrated Treasury Network (ITN) business case.

In fiscal year 2001, the program budget request was \$52.9 million and the appropriation was \$29.8 million, resulting in a \$23.1 million shortfall. Due to the fiscal year 2001 shortfall, the revised budget requirement for fiscal year 2002 became \$101.6 million and included the original fiscal year 2002 requirement of \$86.8 million plus the carryover from fiscal year 2001 of \$14.8 million. The proposed fiscal

year 2002 President's budget included \$25.0 million<sup>1</sup> for the ITN—resulting in a revised program shortfall of \$76.6 million that was redistributed evenly between fiscal year 2003 and fiscal year 2004. This shortfall, combined with a re-evaluation of program requirements (which reduced the fiscal year 2003 budget request), led to an overall fiscal year 2003 budget request of \$121.3 million. Based on the fiscal year 2003 President's budget of \$31.9 million, infrastructure and implementation requirements have shifted primarily into fiscal year 2004.

Treasury, in consultation with OMB, is prepared to take the necessary budget actions, including those in the current year budget, to achieve the maximum benefits offered by the ITN and will make necessary adjustments to meet the NTIA mandate. For example, we may consider:

- Directing the bureaus to use supplemental wireless communications funds they may receive from Homeland Security and counter-terrorism funding to augment ITN implementations, rather than purchasing equipment in support of their own independent systems.
- Pursuing a mechanism that would redirect bureau baseline funds that support their own legacy radio systems into the ITN planning and implementation effort.
- Establishing a mechanism to recover bureau operations and maintenance (O&M) costs from their decommissioned legacy radio systems and redirect toward ITN investment and O&M.

It is important to note that the Department realizes that the budget process is not independent from other critical aspects of successful organizational management. In addition to alternative funding sources, Treasury will also continue to pursue the following program objectives:

- As requirements dictate, partner and share portions of radio infrastructure with other Federal agencies. Our MOU with the Department of Justice researching common architectures and infrastructures is the start of a process that could lead to the sharing of public safety infrastructures, and potentially decrease some ITN life cycle costs.
- Opportunities to partner, leverage, and share infrastructures with other Federal agencies will continue to be pursued.

The consequences of failing to meet the January 1, 2005 NTIA narrowband mandate are significant:

- Treasury agents and officers will probably become secondary users on their current frequencies.
- Agents and officers may find themselves with no communications in an emergency situation.
- The lives of Department law enforcement and protective personnel may be endangered.
- Critical Departmental missions affecting national security may be compromised.
- Horizontal (Department-wide and Federal) and vertical (State and local first responders) communications interoperability will be further delayed
- Operations of other Federal agencies dependent on a coordinated transition to narrowband may be jeopardized.

#### COBRA USER FEES

*Question.* COBRA user fees fund all Customs inspectional overtime as well as over 1,000 positions. The President's budget DOES NOT assume the reauthorization of COBRA, which is set to expire in September 2003. What are the President's legislative recommendations to deal with the loss of this funding?

*Answer.* The fiscal year 2003 budget does not reflect a specific Administration position on the extension of the COBRA fee, in either its existing or proposed form, beyond fiscal year 2003. The extension issue will be addressed during the fiscal year 2004 budget cycle.

#### SECRET SERVICE WORKLOAD BALANCING

*Question.* We have been concerned for sometime that the overtime requirements for Secret Service agents were resulting in significantly high rates of attrition. For this reason, we initiated a "workload balancing" plan and provided funds for the Service to hire additional agents and bring their overtime levels to acceptable ranges. Last fall, this subcommittee provided funding for what we anticipated was

<sup>1</sup>The actual fiscal year 2002 appropriation was \$25.9 million, however, the fiscal year 2003 budget was formulated based on the President's proposed budget of \$25.0 million and associated \$76.6 million shortfall. The additional .9 million in fiscal year 2002 funding was utilized to offset program requirements in fiscal year 2004.

the third and final year for this initiative. However, the spike in the number of protectees requiring Secret Service attention as a result of the events of September 11 may undermine the workload initiative. It could once again return the overtime levels to unacceptable levels and restart the cycle of attrition.

Are you concerned about attrition in the Secret Service and have you discussed this situation with the Director?

Answer. Yes, I have discussed these issues with the Director. The agent hiring initiative has empowered the Secret Service so that it is well underway in achieving its goal to reduce the attrition rate for non-retirees, the early resignation or other type of separation from the Secret Service of young or mid-career agents. However, the Secret Service has not yet achieved its fiscal year 1994 benchmark attrition rate of .48 percent. This is largely due to the lag time attributed to bringing an agent trainee from training to an operational status in the field.

*Question.* If this cycle starts again will you be willing to work with the Secret Service to find the resources to address this critical problem?

Answer. Yes, I would be willing to work with the Secret Service to find the resources to address this critical problem in the event that this cycle starts again.

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER REQUIREMENTS

*Question.* The Federal Law Enforcement Training Center is charged with providing training for a significant portion of the Federal law enforcement workforce. In budget briefings with our staff, it appears that the fiscal year 2003 budget request is sufficient to meet FLETC's currently planned needs for the coming fiscal year. As you are aware, the Transportation Security Administration (TSA) is in the midst of a large ramp-up for various aspects of their new responsibilities. A key part of those responsibilities are going to be law enforcement activities, including Federal Air Marshals and other law enforcement agents for the airports. We understand the number of new hires may be in the thousands, all of whom will need training.

What role will Treasury's Federal Law Enforcement Training Center have in this undertaking?

Answer. FLETC continues to coordinate with the Transportation Security Administration (TSA) in determining what their training requirements will be in the future. FLETC is supporting the TSA through a three-tiered approach—screeners training assistance, Federal Air Marshal training, and training for the proposed formation of a new law enforcement agent group.

#### *Screeners Training Assistance*

At the request of the TSA, a proposed FAA-developed curriculum was reviewed and expanded by FLETC subject matter experts for law enforcement and security content. In February 2002, FLETC hosted a mini-conference of TSA, FAA, USSS, and loaned executives from the private sector to the TSA. A pilot program was conducted utilizing a combination of FAA personnel and FLETC-identified retired law enforcement officers, who could serve as a potential train-the-trainer cadre. This was conducted in Glynco, GA.

Starting in March 2002, a second session of course development and a basic screeners pilot program was conducted at Glynco. It is our understanding that TSA will conduct the training on a regional and local basis across the country. FLETC's role will be limited to providing training validation and assistance on an as-requested basis.

#### *Federal Air Marshal Training*

FLETC began training for increased numbers of Federal Air Marshals in October 2001 at the request of FAA. Program agreement has been reached between FAA and FLETC on the training format to be used. Adjustments will continue to be made, as more information becomes available concerning the long-term mission goals of the TSA, and FLETC's role in assisting to achieve those goals. FLETC is now conducting intensive training through its Artesia, NM site on a 6-day workweek for new Federal Air Marshals. A reimbursement agreement has also been signed between the two agencies that will cover costs for tuition, staffing, and equipment needs for this training.

#### *Training for the proposed formation of a new law enforcement agent group*

FLETC and TSA are working on an agreement of training program content and resources needed for training a new law enforcement agent workforce under TSA's auspices. TSA expects to begin sending trainees to Glynco in the summer of 2002. In anticipation of this, the two agencies are looking at space and training capacity options for conducting all training at the Glynco facility. Final decisions on facilities and workload projections have not yet been determined.

*Question.* Do you plan to provide additional funding and staffing resources to FLETC, whose fiscal year 2003 request already indicates their capabilities are stretched to the limits with training requirements following the September 11 attacks?

*Answer.* FLETC's fiscal year 2003 budget included sufficient funding for the requirements that were known at the time of its submission. At the time the fiscal year 2003 budget was submitted, the TSA requirements were not known, in fact those requirements are still being developed. Currently, the cost of the additional training being provided to TSA by FLETC is being reimbursed by TSA. This arrangement will have to continue at least through fiscal year 2003 or additional resources will have to be provided to FLETC for both funding and staffing.

*Question.* I would like to follow up with you on our discussion about the possible creation of a "working capital fund" within Treasury to allow for a more regularized flow of students through FLETC's training facilities. I am encouraged that you are aware of the spikes and lulls in the throughput of students and have given some thought to this problem. Exactly how do you envision this problem being addressed? How can we assist you in this endeavor?

*Answer.* The practicality of a working capital fund that conducts continuing cycles of business-like activity, in which the fund charges for the provision of training or training-related services and uses the proceeds to finance its spending without the uncertainties endemic to the annual appropriations process, is appealing. Sometimes inherent delays in the appropriations process cause departments and agencies to hold back on making commitments to fill FLETC training slots; and as a result, FLETC periodically experiences an uneven utilization of its staff, facilities, and resources. On the other hand, we must not jeopardize the availability of mandatory and qualitative law enforcement training. Although the concept is appealing from an enterprise perspective, it also raises challenges when participating agencies have insufficient funding. As we continue to evaluate such a funding mechanism we will let the Committee know how it can assist us in this regard.

#### VISITING CUSTOMS PORTS OF ENTRY

*Question.* As a former CEO, you recognize the importance of visiting your facilities, meeting with the workers and seeing the conditions in which they must work. In that vein, and recognizing how busy your schedule is, have you been to any northern border ports-of-entry since you became Secretary? Have you visited any in the winter? For that matter, have you been to the southwest border in the summer?

*Answer.* On February 25, 2002, I visited the Port of Jacksonville, Florida, as well as the Customs Air Marine Interdiction Division branch in Jacksonville. I also visited the Customs facility at JFK Airport, shortly after the September 11, 2001 terrorist attacks. I am especially looking forward to my site visit to the Detroit port of entry on April 16, 2002. I had two additional visits scheduled to the Northern and Southwest Borders, but unfortunately both visits were cancelled due to scheduling conflicts. I look forward to visiting these sites in the future.

#### USE OF TECHNOLOGY AT THE BORDERS AND PORTS OF ENTRY

*Question.* You are aware of the dynamic tension facing the Customs Service as it pursues its dual role of facilitating the flow of legitimate trade while at the same time preventing illegal substances from entering the country. Recently, Customs Commissioner Bonner spoke about his interest in using technology overseas at some of the largest seaports—Hong Kong, Rotterdam—to verify the contents of cargo containers before they are loaded on ships and sent to the U.S. Then these containers would be tracked as they made their way to their ultimate destination to ensure that they are not tampered with en-route. This system would be used to assist the exporters and importers who participated in the program by significantly reducing any processing time once the cargo reaches the U.S. border. At the same time, on his recent trip to Mexico, Governor Ridge noted that technology on the border is woefully outdated. Do you agree with these assessments? How can we jointly better use technology to protect both the border as well as legitimate trade?

*Answer.* Customs is in the process of expanding its layered enforcement approach at our nation's borders. Inspectors have recently been deployed to Canada in the port cities of Vancouver, Montreal and Halifax, and Canadian inspectors have been deployed to the U.S. port cities of Newark and Seattle/Tacoma. A state-of-the-art targeting tool, the Automated Targeting System (ATS), has been provided to these targeting teams to pre-screen sea containers arriving in Canada that are destined for the U.S. and vice versa. In addition, Canada has begun procuring advanced inspection equipment such as the Vehicle and Cargo Inspection System (VACIS) to assist in the inspection process. The U.S. ports mentioned above currently have this

equipment and are utilizing it to inspect both United States-and Canadian-bound sea containers.

Customs has deployed over 80 non-intrusive inspection (NII) systems around the country to protect our nation's borders and facilitate legitimate trade. These X-ray and gamma ray based systems are state-of-the-art and are capable of screening sea containers, trucks, rail cars and cargo in a matter of minutes. It would take hours to search each of these inspections by hand. In addition to the NII systems, Customs is testing and deploying a number of other new technologies aimed specifically at radiation detection. Pager-sized, hand-held devices or portals capable of scanning a truck or container are either on the job or being tested. In addition, the Customs Handheld Acoustic Inspection System (CHAIS) is being developed to identify suspicious liquid and gaseous compounds without having to open the item.

Customs currently uses technology throughout its layered enforcement approach to target, screen and conduct intensive inspections. Technology that we use has been shared with Mexico and Canada. In addition to the Canadian NII system, Mexico has deployed a number of NII systems, both X-ray and gamma ray based, to screen and inspect commercial trucks and railcars. Customs continues to work closely with Mexican authorities on plans for the deployment and utilization of this type of equipment.

Currently, the majority of land border shipments arriving from Mexico by truck are cleared by Customs using the cargo selectivity system or the Border Release Advanced Selectivity and Screening (BRASS) system. Both of these systems are paper-based for the most part on the land border and could benefit from new technologies available.

There is, for instance, no automated truck manifest system available yet in Customs Automated Commercial System. A system of pre-filed information from the carrier about the conveyance, driver and carrier's knowledge of the shipments would serve as a valuable targeting tool. This is planned as one of the first deliveries of the Automated Commercial Environment, with an expected delivery by the end of 2003. The National Customs Automation Program prototype release program available now only in the port of Laredo does offer some manifest information on conveyance and driver, but it is limited to restricted importers and merchandise.

The targeting capabilities of the major release systems, cargo selectivity and BRASS, are not as wide ranging and flexible as those of the Automated Targeting System, but many of the selectivity entries can be piped into ATS provided the data is received in advance of truck arrival. Future changes to ATS or any new targeting provided in ACE will provide these capabilities in all release systems.

Additionally, inspectors working in areas away from the office, in railroad marshalling yards and at bonded facilities in the port could be supplied with computers capable of remote access. This would provide them the capability of querying the available targeting, enforcement and reference databases, while performing their work away from the port office.

#### EARNED INCOME TAX CREDIT PROGRAM

*Question.* Late last month, the Treasury Department and the IRS announced the formation of a new task force to examine the Earned Income Tax Credit (EITC) program. This popular program which benefits low-income workers has been the target of what I believe to be unfair criticism in some small, but vocal, quarters. While there have been some difficulties with the program, an IRS report found that the \$716 million we have appropriated for the program resulted in the collection of \$5 billion in EITC funds over 5 years. Do you support the EITC program? What steps can we take together to ensure that the goals of the program are being met?

*Answer.* The Administration supports the goals of the EITC as set out by the Congress. In addition, EITC receives a separate appropriation from Congress, and therefore, the Department is directed to apply increased attention to this program. The EITC is intended to reward work and help families out of poverty. But an error rate of 27 to 32 percent is unacceptably high, and as a result, the EITC has been consistently listed among the Federal programs most vulnerable to waste and error. Fortunately, we are already taking steps to control the error rate.

The Economic Growth and Tax Relief Reconciliation Act of 2001 simplified the income and child definitions used to determine EITC eligibility. These rules will take effect on tax year 2002 returns filed next year. The Department is in the process of developing a proposal for a uniform definition of "qualifying child". The proposal would reduce confusion and the potential for duplicate and erroneous claims by standardizing the definition of child used for the EITC and for four other tax benefits (the dependent exemption, child tax credit, child and dependent care tax credit and head of household filing status).



Finally, as you know, Treasury and IRS are working now to further improve the integrity of the program while maintaining its key benefits. The Treasury/IRS task force will be making recommendations to me this summer. In the meantime, I ask that you continue to support the IRS compliance activities that have collected \$5 billion between 1998 and 2002. I would also add that we need to be looking at compliance in the tax code as a whole, and not just in the EITC. IRS is moving in that direction through the new National Research Program. I encourage the Congress to continue to support this new research.

#### INFORMATION SYSTEMS SECURITY

*Question.* According to a recent review by the Inspector General, 82 percent of the Department's information systems are not accredited for security. Proper safeguards and secure operations have been a mandate since the Computer Security Act of 1987, and this is a failing grade for the Department of Treasury. Not only is information security even more important now, but given the information under the jurisdiction of the department, it should have been a top priority all along. What are you plans to correct this situation, especially in relation to the major modernization projects at agencies like the IRS and the Customs Service?

*Answer.* Treasury's Office of Information Systems Security (OISS) has initiated a very aggressive Department-wide strategy to address security accreditation. This strategy includes comprehensive site visits Department-wide, thereby providing OISS senior staff an opportunity to ensure that Treasury policy and guidance are followed regarding all facets of IT Security.

As part of an ongoing partnership with the National Institute of Standards and Technology (NIST), Treasury has actively assisted NIST in drafting Federal Certification and Accreditation Guidelines. It should be noted that prior to the recent review by the Inspector General, OISS established a Department-wide performance measure to address the certification and accreditation of Information Technology systems with a goal of having 100 percent of the Department's systems certified and accredited for operation by fiscal year 2004. OISS has created a compliance program to monitor bureau progress in achieving this performance objective.

As a result, there is a renewed emphasis Department-wide on this vital component of IT security. Earlier this fiscal year, the Customs Service awarded a contract to accelerate the certification and accreditation process for their systems. The goal is to reach 100 percent certification and accreditation of all Customs Service systems by the end of fiscal year 2003. The Internal Revenue Service has also awarded multiple contracts relating to certification and accreditation of their systems, and has purchased an automated tool to assist with part of the certification and accreditation process. The goal is to reach 100 percent certification and accreditation of all Internal Revenue Service systems by the end of fiscal year 2004.

#### TAX-EXEMPT BONDS FINANCING OF RECYCLING FACILITIES

*Question.* Last year, you were before this committee and indicated that you had undertaken a review of the Department's policy in this area and that you would be getting back to us after meeting with industry groups. It is my understanding the National Association of Bond Lawyers has submitted comments and a detailed proposal for changing regulations to clarify the issue of when something is waste and thus qualifies for tax-exempt financing and when it does not. Please provide an update about your discussions with the affected parties and give us the status of your review.

*Answer.* Existing law permits tax-exempt financing for solid waste disposal facilities, including certain recycling property, even if the property is owned and operated by a private business. The Treasury Department has received a number of comments requesting clarification of the existing regulatory definition of "solid waste disposal facilities," particularly as it applies to recycling facilities. Treasury personnel considered these comments, and met with industry groups, and have concluded that additional clarification on this issue is necessary. Accordingly, the Treasury Department's Office of Tax Policy intends to undertake, as part of its Priority Guidance Plan for the period July 1, 2002 through June 30, 2003, a guidance project to address the definition of solid waste disposal facilities. As part of this process, the Treasury Department will solicit additional comments from interested parties.

#### TAX SHELTERS

*Question.* Mr. Secretary, in addition to the report that you said during the hearing you would provide to me on what the Department is doing regarding tax shelters, I would appreciate responses to the following questions.

Answer. The Department will soon be releasing Enforcement Proposals for Abusive Tax Avoidance Transactions, which will be sent to the Committee as soon as it is available. In addition to detailing a comprehensive set of administrative and legislative proposals to address the problem of abusive tax practices, these Enforcement Proposals will also describe the Treasury Department and IRS' recent experience with the current enforcement regime, the current actions being taken to combat abusive tax avoidance transactions at all levels, and the reasons why the Treasury Department believes that its proposals will materially improve the Treasury Department and IRS' ability to combat these types of transactions. The Department is already working with the IRS and Congress to move these proposals forward.

*Question.* What kinds of tax shelters are you aware of that are currently being used by taxpayers to avoid their tax responsibility? What tax shelters is the Treasury Department most concerned about at this time?

Answer. The Treasury Department is concerned with all tax avoidance transactions that are structured to obtain unintended tax benefits, as well as with tax scams typically targeted at individuals and small businesses. The sophistication of these transactions and scams varies considerably, ranging from very complex transactions designed to satisfy technical rules while yielding unintended tax benefits, to patently fraudulent arguments and positions that tax is not due. Many of these transactions and scams will be discussed in the Treasury Department's Enforcement Proposals.

The Treasury Department, however, is most concerned about the transactions and schemes that we do not know about. The current enforcement regime requiring disclosure, registration, and customer-lists for questionable transactions must be made clearer and broader so that questionable transactions can be identified and scrutinized. Unfortunately, too many taxpayers and promoters are reading the requirements narrowly and construing the exceptions broadly to avoid maintaining customer lists and disclosing and registering transactions.

Therefore, we will be proposing a comprehensive set of administrative and legislative proposals that will significantly simplify and broaden the existing enforcement regime and add new and increased penalties for the failure to comply with these rules. We believe that early and vigorous scrutiny will allow the Department and the IRS to address questionable transactions quickly through published guidance or by proposing legislation, and to develop the best cases for litigation when appropriate.

*Question.* Would you please tell us what major legislation, if any, the current Administration has proposed in its fiscal year 2003 budget submission to deal with the tax shelter problem?

Answer. The Administration's proposed fiscal year 2003 budget contains two proposals targeted at abusive tax practices. The first would increase the frivolous return penalty and extend the penalty to cover other frivolous submissions made to the IRS. The second proposal would give the IRS the authority to treat false claims for refundable credits as nullities not subject to existing deficiency procedures.

*Question.* Do you anticipate that the Administration will be recommending any legislation in the future?

Answer. As noted above, the Treasury Department will soon be releasing a comprehensive set of administrative and legislative proposals for combating the problem of abusive tax avoidance transactions. The legislative proposals will include new penalties on taxpayers for the failure to disclose questionable transactions, increased penalties on promoters who fail to register questionable transactions and maintain customer lists, SEC reporting of penalties relating to identified tax avoidance transactions, expanded injunction authority for promoters who repeatedly disregard the registration and customer-list requirements, and two substantive law changes to stop specific types of abusive transactions that have been identified.

*Question.* Are there regulation projects underway at the Treasury Department or IRS notices to curb the use of tax shelters?

Answer. The Treasury Department and the IRS are closely working together to identify new transactions to be identified in notices as tax avoidance transactions that are required to be disclosed on a return, including new transactions that have been identified in response to the IRS' recent disclosure initiative (Announcement 2002-2).

The Department and IRS are also working to implement the regulatory actions which will be outlined in the Treasury Department's Enforcement Proposals, including significant revisions to the regulations for the disclosure, registration, and customer-list requirements. These changes will increase transparency and allow the Department and the IRS to evaluate questionable transactions early in the process and determine whether regulatory or legislative responses are required.

*Question.* Is the IRS effectively imposing monetary or other penalties in the tax shelter cases they uncover? Do you know the number of times the IRS has imposed additional penalties in tax shelter cases and actually how much in tax shelter-related penalties the IRS has sustained in dollar terms?

*Answer.* The Department and IRS must work continually to ensure that all penalties are fairly, impartially, and consistently applied. Ensuring the consistent and judicious application of penalties often requires clear guidance coupled with experienced oversight. For example, the IRS' Large and Mid-Size Business Division (LMSB) recently issued guidelines for the application of the accuracy-related penalty on potentially abusive tax avoidance transactions. This policy includes instructions to examiners regarding the development and imposition of the penalty as well as executive oversight by the Directors of Field Operations (DFOs), who have the final decision-making authority regarding the imposition or non-imposition of penalties. These guidelines are also a clear signal to taxpayers that penalties will be developed and considered in appropriate cases.

With respect to specific data regarding the assertion of penalties, I have asked the Department and IRS to review the existing data, and I will forward any information responsive to your specific question when it becomes available.

*Question.* What is the Administration doing to allow our tax officials to get the information they need for examinations from these tax-haven countries?

*Answer.* In July 2001, I made a public commitment to significantly expand our network of tax information exchange agreements, with a particular focus on achieving such agreements with significant offshore financial centers that have not been interested in cooperating with us on tax matters in the past. We are very pleased to have signed new tax information exchange agreements with the Cayman Islands, Antigua and Barbuda, the Bahamas, and the British Virgin Islands.

These new tax information exchange agreements contain the elements that are critical to the effective exchange of information. They cover both civil and criminal tax matters, and ensure that bank secrecy and other rules will not stand as a bar to access needed information. They also provide for essential protections with respect to the privacy and confidentiality of the information to be exchanged.

We believe these new relationships will prove to be very valuable in our efforts to ensure full and fair enforcement of our tax laws. We also believe that these new agreements will help us to encourage other jurisdictions to establish information exchange relationships with us. I remain committed to broadly expanding the U.S. network of tax information exchange agreements, and expect to be able to announce additional agreements in the coming weeks.

*Question.* Does the Administration support the OECD's current initiative to force tax havens to cooperate with international tax enforcement efforts and what are you doing specifically to support the OECD's effort?

*Answer.* After a careful review of the OECD harmful tax practices project early last year, I concluded that the United States must attempt to refocus the OECD project on its core element—the need for countries to be able to obtain specific information from other countries upon request in order to prevent noncompliance with their tax laws.

I was concerned that unrelated elements of the OECD project, which had the potential to encroach on the sovereign rights of all countries to determine their own internal tax and economic policies, were distracting from and interfering with progress in the important area of effective tax information exchange.

Working together with other OECD member countries, we have made substantial progress in focusing the OECD initiative on encouraging tax haven jurisdictions to improve their transparency and information exchange practices. We are very pleased with the progress that has been achieved because of this refocusing, which has allowed the project to proceed with considerably less resistance than it was encountering 12 months ago. Indeed, more than 20 jurisdictions have committed to achieve transparency and effective information exchange since the project was refocused. We look forward to continuing to work together to achieve real advances in this critically important area.

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QUESTIONS SUBMITTED BY SENATOR JACK REED

GUN SHOWS

*Question.* In a January 1999 report, "Gun Shows: Brady Checks and Crime Gun Traces," the Department of the Treasury concluded that "a review of ATF's recent investigations indicates that gun shows provide a forum for illegal firearms sales and trafficking."

Do you support legislation to close the “gun show loophole” that exempts private sales at gun shows from the Brady background check requirement that applies to sales by licensed dealers?

Answer. The Administration supports, in principle, amending the Brady Act to require background checks for all firearms transactions at gun shows. We must ensure that terrorists and other criminals are prevented from purchasing weapons at gun shows through an instant criminal background check that does not unduly burden the law-abiding gun buyers at these events.

*Question.* I met with staff from the Treasury Department’s Bureau of Alcohol, Tobacco and Firearms and the Department of Justice last November and was told that in the immediate aftermath of the September 11 attacks, FBI officials compared the audit log of approved gun sales under the NICS to the government’s terrorist watch lists based on a request from ATF. We later read about inspection of the audit log in the New York Times. So it was clear that these NICS records contained important information for investigators. But since then, the Department of Justice has suggested that Federal law prohibits NICS records from being used in terrorism investigations. Since the request came from your Department, what are your thoughts on DOJ’s decision, and do you support legislative efforts to make audit log records available for anti-terrorist investigations?

Answer. As a point of clarification, ATF made the request to the FBI to compare the audit log of approved gun sales under the NICS to the government’s terrorist watch list in response to a request for information from the Joint Terrorism Task Force (JTTF). It is our understanding that the Department of Justice interprets its current regulations to prohibit the use of the NICS audit log for this purpose. To the extent that legislation would be necessary to make audit log records available for anti-terrorist investigations, the Department would review such legislation in consultation with others in the Administration.

#### USE OF ATF DATABASES FOR FIREARMS TRACING

*Question.* In a written response to my inquiry about cooperation between the Department of Justice and ATF on anti-terrorist issues, the Attorney General stated that “Following the September 11 attack, the FBI requested that the Bureau of Alcohol, Tobacco and Firearms (ATF) compare ATF databases relating to multiple sales, stolen firearms and traced crime guns with the [terrorist] watch list arising out of the investigation. The FBI was advised there were 6 matches from this comparison.”

How many and what types of weapons were involved, i.e. were they assault weapons, handguns, etc.?

Answer. The names of 8 individuals from the terrorist watch list matched the names of individuals found in records of 47 previously traced firearms or 2 multiple sales reports. These records included traces of 32 pistols, 10 rifles, 5 shotguns and 2 revolvers.

#### POLICY FOR IMPORTATION OF FIREARMS

*Question.* The Bureau of Alcohol, Tobacco and Firearms has the authority under 18 USC §925 (d) to exclude from import firearms that are not “generally recognized as particularly suitable for or readily adaptable to sporting purposes. . . .”

What is the policy of the Department, and specifically the Bureau of Alcohol, Tobacco and Firearms with respect to the importation of weapons that have significant potential for terrorist use? Specifically, what is ATF’s policy with respect to the importation of .50 caliber sniper rifles? These weapons have been identified by the RAND Corporation as posing a significant and real threat to the security of air force bases because they have the capability to disable aircraft. Moreover, the Violence Policy Center has documented that 25 of these long-range, high-caliber weapons were transferred to Osama bin Laden. Would it be the policy of the Department to exclude the importation of such weapons on the grounds that they would fail the “sporting purposes” test since they pose a threat to national security?

Answer. The Bureau of Alcohol, Tobacco and Firearms has determined that a .50 caliber rifle is importable as a sporting firearm because it is particularly suitable for, or readily adaptable to, sporting purposes. Specifically, ATF’s longstanding interpretation of “sporting purposes” includes competitive shooting events. In the United States, there are numerous organizations that sponsor competition in silhouette and target shooting events for .50 caliber rifles.

## ELIMINATION OF CORRUPT GUN DEALERS

*Question.* In a June 2000 study, "Following the Gun: Enforcing Federal Laws Against Firearms Traffickers," the Department identified federally licensed firearms dealers (FFLs) as the single largest source of illegally trafficked firearms.

What steps have been taken, or are planned, to identify and eliminate corrupt gun dealers?

*Answer.* The Bureau of Alcohol, Tobacco and Firearms (ATF) focuses its inspection resources on dealers who have potential firearms trafficking indicators associated with their businesses. ATF's comprehensive focused inspection program targets certain dealers based on firearms tracing data and information about their compliance history. During these inspections, ATF examines the dealers' recordkeeping procedures, their compliance with the Brady law, and any inventory discrepancies.

When warranted, ATF opens criminal investigations of licensees. During fiscal year 2000 and 2001, the Bureau initiated criminal investigations of 39 licensees for various violations, including the sale of illegal weapons and transactions with prohibited individuals. In addition to criminal prosecutions, when willful violations by Federal firearms licensees are discovered, ATF moves to revoke those licenses. In fiscal year 2000 and fiscal year 2001, nearly 70 dealers had their licenses revoked for willful violations of the Gun Control Act.

*Question.* Is the balance of resources sufficient to perform the required increase in explosives investigations and inspection due to the events of 9/11 without shifting resources away from firearms enforcement, the GREAT grant program, and all other mandates of the BATF?

*Answer.* Shortly after September 11, 2001, ATF directed that all field divisions conduct inspections of the vast majority of explosive licensees and permittees. These inspections were recently completed. During these inspections, ATF re-emphasized the importance of promptly reporting the theft or loss of explosive materials, as well as the importance of reporting any suspicious activity, attempted break-ins, and suspicious purchase attempts. ATF believes it is important to fully investigate every incident of the theft or loss of explosive materials and to conduct compliance inspections on all explosives licensees and permittees. With the level of inspector resources as they currently exist, we plan to inspect 50 percent of this total population on an annual basis. Our policy will be to first follow-up on problems we found during our post September 11 explosives field program. To continue our explosives inspection program at post September 11 levels would require additional resources or a reallocation of existing resources.

## AUTOMATED COMMERCIAL ENVIRONMENT

*Question.* As you have mentioned in your testimony, the Customs Service is in the third year of funding for its modernization effort, specifically replacing the outdated Automated Commercial System (ACS) with the Automated Commercial Environment (ACE).

Is the Department pleased with the progress of this modernization effort? In light of the dramatic increase in imports to our nation's ports, and the increased chance of illegal products coming into the country for possible terrorist actions, does the Department feel that there should be a further increase for Customs to assist in their monitoring of our ports of entry? Should the ACE modernization project be sped up?

*Answer.* Customs Modernization has gained great momentum since the systems integration contractor began work on the Automated Commercial Environment (ACE) in August 2001. The Department is satisfied with the progress of ACE and recognizes its critical role in the foundation of Customs-wide modernization. Additionally, the Department monitors the progress of ACE through its oversight role on the Joint Capital Investment Review Board (J-CIRB). As the project progresses, capabilities will be improved and expanded to all modes of transportation and trade partners, creating national accounts for brokers, carriers, sureties, exporters, and government agencies. The infrastructure built for ACE will also serve as the foundation for modernization projects in Customs enforcement and administration areas.

The benefits of ACE have become even clearer in light of the recent terrorist attacks. In addition to reforming the way Customs conducts business with the trade, ACE will provide the tools, information, and foresight needed to both expedite trade, and through quicker more effective targeting, prevent cargo from becoming an instrument of terrorism. ACE is an important project for our country, Customs, the business community, and for the future of global trade.

Consideration of any acceleration of ACE funding beyond the requested \$312.9 million level (including funding for the International Trade Data System) will be part of the Administration's Fiscal Year 2004 budget development, and will take into consideration the pace of spending approvals and procurements as the project

progresses. Treasury will also continue to derive guidance from GAO and from communications issued by the Appropriations Committees in their review and approval of requests for release of already appropriated funding. The most recent such communication from the House Appropriations Committee continues to counsel caution, and that care be taken to assess the risks and their acceptable mitigation in any acceleration of development of such a complex project as ACE.

MODERNIZATION AND IMPROVEMENT OF IRS SYSTEMS

*Question.* You have outlined in your testimony the continued efforts of the Department and the IRS to modernize the Service's systems as well as to improve its taxpayer service and compliance, and I laud your efforts in this area.

What other areas do you see that need increased efforts at improvement? What are the levels of complaints lodged against the Service by taxpayers over the course of the modernization effort? I was wondering too if you could expand a bit more about the IRS' plans to encourage electronic filings, and particularly how this might conflict with private sector efforts in this area?

*Answer.* The IRS Oversight Board has stated that "service to taxpayers is inadequate." In spite of the short-term gains the IRS achieved, they are still not consistently providing service to taxpayers at a level they expect and deserve.

The IRS received 108 million telephone calls, covering a very wide range of subject matter. The quality of that telephone service, while continually improving, is still not on a level with the services received in the private sector.

Not only must the IRS continue to improve taxpayer access to toll-free lines, but they must also improve the accuracy of the responses given to tax law and account questions. Unfortunately, this problem is not confined to telephone assistance. The IRS also has a steep learning curve at taxpayer assistance centers. The GAO testified in April 2001 that "walk-in sites are continuing to provide poor tax law assistance."

The IRS is not providing adequate service in other areas. For example, employers, particularly first-time employers, are often discouraged by the delays and difficulties in obtaining an Employer Identification Number (EIN).

The IRS is currently administering 71 taxpayer rights provisions resulting from the Restructuring and Reform Act of 1998 (RRA 98). Many of the provisions, such as innocent spouse protection, due process in collections and offers in compromise, would individually be considered major projects. Collectively, they represent a challenge of learning new ways of doing business for nearly every one of IRS' 100,000 employees. During this process, the IRS encountered a number of problems and demands that are still being addressed.

The Administration proposes in its budget submission "an easy, no-cost option for taxpayers to file their tax returns online." Unfortunately, there has been some confusion regarding this proposal. The Administration's proposal to give taxpayers the option to file their tax returns on-line without charge is based on two principles: (1) that no one should be forced to pay extra just to file his or her tax return; and (2) the IRS should not get into the software business. The IRS is working with private industry representatives who have proven expertise and experience to develop these options.

As I stated on January 30, 2002, "I don't intend for the IRS to get into the software business, but rather to open a constructive dialogue with those who already have established expertise in this field. In the end, this effort should come up with a better way to save time and money for both taxpayers and the government."

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

BUSINESS STRATEGY ADJUSTMENT

*Question.* Just about every account within Treasury has been asked to examine their operations to achieve improved effectiveness in business practices. As you can imagine, this idea has raised some concerns and I would like to explore the proposal just a bit:

What is the nature of the Business Strategy Adjustment?

*Answer.* The business strategy adjustment reflects Treasury's expectation of reasonable savings from better business practices. Each bureau is expected to review all programmatic efforts on a continual basis and reduce or remove those producing little or no programmatic value.

*Question.* How were the amounts determined?

*Answer.* The adjustment for each Bureau was 25 percent of the total mandatory costs of the proposed pay raise and non-pay inflation factor, developed historically

using OMB economic assumptions. However, when the Administration revised the non-pay inflation factor downward from 2.1 percent to 1.8 percent, Bureaus were allowed to keep the 0.3 percent savings from this downward revision. Consequently, each Bureau's adjustment is now slightly less than 25 percent of their total mandatory inflationary costs.

*Question.* Why wasn't the Departmental Offices account asked to come up with these savings?

Answer. It was determined that given the funding denied for the Departmental Offices (DO) for fiscal year 2002, they could not manage another absorption in fiscal year 2003. DO was denied most of the requested funding to make the base whole in fiscal year 2002, as well as an initiative to provide secure LAN services, totaling \$9.743 million in absorbed costs. These absorbed costs included: (1) \$3.8 million for unavoidable inflationary increases to IT contracts and DTS communications costs; (2) \$0.7 million in non-pay inflation, which was only a 50 percent restoration of non-pay inflation compared to other bureaus, and means the absorption of inflationary costs of GSA rent, equipment contracts, and facility related contracts, etc.; (3) \$3.0 million for Treasury Secure Data Network (TSDN), which must be installed to meet security requirements; and (4) as a result of receiving only a partial amount of the \$5.6 million for the Labor Cost Infrastructure project, DO had to reduce its authorized FTE ceiling by 65. Over the past few years DO has carried a higher FTE count than it could sustain. It was hoped that the labor cost increase would help to better manage the FTE authorization level. The net effect of all these absorptions is a very tight management of costs and staffing changes, all of which are under very close review before moving forward.

*Question.* Can you give us some examples of what bureaus can do to achieve these savings?

Answer. I believe that every organization's financial planning must include expectations of continuous productivity improvement. This adjustment is not about cutting back programs and services due to a lack of resources. This adjustment is about re-engineering processes and the judicious use of new technology to maintain or increase performance at lower cost. Every bureau will approach this challenge differently, but they all should be: (1) reviewing business processes throughout their organizations to remove roadblocks that are costly and hinder performance; and (2) continually reviewing programmatic efforts to reduce or remove those producing little or no programmatic value. For one bureau that might be an unwieldy procurement process. For another bureau it might be a program that does not support its core mission and is not producing results that justify continued expenditures. I have empowered each of my bureau heads the freedom to make these determinations in the best interest of their bureau and am more than happy to work with them in achieving this improvement.

#### OFFICE OF FOREIGN ASSETS CONTROL

*Question.* Lately there have been numerous news reports about Cuba sanctions and travel to Cuba. For example, there was a Washington Post article on March 6, 2002 about the Office of Foreign Assets Control (OFAC) secretly settling more than 100 enforcement actions from 1998 to 2000 against corporations, banks and other entities for violating trade embargoes with rogue nations and there was some concern expressed that this was not disclosed to the public.

Are there specific guidelines OFAC uses in deciding whether to disclose these cases?

Answer. In the past, OFAC did not typically release the names of, or information concerning, companies or individuals who settled cases of alleged sanctions violations through the payment of a negotiated settlement amount, unless it served the purpose of enhancing enforcement of the embargo.

These settlements typically occur after OFAC informs the respondent through the issuance of a pre-penalty notice of the alleged violation and OFAC's intent to assess a fine. The respondent is then afforded 30 days to refute the allegation, plead mitigating circumstances and/or enter into settlement negotiations. These negotiations often result in an offer by the respondent to pay an agreed upon amount to the U.S. Government in settlement of the allegation. In these instances there is no admission or formal agency finding of guilt, so OFAC traditionally has not released the names of the alleged violators.

OFAC is carefully reviewing this disclosure policy and will soon issue a Federal Register Notice soliciting public comment on proposals to release certain settlement information.

*Question.* Why were the cases referred to in the Washington Post article not disclosed earlier?

Answer. As noted above, it was not OFAC's policy to disclose such information. The cases referred to in the Washington Post were released pursuant to the Freedom of Information Act.

*Question.* Who is responsible for determining which cases are disclosed and when the cases are disclosed?

Answer. The Director of OFAC has made these determinations in the past, after consultation with other relevant U.S. Government officials, in accordance with the policy described above.

Even though OFAC is an entity of the Departmental Offices, we have a hard time getting specific information about funds allocated to that office for fiscal years 2000, 2001 and 2002.

*Question.* What is the total number of full time employees at OFAC?

Answer. The numbers of full-time employees (FTEs) for OFAC in fiscal year 2000, fiscal year 2001 and fiscal year 2002 are as follows:

- Fiscal year 2000—68 (actual usage)
- Fiscal year 2001—75 (actual usage)
- Fiscal year 2002—129 (authorized ceiling)

In addition, provided as Attachment 1 is a chart from the Departmental Offices Congressional Justification on Enforcement funds for fiscal year 2000 through fiscal year 2003.



DEPARTMENT OF THE TREASURY—DEPARTMENT OFFICES—DISPLAY OF ENFORCEMENT POLICIES AND PROGRAMS  
 (Dollars in thousands)

	Fiscal year											
	2000 actuals		2001 actuals		2002 enacted		2002 fin plan		2003 proposed			
	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE
Office of Enforcement: 1												
11.0 Personnel Compensation .....	\$3,681	51	\$4,038	46	\$4,278	48	\$4,417	48	\$4,556	48		
12.0 Personnel Benefits .....	718		763		958		609		639			
21.0 Travel .....	238		259		295		259		259			
22.0 Transportation of Things .....	0		0		0		0		0			
23.0 Communications, Utilities & Misc .....	23		23		25		24		24			
25.0 Other Services .....	164		3,018		3,051		2,929		2,991			
26.0 Supplies .....	6		17		23		22		22			
31.0 Equipment .....	3		27		9		9		9			
91.0 Confidential Expenditures .....	5		7		0		0		0			
Subtotal, Office of Enforcement .....	4,837	51	8,152	46	8,639	48	8,269	48	8,500	48		
Legislative Proposal on Full Costing of Benefits .....			402				435		451			
Executive/Administrative Support? .....	2,681	12	4,684	21	5,111	21	5,211	21	5,306	21		
Total, Office of Enforcement .....	7,518	63	13,238	67	13,750	69	13,915	69	14,257	69		
Office of Foreign Assets Control: 1												
11.0 Personnel Compensation .....	4,401	68	5,605	75	9,928	129	7,853	129	8,799	141		
12.0 Personnel Benefits .....	1,048		1,208		2,774		1,725		2,000			
21.0 Travel .....	238		313		663		663		717			
22.0 Transportation of Things .....	0		24		914		119		122			
23.0 Communications, Utilities & Misc .....	16		17		205		129		168			
25.0 Other Services .....	336		2,928		3,940		4,959		6,672			
26.0 Supplies .....	25		70		517		547		563			
31.0 Equipment .....	48		1,010		791		2,171		2,611			
91.0 Confidential Expenditures .....	0		0		0		0		0			
Subtotal, Office of Foreign Assets Control .....	6,112	68	11,175	75	19,732	129	18,166	129	21,652	141		
Legislative Proposal on Full Costing of Benefits .....			656		1,286							
Executive/Administrative Support? .....	3,574	16	7,605	35	13,735	56	14,004	58	15,146	61		

DEPARTMENT OF THE TREASURY—DEPARTMENT OFFICES—DISPLAY OF ENFORCEMENT POLICIES AND PROGRAMS—Continued  
 (Dollars in thousands)

	Fiscal year									
	2000 actuals		2001 actuals		2002 enacted		2002 fin plan		2003 proposed	
	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE	Dollars	FTE
Total, Office of Foreign Assets Control .....	9,686	84	19,436	110	33,467	185	33,340	187	38,084	202
Total, Enforcement Policies and Programs:										
11.0 Personnel Compensation .....	8,082	118	9,643	121	14,206	177	12,270	177	13,355	189
12.0 Personnel Benefits .....	1,767		1,971		3,732		2,334		2,639	
21.0 Travel .....	475		572		958		922		976	
22.0 Transportation of Things .....	0		24		914		119		122	
23.0 Communications, Utilities & Misc .....	39		40		230		153		192	
25.0 Other Services .....	500		5,946		6,991		7,888		9,663	
26.0 Supplies .....	30		87		540		569		585	
31.0 Equipment .....	51		1,037		800		2,180		2,620	
91.0 Confidential Expenditures .....	5		7		0		0		0	
Subtotal, Enforcement Policies and Programs .....	10,949	118	19,327	121	28,371	177	26,435	177	30,152	189
Legislative Proposal on Full Costing of Benefits .....	0		1,058			1,605		1,737		
Executive/Administrative Support .....	6,255	28	12,289	56	18,846	77	19,215	79	20,452	82
Total, Enforcement Policies and Programs .....	17,204	146	32,674	177	47,217	254	47,255	256	52,341	271

<sup>1</sup> If sufficient funds become available the Office of Enforcement may staff up to 58 full time equivalent positions and OFAC up to 138 full equivalent positions.

<sup>2</sup> Administrative Support distribution only and the methodology used to distribute these costs is based on the previous activity structure.

*Question.* How much money was spent by OFAC and how were those funds used?

*Answer.* OFAC's expenditures for the fiscal years 2000, 2001, and 2002 are as follows:

—2000: \$6.1 million

—2001: \$11.2 million

—2002: \$25.7 million (includes No-Year funds for Plan Colombia and fiscal year 2001 Emergency Supplemental)

OFAC currently administers 24 economic sanctions programs, most commonly imposed by the President under authority of the International Emergency Economic Powers Act, the Trading with the Enemy Act, the United Nations Participation Act or mandated by Congress under specific statutes, such as the Foreign Narcotics Kingpin Designation Act. OFAC currently has offices in Washington, Miami and Bogota. OFAC's expenses consist primarily of personnel, travel-related costs, and other services and equipment as shown in the table below.

[In dollars]

	Fiscal year 2000 actuals	Fiscal year 2001 actuals	Fiscal year 2002 financial plan			Total
			SE	Drug kingpin	Emergency suppl.	
Office of Foreign Assets Control:						
11.0 Personnel compensation .....	4,402	5,605	7,852	1,045	750	9,637
12.0 Personnel benefits .....	1,048	1,208	1,726	386	174	2,286
21.0 Travel .....	236	313	663	22	48	733
22.0 Transportation of things .....	0	24	119	0	0	119
23.0 Communications, utilities & misc .....	16	17	179	0	610	789
25.0 Other services .....	336	2,928	5,494	0	3,631	9,125
26.0 Supplies .....	25	70	547	0	14	561
31.0 Equipment .....	71	1,010	2,121	0	324	2,445
Subtotal, Non-Pay .....	684	4,362	9,123	22	4,627	13,772
Total, Office of Foreign Assets Control .....	6,134	11,175	18,701	1,453	5,541	25,695

*Question.* What happens to the fine money paid by those who have violated the embargo?

*Answer.* Both agreed upon settlements and assessed fines are paid into the General Fund.

IRS RESOURCE REQUIREMENTS

*Question.* It sometimes appears to us that the needs of the Internal Revenue Service (IRS) are never ending. For example:

In fiscal years 2001 and 2002 Congress provided for additional full-time employees to restore customer service and enforcement levels. So, why does IRS need additional staffing for compliance workload in fiscal year 2003?

*Answer.* Despite fiscal year 2001 hiring of nearly 1,500 new employees in these field compliance programs, losses from attrition and internal migration totaled 2,500 employees. The recent hiring represents the first substantial recruitment of compliance staff in over 5 years. By way of example, in fiscal year 1995, the IRS employed over 8,000 field revenue officers, compared to fewer than 5,800 at the beginning of this year. Prior to this initiative, the Staffing Tax Administration for Balance and Equity (STABLE) initiative funded the hiring of front-line personnel, which allowed us to keep other employees in their compliance positions.

By using STABLE funds to hire staff to perform service and educational functions, we avoided the need to use more expensive compliance personnel on details during the filing season. STABLE allowed us to accomplish two objectives efficiently: increase our level of taxpayer education and taxpayer service; and increase the number of staff years applied to exam and collection work. STABLE did not fund new compliance positions. The staffing losses we have suffered over the past several years, in addition to similar losses among revenue agents and tax compliance officers, have substantially reduced collection case closures and audit coverage rates.

The IRS budget request for fiscal year 2003 is \$482 million higher than the fiscal year 2002 appropriation of \$9.936 billion. The largest programmatic component of this increase is \$102 million for the Customer Service, Compliance and Workload Initiative. This initiative actually costs \$260 million, but IRS has achieved internal efficiencies through a redeployment of resources within its base budget to cover \$158 million of this initiative. During this review, the IRS found 2,287 FTE that could be re-deployed to high priority areas in customer service and compliance. We have requested an additional \$102 million for fiscal year 2003 to supplement the savings found by the IRS for this initiative.

IRS CUSTOMER SERVICE, COMPLIANCE AND WORKLOAD INITIATIVE

*Question.* I understand that the IRS wants to redirect the employees who currently handle customer service back to their regular jobs, and then fill those positions with lower-paid employees. I thought the purpose of the existing organization was to have experts available to answer questions.

What is the purpose of the redirection of IRS resources for part of the Customer Service, Compliance and Workload Initiative and how will IRS be able to manage this redirection?

*Answer.* As recently as fiscal year 2000, we detailed substantial numbers of compliance staff to support filing season customer service programs (i.e., toll-free telephones, walk-in assistance and taxpayer education). In that year alone, we pulled over 2,500 revenue agents, tax auditors and revenue officers off-line to assist taxpayers—representing over 1,000 FTE. In fiscal year 2002, we will use just over 300 FTE from these field compliance programs. Field office staffing now includes new Tax Specialists and Tax Resolution Representatives—new higher-graded positions designed to offer “one-stop-service” on a broad range of issues that include technical tax law questions and account-specific payment problems.

*Question.* What effect will this redirection have on IRS operations and programs?

*Answer.* For Examination, we estimate we will forego approximately 22,000 return closures and \$117 million in recommended tax in fiscal year 2002. For Collection, we estimate the opportunity costs to be approximately \$219 million for fiscal year 2002.

The following table depicts the revenue agents, tax compliance officers, and revenue officers FTE performing customer service duties from fiscal year 1996 through fiscal year 2001 as well as plans for fiscal year 2002.

	Fiscal year						
	1996	1997	1998	1999	2000	2001	2002
Revenue Agents .....	148	148	293	451	549	268	160

	Fiscal year						
	1996	1997	1998	1999	2000	2001	2002
Tax Compliance Officers .....	34	121	158	151	209	129	59
Revenue Officers .....	28	31	73	146	201	93	95

YOUTH CRIME GUN INTERDICTION INITIATIVE PROGRAM

*Question.* Mr. Secretary, the President's budget overview states that \$11 million will be provided to the Bureau of Alcohol, Tobacco and Firearms in order to expand the Youth Crime Gun Interdiction Initiative to 10 additional sites. Currently there are 50 cities in 32 States and the District of Columbia.

What new cities will be designated YCGII sites? How were these locations determined?

*Answer.* The requirements developed to qualify as a YCGII city are (1) a minimum population of 250,000; (2) youth and juvenile crime rates; (3) known trafficking source or market area; (4) history of firearms tracing; and (5) the mix of city size and demographics. YCGII is established in 50 high-density population locations nationwide. Over the period that YCGII has existed, cities with populations of under 250,000 have indicated an interest in participating in YCGII. The 2000 Census indicates approximately 24 cities with a population currently qualifying for YCGII. Some of these cities are located in proximity to current YCGII cities. Therefore, if ATF is to continue partnerships to combat youth violence, we must be flexible in considering the population qualification.

ATF must also consider the Administration's Project Safe Neighborhood (PSN) initiative. Since the YCGII and the PSN are part of our overall Integrated Violence Reduction Strategy, we hope to associate our efforts (where possible) with the Department of Justice expansion of PSN. The level of funding and personnel resources requested will allow the expansion of the initiative to 10 cities. If the city selection criteria are revised to incorporate smaller populations, then we would propose a more flexible approach to assign personnel. Currently, a list of potential city partners has been developed and once ATF has concurrence from the cities, they will be announced.

GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.)

*Question.* As you know, I have consistently supported the Gang Resistance Education and Training program, called GREAT. In fact, a few years ago we invited several graduates of that program from all over the country to testify about their experiences. The budget requests a change in the ATF statutory language to drop the specific authority to make grants to State and local law enforcement for this effort.

Does this mean that ATF will no longer participate in this program? If so, what happens to the money Congress previously appropriated specifically for this purpose?

*Answer.* The G.R.E.A.T. program has had a positive impact on millions of children across the country who have been through the curriculum. Given this success, the Administration proposes to continue the program in fiscal year 2003. Language has been drafted to continue the grant/cooperative agreement authority for the G.R.E.A.T. program in fiscal year 2003. This language is part of the Administration's budget amendment package, transmitted to Congress on March 14, 2002.

AUTOMATED COMMERCIAL ENVIRONMENT

*Question.* Mr. Secretary, the Customs Commissioner has expressed support for accelerated development of the Automated Commercial Environment—ACE—project. Some concern has been expressed that compressing the current 5-year schedule down to 4 years could be significantly more risky—both financially and operationally. We all want to see ACE finished but it is also important that it be an integrated, functioning system and that takes both time and expertise.

How involved will your office be in the final decision about the ACE schedule?

*Answer.* I am committed to ensuring that the ACE project, including the accelerated development effort, be fully successful. The incredibly rich set of improvement opportunities further underscores my commitment towards this project. The ACE project has an effective management structure based upon key partnerships between Customs and oversight organizations. Project managers have developed extensive plans and rigorous processes to ensure that cost, performance, and schedule targets are met. ACE project managers have also collaborated with operations and field personnel, other government agencies, and the trade community to develop requirements and plans. Additionally, my involvement, in concert with the Customs

Commissioner, Customs Chief Information Officer, and the Treasury Deputy Assistant Secretary for Information Systems and Chief Information Officer will continue to be proactive in reaching critical decisions concerning the ACE project, including compression of the development schedule.

Additionally, the Treasury Assistant Secretary for Management and Chief Financial Officer and the Treasury Deputy Assistant Secretary for Information Systems and Chief Information Officer are my representatives on the Joint Capital Investment Review Board (J-CIRB). The Customs Modernization Office updates the J-CIRB periodically on the status of the project. All released funds must be approved by the J-CIRB and the Under Secretary for Enforcement prior to spending by the U.S. Customs Service. Through our participation in the J-CIRB, we can monitor the progress of ACE.

#### CUSTOMS SERVICE SPENDING PLAN

*Question.* Mr. Secretary, the Committee provided additional funding to the Customs Service as part of the fiscal year 2002 emergency supplemental. Before those funds could be obligated, Customs was required to develop and deliver to you a specific spending plan for those monies. We did receive your written comments.

Do you have any further observations or comments on the Customs spending plan you would like to share with us today?

*Answer.* To achieve the most cost-effective allocation of resources, Customs needs to continually assess its use of all resources to achieve desired results. That is why I have asked Customs, on an ongoing basis, to evaluate the relative effectiveness of people and technology in different settings. This extends to looking for cost-effective results based on whether people or technology are used first at each inspection setting, and to reviewing the marginal return in results for each added piece of technology or inspector compared with the previously added one. Our goal is to seek hoped-for returns on these investments that directly affect security and trade facilitation, and I will be looking for Customs to seek expression of these results in measurable terms, as part of the process of balancing these two missions. A key element of total success of our collective objectives will be the assurance that Customs, and other agencies recognize their relative expertise in particular settings that calls for improved coordination to attain the greatest overall effectiveness.

This concept is at the heart of the President's Management Agenda, which seeks to link Congressionally authorized dollars with specific results. The Committee and the Department can play a particularly strong role in enhancing the Customs Service's overall performance by making these inquiries part of the ongoing assessment of such investments—investments which are at the heart of meeting our security objectives. Your efforts will complement the efforts already underway at Treasury.

The Commissioner's proposal for major investments in effective inspection, targeting, and infrastructure technology bodes well for long term, qualitative improvement in Customs' interdiction goals. Every successful business in the 21 century will continually look to technology investments to increase productivity and enable valuable and costly labor resources to be reallocated for maximum program impact. This is no less true of government.

In conjunction with a wise and selective use of technology, I have also charged every Treasury organization, including Customs, to search relentlessly for ways to work more effectively. This includes removing obsolete rules, barriers and constraints, increasing our level of support for programs that are yielding benefits, and decommissioning efforts that are consuming resources with little or no programmatic value. In my experience, organizations that are quick to respond to changing conditions and that continually make results-oriented spending choices are key to the unparalleled success of America's economy. This same responsiveness, and the leadership to make sometimes difficult resource choices, must characterize successful government programs. I am challenging the Customs Service to not view these added Homeland Security resources in isolation, but to strive continually to achieve improved outcomes at a lower cost throughout the organization, and to be accountable for the results we seek.

#### USE OF THE COUNTERTERRORISM FUND

*Question.* First of all, Mr. Secretary, congratulations to you and the entire Treasury Department for the efforts to make sure that the 2002 Winter Olympic Games were safe and secure. The Secret Service put together a comprehensive security plan, and the Treasury law enforcement agencies contributed most of the needed manpower to be able to implement that plan.

There were several hundred non-Treasury Federal law enforcement personnel helping out at the Winter Games in response to the Secret Service request for their

particular expertise—from the Forest Service, the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service and the Department of Defense. That is exactly what Presidential Decision Directive 62 envisioned and directs.

That brings me to my question. You have requested an appropriation of \$40 million for the Counterterrorism Fund, which would be expanded to allow for reimbursements to “any Federal agency” which assists the Secret Service at a national special security event.

How do you intend to use this fund? Would you reimburse non-Treasury agencies for the help of their personnel?

Answer. The Fund was established to enable the Department of the Treasury to undertake activities and operations to counter, investigate or prosecute unexpected threats or acts of terrorism. This fund has been the means for covering the costs associated with providing security for unanticipated National Special Security Events (NSSEs), and other large protective events.

The U.S. Secret Service is responsible for the design, planning, and implementation of security and security support for events designated as National Special Security Events. As such, the Secret Service is authorized to call on other Federal agencies to provide security support for NSSEs as may be necessary. Given the unanticipated nature of NSSEs, it is likely that non-Treasury agencies would not have available resources to cover the costs associated with such support. Under these circumstances, these agencies would be reimbursed for those costs.

*Question.* If so, why? After all, if the President of the United States instructs agencies to assist the Secret Service in the implementation of their overall security plan, would an agency refuse to respond?

Answer. If an agency is instructed to support a National Special Security Event by the President of the United States, the agency would certainly do so. However, there are major costs associated with these events and there needs to be a mechanism available to pay these extraordinary costs.

#### COBRA USER FEE INCREASE PROPOSAL

*Question.* I am told that a Customs COBRA fee advisory committee was established in 1999 to advise the Customs Commissioner on issues related to the performance of the inspectional services of the Customs Service. The membership is to include representatives from airline, cruise ship, and other transportation industries who may be subject to COBRA fees. The meetings were intended to be a forum for discussions about the proper number and deployment of inspectors, the level of fees, and the appropriateness of any proposed fees.

Mr. Secretary, the fiscal year 2003 budget request again includes a proposal to increase the COBRA fees for airline passengers and cruise vessel passengers. What was the reaction of the members of the COBRA Fee Advisory Committee to this suggestion?

Answer. It is my understanding that this committee has not yet met.

#### SUBCOMMITTEE RECESS

Senator DORGAN. The subcommittee will next convene on Wednesday, March 20, at 1:30 p.m. in Dirksen 192 where we will hear from the Director of the Office of Management and Budget, Mitch Daniels.

Mr. Secretary, thank you for being with us. This hearing is recessed.

[Whereupon, at 3:31 p.m., Thursday, March 14, the subcommittee was recessed, to reconvene at 1:35 p.m. Wednesday, March 20.]



# **TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2003**

**WEDNESDAY, MARCH 20, 2002**

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

The subcommittee met at 1:35 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan, Reed, Campbell, and Stevens.

## **EXECUTIVE OFFICE OF THE PRESIDENT**

### **OFFICE OF MANAGEMENT AND BUDGET**

#### **STATEMENT OF MITCHELL E. DANIELS, JR., DIRECTOR**

##### **OPENING REMARKS**

Senator DORGAN. The subcommittee will come to order.

Mr. Director, good afternoon. We are pleased with your appearance here today. We welcome you to discuss the President's fiscal year 2003 budget request for the Office of Management and Budget. You are probably getting tired of testifying before North Dakotans, having spent some time before the Budget Committee, but that is life in the United States Senate, I guess.

This subcommittee, as you know, is responsible for funding the operations of the Department of Treasury and all of its agencies, such as the IRS, Customs Service, and other agencies. We are also responsible for funding the operation of your agency, the Office of Management and Budget, as well as the other component agencies which make up the executive branch of the Presidency. It is also in this subcommittee's bill that we carry provisions affecting the operations of all Federal agencies. We will focus on some of those proposals today.

It has been a while since the Budget Director last appeared before this committee and we appreciate very much your being here. Your task of assembling and producing the budget for the Federal Government is not an easy one. We recognize that. The Government is an enormous entity. In order to watch over it, one can see how some smaller tasks might fall through the cracks from time to time, and when it happens, it gives us pause, but nonetheless, it is a very large undertaking to run a bureaucracy of this size and we appreciate your service.

The budget this year for the Federal Government and also the budget for the Office of Management and Budget is something we will discuss at some length today. Some of our colleagues will be joining us shortly. This budget proposes to make a sweeping change in how the government funds a significant portion of the Federal retirement system, but it assumes Congressional approval of that proposal in the budget numbers submitted for each agency.

Ordinarily, this type of change would be submitted to the appropriate authorizing committees for their consideration and action and then be taken up by the appropriators. That is not the case this year when it comes to the proposal for the treatment of retirement accruals and we will visit a bit about that. Nor is it the case for how you want the administration of the Federal workers' compensation account treated. The authorizers have the experience on these matters and the expertise on these matters. These proposals really should be submitted to them for their consideration and action, not to us first.

Your office, I think, has not gotten the word out to all of the agencies. We have met with some 30 agencies for which we appropriate money. During the staff briefings with each of them, the more than 30 agencies funded in this bill, we learned that not all of the agencies were aware of the proposed new treatment of either the retirement accruals or the workers' compensation or both. Some of them did not get the word about the proposed pay raise. Most were aware that pay disparity was proposed in the budget, but instead of planning on a 2.6 percent pay raise, some budgeted for a 3.9 percent pay increase or some other number in between. Their numbers did not add up, but yet they were submitted on February 4 when the budget was delivered.

Now, these might seem to be smaller problems, but to many of the smaller agencies we fund, in some cases they can make a very big difference, and that is why I think that when we take a look at the fact sheets that your office produced and delivered when the budget was released, we have to take a look behind the numbers.

For example, Mr. Daniels, you suggested that there would be an overall 5.4 percent increase in funding for the Customs Service from 2002 to 2003, with an 18.4 percent increase for salaries and expense accounts alone, but when you back out the policy changes with respect to retirement accounts, the real dollars are about 9.1 percent below 2002 levels. I hope perhaps you would respond to that, and there is a longer list than that.

#### PREPARED STATEMENT

What we want to do today is talk about your specific budget, the Office of Management and Budget budget. I would like to talk about a number of other policy issues and your role in them.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

Good Afternoon, Mr. Director. We welcome your appearance today to discuss the President's fiscal year 2003 budget request for the Office of Management and Budget. You may be getting tired of testifying before North Dakotans, but we appreciate your coming.

This subcommittee is responsible for funding the operations of the Department of the Treasury and all of its agencies—such as the IRS and the Customs Service. This

subcommittee is also responsible for funding the operation of your agency—the Office of Management and Budget—as well as all the other component agencies which make up the Executive Office of the President. It is also in this subcommittee's bill that we carry provisions affecting the operations of all Federal agencies. We will focus on some of those proposals today.

It has been a few years since a Budget Director last appeared before this subcommittee. That is why we appreciate your willingness to appear today.

Your task of assembling and producing the budget for the Federal government is not a task I envy or one to which I aspire. The government is an enormous entity to watch over and one can see how some smaller tasks might fall through the cracks. But when this happens, it gives one pause.

For instance, this budget not only proposes to make a sweeping change in how the government funds a significant portion of the Federal retirement system, but it assumes Congressional approval of the proposal in the budget numbers submitted for each agency. Ordinarily, this type of change should be submitted to the appropriate authorizing committees for their consideration and action—then be taken up by the appropriators. But that is not the case this year when it comes to your proposal for treatment of retirement accruals. Nor is it the case for how you want the administration of the Federal worker's compensation account treated. The authorizers have the expertise on these matters. These proposals should have been submitted to them for their consideration and action, not to us. This troubles me.

And your office appears to have had some difficulty getting the word out to all the agencies about these new proposals. During staff briefings with each of the more than 30 agencies funded in this bill, we learned that not every agency was aware of the new treatment of either the retirement accruals or the worker's compensation proposal or both. Some of them also did not get the word from your office about the proposed pay raise. Most were aware that pay disparity was proposed in the budget, but instead of planning on a 2.6 percent pay raise, some budgeted for a 3.9 percent pay increase or some other number in between. Their numbers did not add up, but were submitted as fact on February 4 when the budget was delivered.

These might appear to be little problems, but to many of the smaller agencies we fund here, they make a big difference. That is why I was even more disturbed by some of the "fact" sheets your office produced and delivered to the media when the budget was released.

In essence, your numbers did not add up. Your office claimed that the Treasury agencies were receiving big increases compared to last year when in fact most budgets dropped when actual dollars are compared. For instance, the document your people delivered trumpeted an overall 5.4 percent increase in funding for the Customs Service between fiscal year 2002 and fiscal year 2003 with an 18.4 percent increase for the salaries and expenses account alone. But when real dollars are compared, Customs funding for fiscal year 2003 is 9.1 percent below fiscal year 2002 levels. The same is true for the Federal Law Enforcement Training Center—which you claimed was receiving a 4.9 percent increase, when in fact it faces a 14.6 percent decrease.

The list goes on. Perhaps many of these agencies do not need huge budget increases. Perhaps cuts are justified. Perhaps Customs should have a year to pause and hire and deploy the people it needs at the borders before we require additional hiring.

But the fact remains that all of these indicators give me reason for concern.

—Asking appropriators to carry sweeping authorizing language is putting the cart before the horse.

—Not getting specific budget direction to every Federal agency is more than careless.

—And playing semantic games with the numbers casts a larger shadow on the veracity of the budget requests.

—Individually, they can be explained perhaps. But taken together they are very troubling. This makes it even harder to support requests which would further reduce the amount of information already being provided to the Congress.

But we will dig into these issues during the questioning rounds. We welcome you here this afternoon, but first let me turn to my Ranking Member, Senator Campbell, for any statement he would like to make.

Senator DORGAN. Before I ask you to present your statement, Mr. Daniels, I will ask Senator Campbell, the ranking member, to make his statement.

## STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Mr. Chairman, and welcome, Director Daniels. I appreciate your willingness to appear today. I notice with interest there are four people with big thick briefcases and paperwork on the front row. Are they all resource people for you or are you here on your own?

Mr. DANIELS. They are here of their own free will. I do not expect to call on them.

Senator CAMPBELL. I see. I will not take much time this afternoon. We have a lot of ground to cover.

The chairman has already mentioned a couple of things that I am particularly interested in. The retirement accrual proposal is one, I would like to learn the status of your efforts to secure the necessary statutory language. I would like to ask you a couple questions when we get going about that. I am also interested in learning more about the Office of Homeland Security and how you define the homeland security items that you are going to be requesting in the budget, too.

With that, I will submit the rest of my statement for the record, Mr. Chairman.

Senator DORGAN. Senator Campbell, thank you very much.  
[The statement follows:]

## PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you, Mr. Chairman. And, welcome Director Daniels. I appreciate your willingness to appear before us today to talk about the budget request for the Office of Management and Budget. I full expect that we will also talk about other areas of the President's budget request as well.

I won't take much time this afternoon; I know we have a lot of ground to cover. But I would like to mention a couple of things. I am interested in talking about the accrual proposal contained in the budget, and learn the status of your efforts to secure the necessary statutory language. I am also interested in learning more about the Office of Homeland Security and how you define homeland security items in the budget request.

Senator DORGAN. Mr. Daniels, why do you not proceed. We will include your full statement as a part of the record and you may summarize.

## OPENING STATEMENT MITCHELL E. DANIELS, JR.

Mr. DANIELS. Mr. Chairman, Senator Campbell, thanks very much. Let me just make two preliminary comments excerpted from the testimony that we will submit for the record.

First, I would say with regard to our budget, and I would assert that this is so for the entirety of the budget the President has submitted, we believe and the President believes this is not a "business as usual" approach, and even though through the valor and leadership of our armed forces and those working on homeland security, the world looks very different than it did 6 months ago. The President is always quick to remind everybody this will be a very long struggle and we hope that Congress, as it looks at this budget, will continue to bring a mindset to their deliberations that is constantly mindful of the differences and of the need to avoid business as usual.

When we put OMB's budget together, we delivered to you a dollar figure that is flat with last year. In part, this is because we do

believe we can operate more productively and do more work with the same amount of money. In part, it is to reflect solidarity with the policy I just talked about.

The only other comment I would make is to thank you, each of you, for bringing up what is to some a small or obscure item. This is the matter of full cost accounting in the Federal budget and it is reflected in at least two ways in the budget submissions. For example, we are proposing that the full cost of retiree benefits be reflected in those programs for which it is inexplicably not reflected now. For most of our retirement programs, the FERS and the military, for instance, the full cost is shown in the accounts where the costs are created. But for historical reasons, not so for all accounts, and we would like to see that done.

I appreciate your looking at this issue and mentioning it this morning. If there was ever a year in which events have reminded us of the value and importance of transparency in accounting and of not having hidden costs around an enterprise, this has been that year and we would like to get this cleaned up.

I am a little disturbed that as I understand the resolution being debated at this very hour by the Senate Budget Committee, they would not accept that reform, would continue to leave the costs hidden, and would, worse yet, take the \$9 billion from the mandatory to the discretionary side and spend it on other purposes. So we will resist that idea and try to talk them out of it, but we appreciate your looking at it and we hope you will look at it sympathetically when we are done.

Senator DORGAN. Mr. Daniels, thank you very much.  
[The statement follows:]

PREPARED STATEMENT OF MITCHELL E. DANIELS, JR.

Mr. Chairman, Senator Campbell, Members of the Subcommittee, I am pleased to be here this morning to discuss the President's fiscal year 2003 Budget request for the Office of Management and Budget (OMB).

INTRODUCTION

Let me start by noting that my colleagues at OMB and throughout the Executive Branch have worked hard to present this Congress and our fellow citizens with a very different budget for fiscal year 2003. I would like to bring to the Committee's attention some new features which I hope will now become part of your annual expectations and deliberations.

This budget takes seriously the assessment of government performance, and its relationship to future spending. Activities where effectiveness can be proven are maintained and often reinforced; those that demonstrably fail, or can make no showing of effectiveness, in many cases are looked to as sources of funding. The days when programs float along year after year, spending taxpayer dollars with never a showing of reasonable results or return, must give way to an era of accountable government. This and all future budgets must no longer be permitted to answer only "How much?" They must also answer the question "How well?"

This innovation responds to decades of calls by good government advocates. While long overdue, it is essential at a time when the physical safety of Americans requires that the Federal Government take on many additional, expensive tasks. It would be unconscionable to fund poorly performing programs given the realities of our economy and homeland security needs.

TWO-FRONT WAR AGAINST TERRORISM

Mr. Chairman, we presented a budget for a two-front war. It proposes substantial increases, those the President believes necessary to deliver on the paramount duty of the Federal Government, to secure the safety of the American people.

Last year's budget began the reconstruction of a neglected national defense base, and that project continues now with new urgency. Funding for the category of activities we now term "Homeland Security" will double under the President's plan: airline security, first responders, bioterrorism, border security and preventive law enforcement, are all scheduled for major increases as recommended to the President by Governor Tom Ridge.

We have worked closely with the Office of Homeland Security to define and budget for these activities. We will guard against and oppose efforts to divert funds from Homeland Security requirements or to misclassify unrelated funding under Homeland Security's priority status.

Winning our two-front war is not optional, and will be expensive. As in other times of national conflict, tradeoffs will be required. We propose a very reasonable level that allows spending not related to the war or homeland defense to grow by around 2 percent. Within this "Rest of Government" category the President proposes \$355 billion in spending. It must be noted that the activities it encompasses have enjoyed rapid funding increases during recent years, growing by an average annual rate of more than 8 percent since 1998.

Within this enormous sum, it is both possible and desirable to increase high priority programs of proven effectiveness. Dozens of programs across the government are scheduled for growth based on demonstrated results.

#### MEASURING PERFORMANCE AND DELIVERING RESULTS

For decades, good government advocates have called for systematic measurement of government's performance, and its reflection in the allocation of resources. In 1993, Congress passed the Government Performance and Results Act (GPRA), which was intended to implement this reform, but the potential of GPRA has been only partially realized. The President's budget for 2003 responds to Congress' instruction, differentiating where the facts are available between programs that work and those that do not. Many programs of proven effectiveness are strengthened by shifting funds from those which can make no proof of performance.

A serious attitude toward performance is long overdue. It takes on special urgency at a time when the demands of national security assert a heavy claim on our resources. We hope the findings of this budget will trigger interest in performance assessment, and bring forth much new information about that large majority of programs for which we have no useful data at all.

#### FULL FUNDING FOR FEDERAL RETIREE COSTS

In the interest of both accuracy and sound management, the President's fiscal year 2003 Budget takes a major step toward full cost accounting of programs and departments by recording the costs of health and retirement benefits at the time and in the accounts where the costs are borne. At long last, the true cost of these programs will be visible, and managers will have full incentive to control the costs of additional personnel.

This budget corrects a long-standing understatement of the true cost of literally thousands of government programs. For some time, the accruing costs of the Federal Employee Retirement System (FERS) and the Military Retirement System (MRS) have been charged to the affected salary and expense accounts, but agencies have only paid a portion of the costs for Civil Service Retirement System (CSRS) employees and a few other small retirement systems. A large portion of the liability has been unfunded and the remainder hidden in OPM's mandatory accounts. The full cost of accruing benefits should be charged to the affected salary and expense accounts, so that choices for program managers and budget decision-makers are not distorted by inaccurate cost information.

To state the obvious, if Congress chooses to reject this reform, the Administration will strongly oppose the \$9 billion in requested discretionary appropriations from being seized and spent on other programs. These resources need to be available for Federal employee retirements one way or another, but obviously we do not intend for them to be spent twice.

#### OMB BUDGET

For fiscal year 2003, the Office of Management and Budget requests budget authority of \$73.5 million. This request is the same as the fiscal year 2002 enacted level, adjusted for the Administration's proposal to fully fund accruing Federal retiree costs. The OMB budget request will provide 510 full-time equivalent (FTE) positions, 17 below the fiscal year 2002 FTE level of 527.

The Office of Management and Budget assists the President in the development and implementation of government-wide budget, fiscal, and management policies. As

the chief management and budget office of the Executive Branch, we have a special obligation to adhere to budgetary discipline and maximize productivity. As you can see from our budget request for fiscal year 2003, OMB is committed to maintaining budgetary restraint while funding new initiatives including emphasis on government-wide information technology and E-Government.

As it has for agencies across government, OMB has compared its management capabilities and organization against the standards for success of the President's Management Agenda. The baseline evaluation as of September 30, 2001 indicated that there is work to be done at OMB in each of the five areas targeted by the President for government-wide improvement. Our particular focus will be to better manage OMB's human capital and effectively harness information technology.

#### CONSOLIDATED EXECUTIVE OFFICE OF THE PRESIDENT APPROPRIATION

As you know, the Executive Office of the President (EOP), despite the name, has never been budgeted for as a single entity and is not currently covered under a single appropriation. As part of the fiscal year 2003 Budget, the Administration is again requesting a consolidation and financial realignment for the EOP. The initiative would consolidate 15 EOP components and fund them with a single appropriation for a total of \$336.2 million.

This will give the President maximum flexibility in allocating resources and staff in support of his office and is intended to: permit a more rapid response to changing needs and priorities; allow the President to address emergent national needs; produce greater economies of scale and other efficiencies in procuring goods and services; and, enhance accountability for performance. This initiative will allow the President to align EOP resources to meet changing national priorities—something he cannot do now under the current account structure.

#### ELECTRONIC GOVERNMENT (E-GOV)

I'd like to spend a little time discussing an item that is important to the President and is under the purview of this subcommittee—"The E-Gov Fund." Let me start by highlighting the recent Council for Excellence in Government Survey that found 70 percent of Americans favor investing in E-Government to make government simpler and more accessible. The President is committed to addressing this and has proposed to accelerate efforts to implement electronic government through his Management Agenda and E-Government Strategy.

The Vice President recently launched the newly designed FirstGov web site and the Administration released its E-Government strategy. There are four target audiences for this endeavor, each providing opportunities to transform delivery of services: individuals, businesses, other governments, and Federal employees.

This strategy is primarily being implemented through 24 multi-agency E-Government initiatives that will lead to significant improvements in productivity. These initiatives will transform government operations by making citizen's needs paramount. Each of these initiatives will result in the elimination of duplicative agency IT programs and savings could reach several billion dollars. For example, FEMA is leading an initiative to create a one-stop portal with information applicable to public and private organizations involved in disaster preparedness and response. Accurate and timely data from this project may result in saved lives and reduction of property damage; it may also save millions of dollars by eliminating redundant programs and agency costs.

The fiscal year 2003 Budget seeks \$45 million for the second installment of this fund, totaling \$100 million over the next 3 years. OMB would manage allocations from the fund housed in an account in the General Services Administration. Projects will be selected that create savings by replacing redundant efforts, and that have viable business cases and implementation plans.

We appreciated this subcommittee's support of this initiative last year and hope it will continue to place a high priority on funding innovative interagency projects that would deliver services directly to the public, or create the infrastructure to support such delivery. We look forward to continuing to work with you and your staff in this important initiative.

#### CONCLUSION

The OMB budget request for fiscal year 2003 reflects the President's commitment to hold down spending levels in light of our Nation's new priorities in the war against terrorism at home and abroad.

I want to thank you for the opportunity to meet with you today to discuss the OMB budget request. I look forward to working with the Committee. I would be

happy to address any questions the Committee may have on the OMB budget or other budgetary issues.

Senator DORGAN. Let me call on Mr. Reed if you have an opening statement.

Senator REED. I do not.

#### HOMELAND SECURITY

Senator DORGAN. Once again, let us thank you for appearing. I have a series of questions.

Let me begin by asking about the Office of Homeland Security. My colleague, Senator Campbell, indicated an interest in that, as well. I note that the Office of Homeland Security has asked for a substantial amount of additional money, I believe \$38 billion, in funding for this coming fiscal year.

There is also a proposal floating around, I understand from some reports that it is now being considered by the President, to consolidate agencies, such as the Customs and the Immigration Services. Can you give us some information about what is happening inside the administration in consideration of consolidation and how that consolidation might work?

Mr. DANIELS. The President has made no decision. Governor Ridge has been, I think, very open in indicating he is examining this issue and has studied it carefully with other administration officials to see if there are better ways of arranging the Federal structure to make our borders more secure. I will not go into the deliberations except to say that they are proceeding and I think the President is considering some recommendations and you may hear more about it soon.

Senator DORGAN. Let me just say, I oppose the consolidation of Customs and INS. I think that we ought not visit on Customs the problems of the INS at this point. Last week's granting of a visa to Mohamed Atta, or at least the mailing of the visa received in Minneapolis for Mohamed Atta, suggests very significant problems. We have known for some long while that, for example, the INS, when someone flies into this country and overstays their visa, they by and large do not have the foggiest idea that someone is here illegally at that point, and so we have got big problems in the INS that we have to resolve. I do not think that it makes any sense to combine the Customs Service with the INS at this point and I think the President would find significant resistance in the Congress to a suggestion of that type. I hope that you might take that back.

Also, I should say that the Customs function is very different than the Immigration Service in many ways. Customs raises revenue for the Federal Government, it is the second-largest revenue raiser next to the Internal Revenue Service, facilitates the flow of trade, and prevents illegal goods from coming in. But I think that proposal, if recommended by the administration, will meet with some very stiff resistance, and justifiably so. I will be one of those that will be involved in resisting it.

Let me ask about the full cost accounting, as you indicated that you recommended, and you suggested that perhaps the Budget Committee will not accept that and use the money in other ways. But is it not the case, Mr. Daniels, that the manner in which it was



portrayed in the budget really gave us a false sense of how you were funding agencies? Do you agree with my statement when I started that the trumpeting of an increase in the Customs Service is really not an increase at all when you eliminate the change that you suggest with respect to the full cost accounting?

Mr. DANIELS. I do not think I do, but I will have to go back and have a look. Based on the recommendations of Governor Ridge, we provided substantial increases in the Customs Service and I do believe they result in a true, real increase, even absent the adjustment we are talking about, but I will go back and have a look.

Senator DORGAN. Would it surprise you to find out that when you take the cost accounting adjustments out, that Customs actually will end up with less money? I mean, you indicated that times have changed. This is not budgeting as usual, and clearly, when you talk about homeland security, one would expect a boost in real funding for the Customs Service, as an example.

Mr. DANIELS. I will go back and have a look. My recollection is that the 2003 proposal recommends substantially more agents in the Customs Service as well as new technology, too, so I do not have the same understanding's.

#### ADMINISTRATION'S PAY POLICY

Senator DORGAN. Let me ask about the issue of pay parity. Can you review with us the recommendations on pay increases for the military and also for the rest of the Federal Government?

Mr. DANIELS. Yes, sir. We looked very carefully at this, again, recognizing that this is wartime and that everything had to be examined in that light and determined to recommend a pay increase of 2.6 percent for civilian employees. I would note that this is substantially more than many Americans in the private sector will be receiving this year. If we are coming out of recession, that will probably still be the case. So we thought 2.6 percent was adequate and something that, at a time of war, civilians in Federal service would find very fair.

Then the second question became whether there should be any premium or additional compensation for men and women in uniform who run unusual risks for our country, and the President decided, yes, it would be appropriate to do something additional for our servicemen and women and that led to a 4.1 percent recommendation for them.

We think both are fair. We think 2.6 percent for civilian employees as a general rule is fair and that some premium in recognition of special dangers and special burdens that the uniform personnel carry is warranted.

Senator DORGAN. Are there any problems with the retention of Federal workers with the 2.6 percent? Are there general retention issues in any of our Federal agencies, and if so, what are they and do you see this recommendation exacerbating that?

Mr. DANIELS. There are some retention issues. I do not think they center around pay at all. I think sometimes they center around the quality of work, they center around the severe handicaps we place on managers in Federal service who are not permitted to manage in many of the ways that their skills and profes-

sional aspirations would allow them to elsewhere. So I do not see these as the same issue at all.

We have retirement issues to address in the Federal service, large numbers of people who we are not having trouble retaining, but they are due to retire soon, and so that may be a larger issue.

OFFICE OF HOMELAND SECURITY

Senator DORGAN. Does Governor Ridge have operational responsibility in the executive branch of Government, and if so, what would that be?

Mr. DANIELS. He does not. He is an advisor to the President, certainly a coordinator in much the same way that the National Security Advisor, for example, is a coordinator of policy on the international side.

Senator DORGAN. So in the area of recommending funding for homeland security, the \$38 billion that Governor Ridge has been moving around the country talking about, meeting with various folks, speaking to the mayors, speaking to the governors and so on, saying that the administration has developed a budget of \$38 billion, what role would Governor Ridge have had in that recommendation?

Mr. DANIELS. He would have looked at the suggestions of individual agencies, coordinated among them on responsibilities that they share, and where duties overlap, as, for example, they do at the border, where we have multiple agencies all conducting inspections, sometimes side by side, it is his job under the Executive Order to pass judgment, to advise the President that he can certify that the resources proposed are adequate to the job. I think that is his prime responsibility and that he sees that as his primary responsibility.

Senator DORGAN. So on the issue of the plan for homeland security, because Governor Ridge is not available to testify before the Congress, we do not have access to him to evaluate what is the broader plan envisioned by the Governor. I assume the President put him in charge in order to have someone in charge, and you say it is not an operational role yet if we are to evaluate the "plan" for national security, homeland security in this case, we shall try to derive from those 50 different sources and 50 different people who will come and testify what their piece of the plan is and aggregate that to the \$38 billion because we are not able to get the head of homeland security to come talk about the broader plan. Do you think that is reasonable and do you support that approach?

Mr. DANIELS. It would not be if that was your only recourse, but I think you will want to do both. Governor Ridge has had scores of meetings with Members of Congress. He is going to be available. I know he is very sensitive to this question and wants to be available in a variety of formats. Lately, as I understand it, the larger issue visible to our people is they have been holding briefings and very few members have availed themselves, I am told only about 18 or 20 attended the last session that they put on.

This only resolves to a question of sworn testimony, as I understand it, and I will refer you to the White House Counsel's Office for the legal particulars, but it is a longstanding policy that advisors, such as the National Security Advisor to the President, who

are not Senate confirmed, do not come for sworn testimony. Clearly, the Congress is entitled to understand Governor Ridge's thinking and his views about the adequacy of these resources and I know he is willing to make that claim to you in your office or in groups or at the White House or elsewhere.

Senator DORGAN. Mr. Daniels, late last year we invited Governor Ridge to come and testify before this subcommittee and he indicated that he was not free to do so, so we actually do not have the opportunity to have a public discussion with Mr. Ridge about the "plan" of what homeland security is about, how much it will require this year, how much it will require next year, how we work with the administration to coordinate that and to fund it. So, I think we are at somewhat of a disadvantage.

I guess I do not feel that the creation of this new position is equivalent to the National Security Advisor. It is quite clear that Mr. Ridge is playing a very different role with respect to homeland security than Condoleeza Rice is playing with respect to the National Security Council.

But at any rate, I guess you have answered the question. I do not expect you to come up here and say that you disagree with the President and Governor Ridge. You are not wanting to say that at this moment, are you?

Mr. DANIELS. It was not my intention, no, sir.

Senator DORGAN. I have some other questions, but let me call on Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman. I would defer—if Senator Stevens has a tight schedule here, I would be glad to defer to him first. I do not know how your schedule is.

Senator STEVENS. Thank you very much. I just had one question for our friend, if I may, and then I think we can defer the others, if I may. May I proceed?

Senator DORGAN. Yes. Senator Stevens?

Senator STEVENS. Good afternoon. It is nice to see you.

Mr. DANIELS. Hi, Senator.

#### FOREST SERVICE EMERGENCY FIREFIGHTING FUNDS

Senator STEVENS. Last year, we provided \$280 million for the Forest Service for emergency money. Of that, \$200 million was to repay accounts from which you had to borrow to finance the 2001 fire season, which was a bad one, and I am told that you released those funds, OMB did, and for that we are all very grateful.

The remaining \$80 million was for fire prevention, not fire fighting, and it was specifically addressed to reducing the fuel loads in the national forests. I am advised that you have indicated those will not be released until July 1, which is the height of the fire season, particularly in my State. Included in that \$80 million was an estimated \$6 million to work on the forests of South Central Alaska and that is why I have come to address this question to you today.

This is an area that is probably the largest of all the forests. It is not all within the Forest Service, per se, but it is primarily on Federal land. It is ravaged by the spruce bark beetle. That beetle literally sucks the juice right out of a tree. It kills it and it leaves the tree standing but dead, just completely dead.

In the area from Homer, which is the tip of our Kenai peninsula, to Wasila, which is right up near Mount McKinley, there are four Federal conservation systems, the Kenai Fjords National Park, the Kenai National Wildlife Refuge, the Alaska Maritime National Wildlife Refuge, and the Chugach Forest, which is the second largest national forest in the country. This is an area of 2.5 million acres of Federal forest and it also, however, contains half of Alaska's population. The cities are interspersed through this magnificent forest country. The area is four times the size of Rhode Island. It is really larger than many States.

It literally now, because of information we have received from the Weather Bureau, a ticking bomb. Conditions there are very bad. We are told that the nation itself will have a near record drought this summer and Alaska is going to be the worst hit. The East Coast, I am told, will have the worst drought since the depression days, but we are predicted to have an extremely severe drought, is what it is called.

This money was not to fight fires but to prevent them. Because the prevailing northerly winds there, if the fire starts anywhere on the peninsula, it can come north very rapidly. Some time ago, we had what we called the Miller's Reach fire. I flew over it with the head of FEMA at that time and you could tell from the helicopter that the fire was literally following a path, the serpentine path of the dead timber killed by the beetle.

We have an estimate that even a small fire of around 3,000 acres right now would cause \$350 million damage in the Anchorage area alone. We believe that this fire, if it starts, can only be prevented by stepping in now and removing some of that timber and to really cut paths so that it cannot jump the way it has in the past.

There was 30,000 acres burned last summer. As a matter of fact, I was there and went over and watched it, but thank God we had a rain and that fire stopped. If we have a drought this year, I fear that the half of our State's population that is in the path of this fire is in jeopardy. I have come to ask if you would consider looking at this again to see if it would be possible to release some of the funds for fire prevention rather than fire fighting. I am told the date that was selected by your people was, in fact, the prediction of when the fire fighting would start, and we do not dispute that. If a fire starts, it will be sometime in early July, but we could act before then and prevent a substantial amount of damage if we got after that spruce beetle kill now.

Would you take a look at that and see if it is possible to release some funds to fight fires? It is not a lot of money, really, \$6 to \$8 million out of the \$80 million. It would take care of the initial steps that are necessary to reduce the fuel load there. It is all Federal land. Now, this is Federal land that we are asking that we work on. I would hope that we would find a way to do that. That is why I would like to ask you to take a good look at it.

Mr. DANIELS. I think we will do more than that, Senator. I think we will get this addressed quickly. I became aware of this issue through your advocacy and also some Western Governors recently. We did look and the news reports are accurate, that the President will be designating the entire amount of \$346 million, including the two amounts you talked about as "emergency funding," as the stat-

ute requested. We will move quickly on the \$200 million, or immediately, I would say, and on the \$80 million or at least those parts of it that meet the description of fire suppression like the piece you just talked about. So I think we will have this solved for you in short order.

Senator STEVENS. I have another question that concerns the Corps of Engineers and a specific project. I will just submit it for the record, if I can, and ask for your reply.

Mr. DANIELS. Thank you.

Senator STEVENS. Thank you very much.

Thank you, Mr. Chairman.

Senator DORGAN. Thank you. Senator Campbell?

Senator CAMPBELL. First, I would like to associate myself with the last few comments of Senator Stevens. Out West where we come from, believe me, it is low snow pack and some real dangers, and if that money for prevention is not released, I, frankly, think we are going to see millions of acres go up in flames. I know the administration does not want that and certainly we from the West do not want that, either.

#### EOP CONSOLIDATION

I want to ask you a few questions, but while Senator Stevens was speaking, I was just reading through your written presentation here. On page three, the administration is again requesting a consolidation of the President's appropriations. That did not meet with a lot of support the last time around. You probably know that, but I thought I would mention that to you.

#### U.S. POSTAL SERVICE

Let me ask you just a couple of questions here. We provided \$500 million to the Postal Service in last year's emergency supplemental for their biohazard and remediation project. Those funds were not available for obligation until the Postal Service provided a comprehensive plan, which they have done on March 7, as I understand it, but I understand that you need an additional \$87 million. Is that \$87 million being requested of this committee or going to be requested as part of the spring supplemental?

Mr. DANIELS. Senator, it is going to be part of the supplemental. I spoke to the Postmaster General and then he spoke also to Governor Ridge, to whom we look, again, for guidance in these matters. Among us, we have agreed that that is appropriate. This will allow the completion of the cleanup, as I understand it, and the safeguarding of the mail that became necessary after the bioterrorism events.

I think, by the way, there is a good news story here that you probably already noticed, but hats off to the Postal Service who took an open stance toward technology, identified, as I understand it, a detection technology that is apparently going to be very effective, that will allow the mail to move more quickly without some of the problems that a total irradiation strategy would have created, and, incidentally, that is much less expensive. So I think they are to be commended for that, and as I understand it from the Postmaster General, this amount will allow us to move down that path.

## HOMELAND SECURITY FUNDING

Senator CAMPBELL. I hope so. Since you mentioned homeland security and Governor Ridge, what was the process used to determine funding, what funding is associated with homeland security and what funding is to allow the agency to continue what they were doing before September 11?

Mr. DANIELS. This goes, I guess, in part to the question of definitions. It is a very, very important question, and in our budget we do list those things that Governor Ridge's office has to this point defined as part of homeland security strategy. That may evolve over time. There may be new measures or new areas that we all agree ought to be considered part of that, but—

Senator CAMPBELL. How did you come up with the number of \$37.8 billion in the President's budget?

Mr. DANIELS. We took what for OMB is a little different approach, which was to say we did not start with a number and work backwards. We did not say, make it all fit within a certain size. The President was very clear that if either front of this war—either defeating terror abroad or defending Americans in their homeland—was involved, we were going to do what it took and we were to include those things that were reasonably related and necessary to those tasks. This just happened to add to \$38 billion, about a 111 percent increase over even the enhanced levels of last year. Congress, of course, strengthened homeland security during last year, pre- and post-9/11.

So, it just came to that amount of money and Governor Ridge and his office reviewed all of the proposals, and there were many that were not finally included, but the Office of Homeland Security certified that these were appropriate and sufficient for the moment.

Senator CAMPBELL. I see. Okay. Thank you.

## FEDERAL EMPLOYEES COMPENSATION ACT (FECA) PROPOSAL

One last question, Mr. Chairman. Mr. Daniels, I would like to know a little bit more about the proposal to require agencies to reimburse the Department of Labor for the FECA costs. As I understand it, this requires some legislative change, but you want it on this bill, an appropriation bill?

Mr. DANIELS. We think this is the available vehicle. What we said earlier about seeking these changes through the authorizing process is quite appropriate and correct. And, we have, with regard to the other full cost accounting measures, sought support from the authorizing committees to do that. This proposal is very much akin to the one related to full cost accounting for Federal retiree benefits.

We think the costs ought not be hidden, that they ought to be visible for two reasons, one, so that we can examine them and weigh them fairly in the open, and secondly, so that managers have the right incentives. If you are going to add another employee, you ought to know exactly what that employee costs. In the case of the retiree situation, we hide about 10 percent of the cost of a GS-15. It looks like a \$133,000 cost to the manager the way we do it now—this is somebody who is not in the FERS system. The real

cost is about \$148,000. In the FECA situation, the numbers are smaller, but it is the same principle.

Senator CAMPBELL. Thank you, Mr. Chairman. I have no further questions.

Senator DORGAN. Senator Reed?

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

Senator REED. Thank you. Welcome, Mr. Daniels. OMB continues to withhold \$300 million in LIHEAP funding, contingency LIHEAP funding. Last September, 23 Senators wrote to you and asked you to release this money. The majority of Governors have contacted your office, including Governor Bush of Florida, Governor Shaheen of New Hampshire, and many others.

We have seen at the local level an increase in applications, and as we understand, the LIHEAP demand is a function not just of the weather but also of the economic circumstances of people. We are coming through a recession. The numbers in the GNP might be turning around, but unemployment grows, particularly affecting low-income and minority workers who are the typical recipients of LIHEAP support, along with seniors.

I wonder if OMB is ready and willing and able to quickly release those funds.

Mr. DANIELS. No, sir, we are not. The emergency LIHEAP money is intended for unusual and extraordinary energy costs. The combination of low energy prices and a mild winter has led to an extraordinarily low energy burden this year, ranging from the West to the East, as I recall, from 28 to 41 percent lower energy costs per household. It is very interesting to me. Translated to an average income or an average family, this is about a \$400 savings, for which we should all be grateful.

You are right that economic circumstances, of course, play a role, but LIHEAP funds have never been released for that purpose. Our view is that that would not be a useful precedent to set. Most of all, I would say that we are very mindful that there is a summer ahead. Energy bills can be a real problem in a hot summer. We may have that. We would like to have that money in reserve so we could move immediately if energy prices spike or if energy costs go up.

Senator REED. Well, again—

Mr. DANIELS. I am sorry, Senator. Let me add one other thing—

Senator REED. Go right ahead, Director.

Mr. DANIELS [continuing]. Because we are very alert and we have read carefully the reports that you have brought to our attention and to the attention of others. We have been able to work with a number of States to allow them to use, for example, unspent TANF or welfare funds which are available in large amounts in many States. And we have worked with many States to provide the flexibility or to encourage them to use those funds to address individual energy problems where there are pockets of need.

Senator REED. Mr. Director, again, I think with the growing number of people qualifying—the applications do not depend on the price of gasoline at the pump or heating oil going into your home. They depend upon your economic circumstances and whether, rel-

atively, you are falling behind in your fuel bills, and that seems to be a growing phenomenon, not one which is going away. So I would ask you—you have been pretty clear, but I would ask you to think again, if you would.

Mr. DANIELS. We will do so. We are watching it all the time.

Senator REED. Thank you, Mr. Director.

#### HOUSE BUDGET RESOLUTION

Let me raise another issue. I understand that House Republicans in doing some of their budgeting are considering a 5-year budget window for their tax cuts and a 10-year budget window for Medicare. Regardless of the substantive arguments about increasing or cutting taxes or increasing or cutting Medicare, does it not make sense to have a consistent measure to conduct this analysis?

Mr. DANIELS. I think it probably does. I think that, as our budget reflects, we believe 5 years is probably the more appropriate window. Just because we have proven now, especially in the last few years, that nobody can predict very accurately even to 5 years, let alone beyond, and so we proposed a budget at 5 years, which was the practice until about the mid-1990s. In fact, until 1971, I think it was, we only tried to forecast 3 years in advance. But the idea of using the traditional time frame, I think has a lot to recommend it.

Senator REED. Thank you, Mr. Director.

#### ERGONOMICS RULE

A final question. It has been a year since the ergonomics rule was legislatively repealed. The Secretary of Labor has indicated that she has been working very hard on preparing a rule that was announced almost immediately after the legislative repeal was enacted. It has been many months now. Can you give us an insight as to what the status of this ergonomics rule is?

Mr. DANIELS. I cannot tell you much more than you have just recounted, Senator. It is certainly true that the Secretary has worked hard on it. She has discussed its progress with others in the administration over the last month or two. But we have not received one for review at OMB and I do not know when to expect it.

Senator REED. One of the things that is difficult in terms of estimating the progress of the rule is that the Secretary has not as yet come up to testify before the committee. I understand that the rule is not before OMB. You are not in a position to testify. It seems to fall into the void.

I would hope that you might communicate to the Secretary that it would be helpful to us if she or someone appropriately could come formally before either this committee or the Committee on Health, Education, Labor, and Pensions to discuss the status of the rule. Again, I heard almost immediately from many of the people who opposed the rule and voted for its repeal that this rule would be forthcoming.

Mr. DANIELS. I will take that back.

Senator REED. Thank you, Mr. Director.

Mr. DANIELS. Yes, sir.



## EOP CONSOLIDATION

Senator DORGAN. Mr. Daniels, let me ask you about a couple of additional items. One is the item raised by my colleague, Senator Campbell, of consolidation. As you know, that proposal was not met with favor last year. I was one of those who opposed it.

You proposed consolidating 15 different components of the Executive Office of the President and fund them with a single appropriation of something over a third-of-a-billion dollars. Tell us why you think that is necessary, with the backdrop of understanding that we believe it would provide less oversight from the standpoint of the Congress.

Mr. DANIELS. Well, I think it is a little silly the way we do it today. I mean, the Government will not come to a halt and the sky will not fall if we continue to micromanage the Office of the President, but to us, it is a small example of the lack of freedom to manage that afflicts the entire government. There are many larger examples that probably have more negative impact.

I am sorry the committee did not support the proposal last year. We had a lot of support, in fact, but when it came to you, Mr. Chairman, and you have the power of life or death over such an idea, we were unable to persuade you and I wish we could have.

We have under secretaries and assistant secretaries all over the Government who have greater flexibility over more dollars than the President of the United States does, and the idea that he does not have the ability, as circumstances change, to pick up a head count or a few dollars from the Council on Environmental Quality, let us say, and move it to the Council on Economic Advisors or vice-versa, I think is a little senseless. To us, it is just a common sense reform that we wish you would permit, but we can muddle through if it does not happen.

Senator DORGAN. Would it surprise you to know, when you use the term "micromanage," that there are a fair number of agencies that suggest that is the case with OMB, micromanaging, but I suppose that is all in the eye of the beholder.

## U.S. CUSTOMS SERVICE

Let me ask about Customs user fees. You are proposing \$250 million in Customs user fees and submit the budget as if the Congress has approved them. As you know, the Congress has traditionally rejected those fee increases. I guess the question I would ask is, what will be the result of Congress again rejecting it? Where will we find the money? You are submitting the budget and anticipating that it is a done deal. In fact, I think Congress will reject the suggestion.

Mr. DANIELS. Well, that is the way we submit all our budgets. We do assume the passage of their components and if something is turned down, then we look to make an adjustment elsewhere.

I guess I would say we do believe the Customs Service needs the resources that have been suggested, the new resources to strengthen it and help it pursue its mission.

On the user fee front, there are some legitimate questions. These fees have not been changed in 16 years, so to go from \$5 to \$11, that simply tracks the inflationary difference in the meantime.

Viewed the other way, the \$5 fee that Congress thought was fair in 1986 is worth \$2 today. So it was really just looked at, I think, as a modernization of that fee, or those fees, after a long time.

I know that, for instance, some of the airlines would say that what was not troublesome 16 years ago looks a little different today because Congress has put an awful lot of other fees into the price of an airline ticket, and that is an interesting point. But I suppose one way to ask this question is, if bringing this fee current with inflation is a bad idea, maybe you should not be there at all. But that would be the explanation, at least. It was simply a way to try to modernize something that has not been touched in a long time.

#### COMPETITIVE SOURCING

Senator DORGAN. Let me ask you a question on the issue of contracting out. Can you describe the administration's views on contracting out? You are suggesting that you need flexibility to do more of that. Are there, in fact, savings? How do you describe the savings and where do you achieve the savings?

Mr. DANIELS. Governments all over the world at all levels have now achieved very well documented savings from the selective introduction of competition into areas in which the private sector does offer the same service that we seek to buy for taxpayers and these savings typically run from 20 to 40 percent, depending on the service in question. So good government advocates on a bipartisan or nonpartisan basis, I think, have been working in this direction at all levels and in all countries for a long time.

It needs to be done carefully. It needs to be done on the basis of competition. Outsourcing is not the goal. Competition and a better deal for taxpayers is the goal. We have all sorts of places and possibilities in which the Federal Government could get a better deal for taxpayers, either because a private vendor wins or because the incumbent government employees find a more efficient way to meet the competition. We really do not care who provides the service as long as the service is provided more efficiently.

But we are doing our own laundry, we are cutting our own grass, we are still doing an awful lot of things in the Federal Government that somebody out there is making a specialty of doing all day, every day, and in the right places. We ought to be taking advantage of that for the benefit of taxpayers.

Senator DORGAN. Let me submit some additional questions to you on the issue of outsourcing Federal jobs. I do not disagree that in some circumstances, it can be appropriate and has been appropriate. In other circumstances, it simply reflects a desire by some to get rid of Federal employees because they do not much like the Federal Government and believe everything can be done better in the private sector, which—

Mr. DANIELS. Let me just say on behalf of the President, and I think we are very scrupulous to always make it plain, that is not the motivation here and we would agree with you that it ought not be.

Senator DORGAN. Mr. Daniels, let me ask you one final question. Do you have additional questions, Senator Campbell?

Senator CAMPBELL. Just one.

## U.S. CORPS OF ENGINEERS

Senator DORGAN. Let me ask you one final question. This is not about your budget, but the infamous letter last week. I have no idea how it became public, but it was all over Congress, the letter that you wrote to the White House, the memo that you wrote to Mr. Card and then the political folks on the Mike Parker issue. I would like to ask you a question about that.

I want to ask you specifically a question about General Flowers in the second paragraph. You indicate in your letter to the White House, "General Flowers' statements about stopping projects and lost jobs is totally bogus. In fact, spending the money on the existing backlog of projects would speed them up. I can supply detail if necessary."

Would you be willing to supply that detail to this subcommittee?

Mr. DANIELS. We would, because I think that the important issues here really are around the merits of how we ought to be approaching the Corps of Engineers, and we think that the proposal that the President's budget contains is very important on two scores. One is that we strongly believe and recommend that the Corps ought to confine and concentrate its activities on its historical core mission, flood control and dredging and locks and dams and the like, and there has been a tendency over recent years to begin to wander off around the fringes into marinas and waterfronts and things that really are not, we think, what the Corps is there to do.

Maybe the larger issue is that there has been a dominant tendency over recent years to keep adding and adding and adding new projects, new project starts, and that has the effect of delaying the completion of the ones already on the books. We have a \$21 billion backlog of projects that are already started. It is going to take ten or 12 years—if we did not start another one from this day on to finish those. We would like to finish them, get some of the best of them onstream now so taxpayers could start receiving the benefits that were forecast for them.

Those are the two principal issues and we would be glad to supply you some more of our thinking on this issue.

Senator DORGAN. On that subject, let me just say that, obviously, the administration has every right to fire Mike Parker or have him resign or whatever happened with Mr. Parker, but on the subject of the statements about the projects, lost jobs, increasing costs, General Flowers is a very distinguished three-star general, someone I have worked with a great deal. I have great respect for him. And the implication of your memorandum here suggests that General Flowers was, as you say, providing statements to Congress that were just bogus. I do not agree with that.

I think General Flowers described the circumstances with the projects the Corps is involved with in an accurate way and I regret very much you have decided to do this, but I hope that if you believe his statements were bogus, I hope you will supply the detail to us that you suggested you would supply to the White House.

Mr. DANIELS. Okay.

Senator DORGAN. Senator Campbell?

## EOP CONSOLIDATION

Senator CAMPBELL. One last thing, Mr. Chairman, and it deals again with this consolidated account for the executive office. It always sounds good, I think, when you talk about streamlining and flexibility, as you have in your testimony, but my own view, I think shared by Senator Dorgan, is that sometimes some departments get shortchanged if they have an important mission, perhaps a smaller voice in the administration, and there are also certainly some constitutional types around here that believe that it really erodes the authority of Congress to oversee the expenditure of funds.

I just wanted to ask one thing, though. You used the number \$336.2 million under a combined consolidated executive office. How does that compare with the amount we appropriate for the full 15 separate entities?

Mr. DANIELS. You mean how does it compare with last year's number? I can tell you OMB, of course, but my recollection is that the total is about a 1-percent increase, excluding additional homeland security requirements.

Senator CAMPBELL. Increased by consolidating?

Mr. DANIELS. Well, not by virtue of the consolidation, but if you were to roll them all together and compare them to the individuals from last year, I think it came to about a 1-percent increase not including homeland security. OMB's was zero, but some of the others were several percent. Nearly all of the other increases were due to additional homeland security requirements.

We did not suggest, as I recall, that you would effect a savings by virtue of rolling them all together. That might happen over time, but that was not really the intent. It was simply to have a little more flexibility to shift people and resources as good management seemed to dictate.

Senator CAMPBELL. I understand. Thank you, Mr. Chairman.

Senator DORGAN. Mr. Daniels, it is not new for us to hear from someone who hears a government agency the message, "Give me the money and get out of the way." That is not a new message. But you know our interest. Our interest is in trying to have accountability and make sure that we have oversight responsibility that we can achieve.

My view of the consolidation has not changed at all. I think you will admit that this subcommittee has been very helpful to the administration on individual requests throughout the years. As the administration needs the flexibility, we provide flexibility. But I have not changed my view on the question of consolidation.

Mr. DANIELS. Let me say to you, Senator, that so be it. I mean, we have made the best case we can. As I say, the earth will not tremble if we do not get this changed. I would hope that you would, however, or this committee would look hard at some of the bigger questions. It would be very, very helpful—forget the White House—across the Government if we had even a little more ability to reprogram money within accounts, even at the margins in order to meet the shifting circumstances that happen in a fiscal year.

Senator DORGAN. But we do that all the time. We are always receiving requests here and have been enormously helpful. I mean—

Mr. DANIELS. Some subcommittees are and some are not. I am just saying that—and there are other examples I could give, but in general, I think we do face an issue in terms of delivering to the Congress what it rightly expects, more efficiency and a better managed government, and also an issue in recruiting talented people to come into Federal service that, in many ways, the ability of managers to manage is constrained, and this is the bigger question we would like to work with you on as time goes forward.

Senator CAMPBELL. If I might interject, Mr. Chairman, since we have worked together on this committee, I do not ever remember a time that we have refused reprogramming money when it has been asked for, do you?

Senator DORGAN. Well, we have delayed a time or two, but we have ultimately never refused.

Senator CAMPBELL. Yes.

Senator DORGAN. The point is that we have been enormously helpful to agencies, forcing them to make the case if they can, and they have been able to make the case that here is why they need to move some money and we have been very helpful to allow them to do that, but I still feel very strongly about oversight responsibility.

And again, if you will come back to us with the details regarding General Flowers.

Let me again urge you, especially with people like General Flowers, who I think is a very distinguished person, the implication of this letter is to throw him into a political basket someplace in terms of the convivial attitude you suggest. I hope you will not do that. That is—

Mr. DANIELS. Let me just say, first of all, I meant no personal disrespect to the general, whom I have not had the chance to meet. Secondly, that note fired off in the course of a day got out accidentally. It was never intended to embarrass him in any way. We cannot find justification in the facts as they were reported. All we had is what he was reported to have said. We will show you why we have a different view, but—

Senator DORGAN. Well, you had a transcript, though.

Mr. DANIELS [continuing]. We certainly meant no disrespect to him.

Senator DORGAN. But you had a transcript. I mean, it is not as if you were relying on third-hand reports. You fired a memo off as a result of a transcript.

Mr. DANIELS. That is right. We know what he said and we do not find validity in it, but that is a different question than whether we have a high regard for him.

Senator DORGAN. All right. Again, I take a different view. I think what he said was absolutely correct with respect to the job loss and the inability to fund the projects that the Congress has approved. I mean, after all, Congress makes judgments about these projects, approves them, and then attempts to fund them, and the underfunding of these projects in the President's budget was what was being discussed.

## ADDITIONAL COMMITTEE QUESTIONS

Having said all that, Mr. Daniels, we appreciate your willingness to come today. We do want to work with you on a range of issues. We have common responsibilities and we look forward to working with you this year.

Mr. DANIELS. Thanks.

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

## QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

## CUSTOMS USER FEE

*Question.* Part of the Homeland Security budget the Administration has been touting B the part that funds the Customs Service B is comprised of a \$250 million tax increase referred to as a "user fee." Similar tax increases were requested by a Democratic President and rejected by Republican Congresses.

—If Customs role in Homeland Security is so vital and I believe it is why should it be funded by a tax increase instead of hard dollars?

—To be able to generate sufficient revenues, the tax increase must be authorized by July 1. What efforts have you undertaken with the Finance and Ways and Means Committees to get this tax increase authorized?

—COBRA user fees fund all Customs inspection overtime as well as over 1,000 positions. The President's budget DOES NOT assume the reauthorization of COBRA which is set to expire in September 2003. What are the President's legislative recommendations to deal with the loss of this funding?

*Answer.* These fees are collected from international travelers and are used to pay overtime and other inspection costs incurred by the Customs Service. These same travelers will pay the updated fee, and the receipts from that fee will enhance Customs services. We view the proposal as a well-justified update to an existing fee.

The updated fee would need to go into effect in the first quarter of fiscal year 2003 to generate the funding assumed in the proposal. The budget proposal assumes that the fee will be in place for a full year, but that, consistent with the current fee collection procedures (fees deposited with Customs one month after close of previous fiscal quarter), only three-quarters of the year's collections will be available for expenditure. The Administration has submitted Appropriations language to enact the fee, and authorizing language is currently being crafted to submit to the Ways and Means Committee. We will work with the authorizers to enact the fee language.

The fiscal year 2003 budget does not reflect a specific Administration position on extension of the COBRA fee, in either its existing or proposed form beyond fiscal year 2003. Although no decisions have been made on the issue of extension of these fees, we expect to address this subject in the fiscal year 2004 budget, if not sooner.

*Question.* OMB is proposing major changes in funding significant portions of the Federal retirement system and the administrative costs associated with the Federal Employees' Compensation Act (FECA) program. Aside from the fact that not all agencies were informed of these additional costs and will therefore have to absorb them, you are asking the Appropriations Committee to perform the task of the authorizing committee without even attempting that route to begin with.

Why did you choose this route? What is the status of moving these proposals through the appropriate authorizing committees? What agency is responsible for moving this legislation through the committees?

*Answer.* The Administration chose to advance its FECA surcharge proposal through the appropriations process because it dovetails with the Budget. Although the proposal amends FECA, it changes the program's administrative funding mechanism, not the program itself. It does not affect the Act's benefits, coverage, or claims provisions. The surcharge is a change to the assignment of program administrative costs, which will affect the budget of virtually every Federal agency that has Federal workers' compensation costs. Where the Administration is proposing substantive program changes, it will pursue them through the appropriate authorizing committees. The Department of Labor, which administers FECA, is the lead agency on the surcharge and other FECA-related proposals.

Our fiscal year 2003 Budget policy was to include the surcharge amount in each agency's funding level. We regret if some agencies—particularly those with budgetary bypass—were not appropriately informed of the surcharge. This proposal is not intended to generate short-term Government-wide discretionary cost savings. It is, however, expected to produce long-term mandatory savings, as it strengthens

agencies' incentives to prevent injuries and cooperate in efforts to help beneficiaries return to work when appropriate.

Any confusion experienced this year would be eliminated once the proposal is enacted. Under current law, agencies are billed by the Department of Labor for FECA benefits that have been paid to their employees, include those amounts in their subsequent budget requests, and pay them once they have received their appropriation. If enacted, the surcharge would be handled through this well-established process.

*Question.* It is my understanding that these proposals are in an effort to show agencies the true costs of employees for the sake of "good government." To that extent, the shifting of administrative costs for FECA is supposed to encourage an agency to make the necessary changes in its work environment resulting in a decrease of FECA cases. If this is the true motivation behind this proposal, why has the Administration yet again delayed the announcement of its ergonomic policy?

*Answer.* On April 5 Secretary Chao announced the Administration's comprehensive plan to reduce ergonomic injuries through a combination of industry-targeted guidelines, tough enforcement measures, outreach, research, and dedicated efforts to protect Hispanic and other immigrant workers. This approach was developed based on input provided at the Secretary's three ergonomics forums last year; relevant information from a number of sources, including the information from the ergonomics rulemaking record; and injury and illness data from the Bureau of Labor Statistics. I want to assure you that no part of the Administration had been stalling this initiative. In developing this plan, we sought to carefully consider all options, rather than rushing to an ill-conceived solution. The announcement last week is the product of this careful consideration and we expect it to result in greater protection for workers.

*Question.* This is not the first time this Administration has proposed shifting the administrative costs associated with the Federal Employees' Compensation Act (FECA) program into each individual agency. You proposed this change in your fiscal year 2002 budget request, only you removed the funding from the Department of Labor and did not fund it amongst the affected agencies. Given your past performance and the fact that many smaller agencies were unaware of this proposal during the fiscal year 2003 budget, what assurances do we have that you will continue to provide the necessary resources for these agencies without forcing them to absorb these costs out of programmatic adjustments?

*Answer.* Our fiscal year 2003 Budget policy was to include the surcharge amount in each agency's funding level. We regret if some agencies—particularly those with budgetary bypass—were not appropriately informed of the surcharge. This proposal is not intended to generate short-term Government-wide discretionary cost savings. It is, however, expected to produce long-term mandatory savings, as it strengthens agencies' incentives to prevent injuries and cooperate in efforts to help beneficiaries return to work when appropriate.

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#### BORDER SECURITY AGENCY

*Question.* Yesterday we learned that Governor Ridge and the President's Homeland Security Council formally recommended to President Bush that the Customs Service be combined with the INS and Border Patrol under the jurisdiction of the Department of Justice.

Setting aside the wisdom of this proposal, and the lack of consultation with the Congress prior to the recommendation being made, what role did you and your office play in this discussion and recommendation? Do you anticipate any out-year budgetary savings if such a proposal ultimately was agreed to by Congress and created?

*Answer.* The Administration has not submitted a Border Security proposal at this time. It is inappropriate for me to comment on such a proposal before it is submitted or to speculate about the out-year savings without reviewing a specific proposal.

#### OFFICE OF HOMELAND SECURITY

*Question.* Governor Ridge's operations are funded by this Subcommittee as part of the budget of the Executive Office of the President through the White House Office. The budget request for the OHS operations is approximately \$24.8 million.

Given the extraordinary function of the Governor and this office, are these funds sufficient?

*Answer.* Yes. The requested funds are sufficient.

*Question.* Approximately \$38 billion of the government-wide fiscal year 2003 budget request is attributable to Homeland Security. Of that total, \$10.6 billion is directed to the goal of “securing America’s borders.” Other goals and initiatives are targeted at “supporting first responders,” or “defending against biological terrorism.”

—How was the level of \$38 billion reached? Did you set the amount as a target and then develop the various budgets to fit that number? Or was the number reached as the various agency budgets were submitted?

*Answer.* As the fiscal year 2003 Budget states, the homeland security budget was calculated by capturing those activities that are focused on combating terrorism and occur within the United States and its territories. Such activities include efforts to detect, deter, protect against and, if needed, respond to terrorist attacks. As a starting point, funding estimates for these activities are based on data that has been reported since 1998 in the Office of Management and Budget’s Annual Report to Congress on Combating Terrorism, and include combating terrorism and weapons of mass destruction (WMD), critical infrastructure protection (CIP), and continuity of operations (COOP). Since homeland security focuses on activities within the United States, estimates do not include costs associated with fighting terrorism overseas. In addition, homeland security estimates include all funding associated with border security and aviation security. The \$38 billion reflects the Federal Government-wide total for requested for these activities.

*Question.* Is this the right mix of dollars to goals and targets?

*Answer.* The Office of Homeland Security (OHS) and OMB worked in conjunction with individual bureaus, Agency Heads, and other White House Offices, to ensure that the President’s fiscal year 2003 Budget supports the most immediate, high-priority needs to protect our Nation from terrorists threats. Moving forward, in the National Strategy and the fiscal year 2004 Budget cycle, OHS will continue to work with all stakeholders—Federal agencies, Congress, state and local governments, and the private sector—to articulate a longer-term, comprehensive framework to make our homeland stronger, better, and more secure against terrorism. OMB will lend its expertise to ensure that your concern is addressed: that we have the right mix of dollars to goals and targets.

*Question.* One aspect of Homeland Security, and a component of the goal of “defending against biological terrorism,” is protection of the mail. Four (Five?) people were killed in this country last year because letters laced with anthrax were sent through the Postal System. The Administration provided \$175 million to initially address this threat, and the Congress added \$500 million. In a report just delivered to us, the Postal Service has identified an additional \$87 million for this current fiscal year, and nearly \$800 million in requirements to address the biological terror threat and ensure the safety of the mail. Yet the budget before us today has no additional funding for the Postal Service.

—Does this mean that the safety of the mail is not a component of homeland security or that it is a lesser priority when compared with other threats?

*Answer.* The safety of the mail is an important homeland security concern. In fact, the President included \$87 million for the U.S. Postal Service as part of his fiscal year 2002 Emergency Supplemental Appropriations request (submitted on March 21, 2002). This \$87 million was identified by the Postal Service in its Emergency Preparedness Plan for near-term needs.

The USPS Emergency Preparedness Plan covers 5 years and was submitted well after the President’s fiscal year 2003 Budget was sent to Congress. The Plan, including the longer-term needs assessment, is under review by my staff, the Homeland Security Council, and others in the Administration.

#### PAY PARITY

*Question.* Once again the President’s budget seeks to preserve the concept of pay disparity by establishing a pay tiering system. This is sort of a “some Federal employees are more important than others” kind of approach to governing. It is a slap in the face to hard-working Federal civilian employees who often work side-by-side with the military. It says to the armed female Customs Service inspector manning a one-person port of entry along the Northern Border that her work product is valued less than that of a female paratrooper protecting her country overseas. And it is a significant disincentive to recruiting talented people who are thinking about a career in government.

—How can you support and justify this inequality in pay?

*Answer.* We strongly believe that both our military members and civilian employees make significant contributions to the welfare of this country every day. At the same time, we feel that the Administration’s fiscal year 2003 pay raise policy is responsible and sensible. The proposed civilian pay raise is justified because Federal



civilian pay raises for 2002 and 2003 greatly exceeded projected inflation and, for the past 3 years (2000–2002), also have exceeded the Employment Cost Index (ECI). In addition, most Federal employees also receive within-grade (or step) increases every one to 3 years. Furthermore, civilian employees have benefited from a number of recent enhancements to their compensation package, such as paying the Federal Employees Health Benefits Program premiums out of pre-tax income and an increase in the amount of tax-deferred contribution to Thrift Savings Plan (TSP).

We are committed to setting pay at levels that will enable the Federal Government to recruit and retain a skilled and dedicated workforce. We are also committed to meeting this objective in a manner consistent with prudent use of taxpayers' dollars. This Administration will continue to review Federal pay policy annually, and evaluate military and civilian pay raise policies on the basis of the particular circumstances applicable to each.

#### OFFICE OF FINANCIAL ASSETS CONTROL (OFAC)

*Question.* I have been a strong opponent of the travel ban to Cuba. I believe that it is a poor use of scarce resources for OFAC to be tracking down and fining retired social workers who travel to Cuba for a bike trip, instead of tracking down the assets of possible terrorists. Secretary O'Neill came before this committee last week and agreed with me on this point.

—Don't you agree that given the fiscal reality that we are now facing and the fact that the Administration submitted a budget with deficit spending for the first time in years, that we must use these scarce resources for homeland security and anti-terrorist activities? Would you support an effort to limit OFAC's mission and prevent that office from using personnel and money to enforce an outdated travel ban?

*Answer.* The President has stated that "The Administration will oppose any effort to loosen sanctions against the Cuban regime until it frees political prisoners, holds free and democratic elections, and allows for free speech." I fully support this policy, and have confidence that enforcement of sanctions by Treasury's Office of Foreign Assets Control (OFAC) is fair and fully consistent with legal requirements.

#### GREAT GRANT PROGRAM

*Question.* The Administration initially proposed a fiscal year 2003 budget for the Bureau of Alcohol, Tobacco, and Firearms (BATF) that did not include funding for the GREAT grant program. According to the OMB passback to the Department of Treasury, "This level does not fund grants for the Gang Resistance Education and Training Program. Given the elements of September 11 and the need to reorder priorities, we assume these functions will be provided through state and local entities or through other Federal agencies with core missions in education and youths."

—The Administration recently submitted a budget amendment that amended the request to include the GREAT grant program; however, no additional funds were included. How can the BATF absorb the additional \$13 million and still meet the challenges they face for homeland security and the ongoing mandates and responsibilities required under statute?

*Answer.* The President's Budget, initially submitted on February 4, 2002, provided \$13 million for ATF's GREAT grants and \$3 million for administrative costs. The budget appendix incorrectly displayed the language related to the GREAT program, but an amendment transmitted on March 14, 2002 corrected the appropriation language to ensure that ATF has the authority to implement and distribute GREAT grants.

The President's fiscal year 2003 Budget proposes \$913.114 million for ATF, \$61 million or 7 percent above fiscal year 2002 enacted (including fiscal year 2002 comparables for accruals and excluding funding from the Emergency Response Fund). This increase includes \$13 million for second-year costs related enhancements in homeland security such as agents to participate in Joint Terrorism Task Forces and additional canine handlers and expansion of ATF's canine training facility in Front Royal, Virginia.

#### TREASURY COUNTER TERRORISM FUND

*Question.* The Treasury Counterterrorism Fund (CT Fund) was first appropriated in fiscal year 1997 as a central fund to reimburse any Treasury organization for the costs of providing support to counter, investigate, or prosecute terrorism, including payment of rewards in connection with these activities.

—The President's fiscal year 2003 Budget attempts to transform the Counterterrorism Fund under the Department of Treasury into a reimbursable account for any agency in the Federal Government for its role in a National

Special Security Event (NSSE). Congress has cautioned the Administration on the use of this fund to pay for events such as the Olympics and other NSSE's. Is it your intention that this fund be used to reimburse any agency for its participation in these events?

—Aren't you concerned that this fund will be depleted by planned activities that should be budgeted for in all affected agencies, rather than unforeseen events that will require the involvement of agencies within the Department of Treasury?

Answer. The Budget proposes language that would enable Treasury to reimburse any Federal agency that provides security at National Special Security Events (NSSEs) (at the request and direction of the U.S. Secret Service). The language is specific and is intended to improve the U.S. Secret Service's ability to carry out its responsibilities related to operational and perimeter security at NSSEs outlined in Presidential Decision Directive 62. Each NSSE is different, and the Secret Service requires the flexibility to call on various Federal partners, as necessary, to assist with security operations. Given the variation in NSSEs the Federal partners participating may change from event to event. Providing Treasury the opportunity to reimburse other agencies as needed will ensure uninterrupted planning and protection at NSSEs and allow proper tailoring of security responses. This funding mechanism mirrors the one in place for FEMA in consequence management.

Forecasting the unforeseeable is difficult and while the U.S. Secret Service makes every attempt to plan for NSSEs, recent events have led to a proliferation of events that are now designated NSSEs, such as the NFL Superbowl and the United Nations General Assembly. Currently, the Counter-Terrorism Fund is carrying balances of \$64.6 million. The President's Budget provides an additional \$40 million in fiscal year 2003 for potential resources of up to \$104.6 million. The Administration, working with Treasury and the U.S. Secret Service, believes the proposed funding levels for the CT Fund will adequately provide for unforeseen events such as NSSEs.

#### OMB REPRESENTATION ACCOUNT

*Question.* Last year your office requested B and the Congress provided B the creation of a "representation account" at OMB so that you can entertain your counterparts at official functions in your office. We authorized the use of up to \$3,000 for these purposes.

—Now that nearly half of the fiscal year is over, how much of that fund has been used to date?

Answer. To date, no expenditures have been made from the representation account.

#### SCORING OF SMALL BUSINESS LOANS

*Question.* The Small Business Administration provides loan guarantees for small businesses through the 504 program. Unfortunately, the Office of Management and Budget uses an artificially high rate of default, higher than the actual rate of default. Because of the way that this program is scored, fewer loans can be made. So the result of this arcane way of scoring the program is that fewer businesses can benefit. My understanding is that the default rate has been extrapolated from a very small time frame and does not take into account the full history of the program.

—Could you explain why OMB is unwilling or unable to use a more accurate default for this program?

Answer. The Small Business Administration (SBA) provides loan guarantees through a number of programs, including the Section 504 Community Development Company program. We disagree with the contention that the Administration is unwilling or unable to use an accurate default rate. OMB treats the 504 program as prescribed by the Budget Enforcement Act of 1990. The Federal Credit Reform Act of 1990, as amended requires that SBA estimate the subsidy cost of its loan programs as the net present value of the expected cashflows to and from the Government over the life of the loan(s) being guaranteed. SBA must estimate these cash flows for each year of the loan's maturity, based upon historical program experience (or, in the case of new program, a suitable proxy) and incorporating performance over a variety of economic conditions. OMB guidelines require at least a maturity's worth of data on which to estimate the subsidy cost, although few agencies other than SBA have sufficient, usable data to meet that requirement at this point.

We also disagree with the contention that fewer businesses benefit from the program because of the way the default rates are developed. The 504 program has always met loan demand and the available loan volume frequently exceeds demand.

For instance, the President's fiscal year 2003 budget supports a 504-program loan volume of \$4.5 billion, which is more than \$2 billion above the fiscal year 2002 expected loan demand.

With respect to the amount of data used to estimate the default rate, we note that SBA uses all 16 years of available historical performance data to predict future defaults and recoveries (the program started in 1986). Using historical data to estimate default rates is commonly used by SBA and other credit agencies and reflects actual program performance during a variety of economic conditions. However, some of the larger Federal credit programs are moving towards use of an econometric model, which can incorporate the effects of programmatic changes as well as economic variables in developing default estimates. In fact, SBA expects to use an econometric model for its 7(a) General Small Business Loan program in the fiscal year 2004 Budget. SBA will then build from that effort to develop a new 504 model in future budgets.

#### REGULATORY OVERSIGHT

*Question.* OMB provides oversight of Federal rule-making. Recently at a hearing in the House, the Administrator of the Office of Information and Regulatory Affairs (OIRA) testified that since July, OIRA has returned more than 20 proposed rules to agencies because of "poor quality analysis." That is nearly one per week.

—It sounds like this Administration has a flawed process. Do you think that the small staff at OIRA has more expertise in these areas than the agencies who deal with these issues all the time? Why doesn't OIRA work with the agencies on the front end of the process, to ensure that significant amounts of time and energy are not wasted redoing work that the agencies have done? Shouldn't there be more of a partnership between OMB and the agencies on developing regulations? Hasn't the repeated rejection by OIRA of rules that have been worked on for months by agencies substantially slowed the regulatory process?

*Answer.* The issuance of Presidential regulatory principles, and the centralized review of draft regulations, has been an accepted part of regulatory development for 30 years in one form or another. This began with President Nixon's "Quality of Life" review program, and continued in the 1970s with President Ford's requirement in Executive Order Nos. 11821 and 11949 for agencies to prepare inflation/economic impact statements and with President Carter's Executive Order No. 12044 on "Improving Government Regulations."

The OMB review process became more formalized with President Reagan's Executive Order No. 12291, which was in effect from 1981 to September 1993 (the Reagan and Bush Administrations and the first nine months of the Clinton Administration). In September 1993, President Clinton issued Executive Order No. 12866, which retained the OMB review process in essentially the same form. The Executive Order No. 12866 review process remains in effect today.

This review process ensures that agencies, to the extent permitted by law, comply with the regulatory principles stated in Executive Order No. 12866, and that the President's policies are reflected in agency rules. It also serves to ensure adequate interagency review of draft rules, so that agencies coordinate their rules with other agencies to avoid inconsistent, incompatible, or duplicative policies.

During the course of OMB's review of a draft regulation, the Administrator of the Office of Information and Regulatory Affairs (OIRA) may decide to send a letter to the agency that returns the rule for reconsideration. Such a return may occur if the quality of the agency's analysis is inadequate, if the regulatory standard adopted is not justified by the analysis, if the rule is not consistent with the regulatory principles stated in the Order or with the President's policies and priorities, or if the rule is not compatible with other Executive orders or statutes.

Early in this Administration, I stressed to agencies the importance of improving regulatory impact analyses. In a memorandum to agency heads, I stated:

"The Bush Administration is committed to improving the quality of the Regulatory Impact Analyses (RIAs) that departments and agencies prepare under Executive Order 12866. Improved analysis will lead to more effective and efficient regulation by providing the public and policy officials with better information on the effects of these important rules. If OMB determines that more substantial work is needed, OMB will return the draft rule to the agency for improved analysis." (Memorandum to the Heads of Executive Departments and Agencies, "Improving Regulatory Impact Analyses" (OMB Memorandum M-01-23, June 19, 2001).)

Since that memorandum was issued, OIRA has returned 21 agency draft rules. As the OIRA Administrator, Dr. John D. Graham has testified, two of his priorities have been to establish more openness and transparency in how OIRA does its work,

and to stimulate more analytic rigor in the process of regulatory analysis throughout the Federal government. These return letters are publicly available, and posted on OIRA's web-site, at "[http://www.whitehouse.gov/omb/inforeg/return\\_letter.html](http://www.whitehouse.gov/omb/inforeg/return_letter.html)". Through the public posting of these letters, Dr. Graham provides any interested party the opportunity to comment on the content of the letters, thus allowing detailed challenge to the expertise therein displayed.

In your question, you raise the issue of OIRA expertise. OIRA staff are highly trained and experienced in analysis, particularly benefit-cost analysis, and the types of review that are required by Executive Order No. 12866. We believe OIRA can supplement and improve its already outstanding expertise. Consequently, Dr. Graham is in the process of hiring several new staff with backgrounds in science, including epidemiology, risk assessment, and engineering to complement existing expertise in policy analysis, economics, statistics, and information technology.

You also suggest that OIRA should work, in partnership, with agencies earlier in the regulatory development process and express your concern about the possible delay entailed by Executive regulatory review. We agree that OIRA should work in a cooperative manner with agencies more at the front end of the regulatory development process, and have been working with agencies to do this whenever possible. Knowing that OIRA cares about the quality of agency regulatory impact analysis appears to be encouraging agencies to invite OIRA into the early stages of regulatory deliberations, where OIRA's analytic approach can have a greater impact.

The return letters relate to 12 proposed draft rules, one interim final draft rule, 6 final draft rules, and two notices. Thus, 14 of the 21 return letters raised OIRA's analytic concerns at the early stages of agency rulemaking. Moreover, 6 of the 21 have already been resubmitted and OIRA has concluded review. It is a measure of the effectiveness of OIRA's return letters that agencies are able to respond quickly and OIRA is able to conclude its subsequent review expeditiously.

We can also assure you that the OIRA Administrator is concerned about timeliness of OIRA's regulatory reviews. This is demonstrated by comparing the time period for the returns (07/20/01 to 02/12/02) with the same period for the previous year, a time period in which OIRA did not send any return letters. During the time that OIRA returned 21 rules for reconsideration, OIRA conducted a total of 347 regulatory reviews with an average review time of 53.7 days. This compares to 489 reviews with an average review time of 66.4 days for the previous year—close to a 20 percent decrease in review time.

#### FEDERAL ACCOUNTING STANDARDS BOARD

*Question.* For more than 10 years, the Federal Accounting Standards Board has been tasked with working with agencies to ensure that they all use uniform accounting standards. This is an important role because it allows agencies to provide financial statements as required by the Federal Chief Financial Officers Act. Because FASAB creates standards for Federal agencies, it has had predominantly Federal officials on it, including OMB, Treasury, GAO and CBO.

Recently, OMB and Treasury announced that the make-up of FASAB would be drastically changed. Of the 9-member board, representation from Federal agencies will be slashed in half: from 6 to 3. Representation from the private sector will increase from 3 to 6. This seems illogical given the mission of FASAB. While there may be value in having private sector input, the previous make-up of one-third from the private sector seems to me to be sufficient. Clearly, Federal agencies have unique circumstances compared to the private sector and a Board with Federal perspective is more helpful than one that is heavily weighted toward the private sector.

—What is the rationale for having this board which governs Federal agencies so heavily weighted with private sector representatives? Don't you agree that Federal agencies have a unique contribution to make to the process that the private sector cannot add?

*Answer.* At the August and October 2001 Joint Financial Management Improvement Program (JFMIP) Principals' meetings, the three Principals addressed concerns about the independence of the Federal Accounting Standards Advisory Board (FASAB), which was raised in 1999 by the American Institute of Certified Public Accountants (AICPA) when it recognized FASAB as the body designated to establish generally accepted accounting principles (GAAP) for Federal Government entities. The AICPA said it would review its position in 5 years, and expressed a concern that the Board, which at that time consisted of six Federal and three non-Federal members, did not possess sufficient independence because of the predominance of Federal members. The Principals agreed that revising board membership to consist of three Federal and six non-Federal members would address the AICPA's concern. In addition, they agreed to lengthen the terms of the non-Federal members to en-

sure continuity on the Board. The Principals believed that these changes would improve the FASAB's consideration and development of accounting standards as well as enhance the Board's independence. The FASAB Memorandum of Understanding (MOU) was revised accordingly, and signed on January 11, 2002, to implement the Principals' decisions.

Certainly Federal agencies have made and can continue to make unique contributions to the FASAB process. Nothing in the new structure will prevent Federal entities from presenting views and suggestions to FASAB either through its Principals (OMB, Treasury, and GAO) or through FASAB's formal, structured due process for vetting all of its proposals. It is important to note that, under the revised MOU, each of the Principals would still retain his or her right to veto any FASAB proposal. Also, non-Federal appointments would still be vetted through an appointments panel which includes representatives of the JFMIP Principals as well as non-Federal members. All FASAB appointments must be approved unanimously by the JFMIP Principals. We believe that the new FASAB structure addresses the AICPA's concerns and continues to provide ample opportunity for all Federal entities to contribute to the deliberative process.

*Question.* Also, under the previous make-up of the FASAB, the 6 Federal representatives included 2 from the legislative branch. With the elimination of CBO as a representative, the legislative branch's input has been drastically cut. In addition, I understand that CBO was never consulted about this change and in fact, that Director Dan Crippen resigned in protest.

—Why was there no consultation of the other Federal members of the FASAB before they were removed from the board? Also, please explain why you have chosen to marginalize the legislative branch by cutting its representation in half.

*Answer.* The issue of FASAB independence has been discussed publicly since AICPA raised concerns about the Board's independence in 1999 when it recognized FASAB as the body designated to establish GAAP for Federal government entities. The JFMIP Principals debated the issue and chose to move quickly to address AICPA's concerns and thus remove a potential distraction from their efforts to improve Federal financial performance.

The decision to reconstitute FASAB by increasing the non-Federal memberships and reducing the Federal membership was made to address the AICPA's concern that the Board, which at that time consisted of six Federal and three non-Federal members, did not possess sufficient independence because of the predominance of Federal members. The AICPA said that this issue would be considered when it reviewed its position in 5 years. This action will not marginalize the Legislative Branch of the government. The Comptroller General of the United States, an official of the Legislative Branch of the government and the current chair of the JFMIP, strongly supported the reconstitution of the FASAB to three government members. Moreover, the Legislative Branch retains the same proportional representation relative to the Executive Branch as the original FASAB make-up.

Representatives from the CBO and the other two Executive Branch agencies have made important contributions to the Board's deliberations since 1990, and still have the opportunity to do so through the Principals or the formal due process for vetting all FASAB proposals. The Department of Defense (DOD), which has provided the member from the defense/international agencies since FASAB was established in 1990, accepted the Principals' offer to remain involved in FASAB proceedings as an observer. The Principals would be pleased to welcome a CBO representative under an informal "observer status" which would allow CBO to participate with DOD, but without voting privileges.

#### THE PRESIDENT'S MANAGEMENT AGENDA

*Question.* The President's Management Agenda proposes to use the budget process to discipline agencies who do not "get to green" on the five scorecard items related to the President's management goals. Tell us what that means.

—Please explain how the Administration's authority to do so relates to, and does not conflict with, the role of Congress in authorizing and appropriating funds to achieve statutory missions of Federal agencies?

*Answer.* The President's Management Agenda (PMA) has the shared Congressional goal of improving the performance of Federal programs across government. Changes in the management of programs that require modifications to existing law or to agency budgets will be proposed as a part of the President's Budget or as legislative changes.

In fact, the GPRA (Government Performance and Results Act of 1993) specifically calls for a more focused and serious approach to measure the effectiveness of Federal programs and most importantly to use performance based budgeting to accom-

plish this objective. The PMA is a focused initiative to address the most glaring government-wide problems and fix them. The role of Congress and the Executive in this initiative is one of mutual cooperation and a shared goal—the efficient use of taxpayer dollars. The PMA will over time help Congress in identifying the most effective programs and the worst performing programs to best allocate tax dollars.

#### GOVERNMENT'S HUMAN CAPITAL CRISIS

*Question.* How and where does the President's budget identify and request the funds necessary to pay for the expenses that agencies must face to in response to the Federal "human capital crisis"?

Just to name a few of the cost considerations that are not visible in the budget but which are critical to the functioning of the Federal government:

- retirements which are expected to include approximately one-third of the regular Federal workforce, and about half of the SES by 2004.
- buy outs and early outs
- massive recruiting
- the need for competitive salaries and positions among technical and scientific specialists and experts
- retention strategies including pay increases, promotions
- training for the next generation of entry level employees and training for the new wave of managers
- systems to provide agencies with better knowledge management of their own people, competency needs, skills, and accountability.

*Answer.* OMB Circular A-11 provided guidance to agencies on preparing their fiscal year 2003 budget requests and annual performance plans. Agencies were instructed to prepare a five-year workforce restructuring plan, which identified the specific organizational changes the agency is proposing to make the government more citizen-centered. The plan also was to include the human resources tools and flexibilities needed to implement the plan. Decisions on these plans were made on an agency-by-agency basis and are included in each agency's budget request. Integrating human capital strategies into agency strategic and budget processes is essential to building, sustaining, and effectively deploying a high-performing workforce to meet the needs of the nation. OMB will continue to evaluate future agency budget requests to ensure that they are linked to the achieving the President's vision to make Government more citizen-centered, results-oriented, and market-based.

#### OUTSOURCING FEDERAL JOBS

*Question.* The Administration and OPM are advocating using the President's support of increased outsourcing to include Federal jobs. This has been the subject of heated discussion in the Senate Governmental Affairs Committee, as recently as a hearing on March 6, 2002.

—What are the budgetary implications and estimates for such an effort?

*Answer.* We were pleased to help update the Senate Government Reform Committee on March 6 on the Administration's progress in implementing our competitive sourcing program. Almost every Cabinet agency and several smaller agencies have submitted competitive sourcing plans to us. Some agencies are obviously further along than others. In addition, OMB is providing staff assistance to every agency that requests the help, especially important since most civilian agencies have never conducted a public/private competition before.

Additionally, through the management scorecard and progress reports, we're holding each agency accountable for implementing the President's competitive sourcing initiative. These competitions are often lengthy and that's why we're hoping to streamline them and will oppose efforts to add hurdles. We're focusing on having agencies build the infrastructure for public/private competitions.

Regarding the budget implications, DOD has achieved and continues to estimate future savings. Without service or logistical support reductions, these funds will be available for redirection into other DOD priorities.

*Question.* What cost estimates do you have to support that it will be more cost effective or as accountable as necessary once these positions are outsourced?

*Answer.* One of the key benefits to competitive sourcing is the savings to the taxpayer. Savings have been documented by every group that has ever seriously studied this issue. Organizations such as the GAO, the Center for Naval Analysis, and RAND have all documented significant savings. On March 6, 2002, GAO testified to the significant cost savings from A-76 competitions. On average, the statistics show a 20-30 percent savings, regardless of whether the public or private sector wins the competition. Some studies, such as the 1998 Center for Naval Analysis (CNA) analysis of 44 competitions indicate a 42 percent cost savings. These savings

have been achieved without service reductions, terminations or arbitrary FTE ceiling reductions.

*Question.* What happens when the company providing the outsourcing decides that the government's business isn't as profitable a market as it would like?

*Answer.* Only the firm itself can decide if it is interested in renewing its contract with a client, whether that client be government or private. If the firm no longer sees it as profitable, it is under no obligation to participate in a re-competition.

#### GOVERNMENT DOWNSIZING

*Question.* Government downsizing in the 1990s led to significant skill and structural imbalances, as well as agencies not positioned to fulfill their mission. Nonetheless, the Administration is pursuing continued downsizing and several agencies appear to be ready to offer early outs and buy outs to agencies.

—What is the Administration doing to ensure that the downsizing going on now won't repeat those problems? Are the early outs and buy outs allowing the government to distinguish between the talent they need to keep and others who may lack the skills, knowledge, and experience to assist the agency now and into the future?

*Answer.* The Administration recognizes the numerous challenges facing the government now and in the future, such as the growing percentage of the workforce that is eligible to retire over the next 10 years; competing for talent with the private sector; and closing skill gaps created by past downsizing. In response, the President has placed Strategic Management of Human Capital on his list of government-wide management initiatives. The U.S. Office of Personnel Management (OPM), together with OMB, will work very closely with Federal agencies to implement human capital strategies to attract and retain the right people, in the right places, at the right time; make high performance a way of life in the Federal service; and deliver high quality services the American public deserves. The President's approach is not driven by arbitrary numerical goals and is intentionally flexible and aligned with other initiatives to ensure that numbers do not drive good management strategy.

In addition, I will work with others within and outside of the Administration to help advance the Managerial Flexibility Act, which is an important step toward achieving the President's vision to make Government more citizen-centered, results-oriented, and market-based. This proposal would give every Federal manager increased discretion and flexibility in attracting, managing, and retaining a high quality workforce. Furthermore, it would empower Federal agencies to determine when, if, and how they might offer new employee incentives, and it enhances the agencies' authority to use recruitment, retention, and relocation bonuses to compete better with the private sector. It would also enable managers to offer early outs and buyouts for downsizing and/or restructuring, which would allow agencies to target buyouts based on a number of factors, including skills, knowledge and abilities, geographic location, organizational unit, and occupation to assist in agency workforce planning efforts.

#### SHARED RESPONSIBILITIES WITH CONGRESS

*Question.* In the Budget, the President notes that "getting to green" is a shared responsibility of the Congress and the Executive Branch. If true, transparency will be essential to make that meaningful. What information about agency evaluations, plans, progress, and strategies to address their management deficiencies will be made available to Congress and, if requested, to the General Accounting Office?

*Answer.* Status reports on agency progress toward "getting to green" on the management scorecard will be regularly made available in the President's budget and the Mid-Session Review.

#### RIDGE TESTIFYING ON CAPITOL HILL

*Question.* In the March 20 Washington Post, columnist David Broder suggests that—just as you have significant jurisdiction over agency budgets and are required to testify before Congress—Homeland Security Director Ridge also should testify on the Hill because of the substantial sway he holds over the development and targeting of agency budgets.

Do you think that it would help improve the dialogue between the White House and the Congress if Gov. Ridge did testify in a mutually-agreed upon setting?

*Answer.* As I mentioned in my March 14th testimony, while this is not my area of responsibility, I know that Governor Ridge wants to communicate as openly and effectively as he can with this Congress.

## RISK ANALYSIS

*Question.* In the March 20 Washington Post, there is an article that discusses efforts at OIRA to make risk analysis more scientific. Part of this effort will be to analyze risks and benefits on the basis of “life years” instead of “lives” saved. I am troubled by this type of analysis because it seems to put a lower value on the elderly.

—Under this formulation, isn’t it true that a regulation that would save lives of the people in their 60s would be considered less beneficial than one that saved lives of teenagers? Doesn’t this type of “scientific” analysis create all sorts of moral hazards? More importantly, doesn’t this proposal underscore the problem of trying to quantify risks and benefits when lives are at stake?

*Answer.* The March 20 Washington Post article refers to the release of OMB’s 2002 draft report to Congress on the Costs and Benefits of Federal Regulations. The draft report states that OIRA has initiated a process to refine its formal analytic guidance documents. As a part of that initiative, the draft report requested public comment on several specific issues, including: “The methods employed to evaluate the risk of premature death, particularly the relative advantages and disadvantages of differing statistical approaches including the quality-adjusted-life year (QALY) approach.” We decided to address the difficult issues involved in valuing premature death by the “life year” approach instead of the “lives saved” approach in response to several comments on OMB’s draft cost-benefit report to Congress published in the Federal Register on May 2, 2001, received from several government agencies and interest groups (e.g., the Children’s Environmental Health Network). We recognize that there are a variety of important factors that must be considered in the evaluation of risk reducing measures and that no single approach may be sufficient. The QALY approach is widely used in the medical literature and has recently been recommended for use in analysis by an expert panel assembled by the U.S. Department of Health and Human Services. We believe that this approach deserves careful review and we look forward to the public comments on the role this approach (and similar approaches) might have in regulatory analysis.

*Question.* The article also indicates that OMB plans to hire more scientists at OIRA. It was my understanding that OIRA is already stretched very thinly, given the increased interest in information policy.

—What areas of staffing are you planning to cut in order to make room for the scientists at OIRA? What role is it that they will fill? Conversely, do you plan to seek additional funds to adequately pay for these new hires without cutting on-going programs?

*Answer.* In developing a vision of how to make OMB more effective, I have made OMB’s ability to analyze regulations a management priority. I am therefore implementing a staffing plan that will reverse a twenty-year decline in OIRA staffing while enhancing our analytic capabilities in a number of scientific disciplines, such as engineering, toxicology, public health, risk assessment, and health economics. These new staff resources will help OIRA adapt to the changing focus of Federal regulatory policy, occasioned by economic deregulation and an expansion of social regulation in science-related fields.

Historically, OIRA’s staff has possessed significant expertise in economics, policy analysis, statistics, and information technology. OIRA’s new staff specialists will have scientific backgrounds that will complement OIRA’s institutional strengths by enhancing its ability to analyze regulations concerning public health, safety, and the environment. Specifically, the new staff will be involved in the review of agency regulatory analyses that raise complex technical issues (e.g., human health risk assessments based on toxicology and public health science). This, in turn, should stimulate a greater focus on science in the regulatory agencies.

In deciding to devote some of OMB’s existing vacancies to new specialist positions that will strengthen OMB’s ability to review regulations, I consulted extensively with OIRA and OMB’s other divisions. OMB will thus not be seeking additional funds or FTE. For details on OMB’s proposed fiscal year 2003 budget, please see the President’s February budget submission to Congress.

## GENERAL FLOWERS

*Question.* As you offered to do during the questions today, please provide the subcommittee with the specific details referred to in your memo of why statements made by General Flowers “about stopping projects and lost jobs” are “bogus.”

*Answer.* General Flowers stated that the Budget would result in a job loss that could be “in the neighborhood” of 45,000 jobs. I understand that the Army Corps of Engineers has requested that the Senate Budget Committee change the hearing transcript to indicate that the General now estimates an impact of 4,500 jobs, an order of magnitude less than the figure used at the hearing. This correction con-



firms OMB's assessment that the job loss claims as stated in the original transcript were inaccurate.

At the time I sent the memo to which you refer, my staff had ample reason to believe that the agency's estimates were greatly overstated. Later, OMB staff reviewed material that the Army Corps of Engineers provided after I sent the memo. That review, and the Corps's own re-examination, both confirmed OMB's initial assessment.

The Corps' modification of its testimony speaks for itself. However, even with this revision, the revised Corps' estimate of job losses at projects funded in the budget is based on several questionable assumptions.

First, the Corps estimate fails to account for job increases that would result at projects where the Budget proposes increases in funding, such as the Olmsted Lock and Dam in Illinois and Kentucky, which would receive a \$37 million (90 percent) increase in funding over the fiscal year 2002 enacted level. The Corps estimate is not a net figure.

Second, the Corps estimate assumes that there will be no effort to reduce potential job losses by managing current and future contract schedules. It assumes, for example, that the Corps would award new contracts in August 2002 even in the face of knowing there would be inadequate funds to support such new contracts in the next fiscal year.

Third, the Corps estimates assume that all fiscal year 2002 construction contracts will be awarded on schedule and that all work under these contracts will proceed throughout fiscal year 2002 and 2003 on schedule. Historically, many projects do not stay on schedule. The Corps often encounters construction delays that are unrelated to the availability of funds. Schedule delays lower the likelihood of contract termination and job loss.

Fourth, the Corps assumes that no one else will step into the breach. Local project sponsors can advance funds to continue contracts (and receive credit against their future cost) share, where applicable; the contractor could continue to work and qualify for reimbursement plus interest, subject to the future availability of funds; or the Corps could cover the shortfall by reprogramming funds from other projects.

Regardless, we recognize that there would be some termination costs under the Budget proposal. This is true especially for projects that are outside the Corps' three principal missions and other objectionable projects that the Budget does not fund. However, terminating these objectionable projects would yield substantial savings to taxpayers. As noted in the Budget, it would require about \$5 billion to complete all the projects added by the Congress that are inconsistent with Corps policies—that's \$5 billion diverted from nationally important priorities, including commercial navigation, flood damage reduction, and environmental restoration projects that are already underway.

The alternative proposed in the Budget is to focus the Corps on reducing the backlog of ongoing construction projects that fall within its primary missions. This approach would ensure that these projects are completed and their expected benefits realized sooner than would be possible under current spending trends.

#### VETERANS

*Question.* Clinics in North Dakota are turning away patients because they are so full and the Department of Veterans Affairs has decided that they will not open a new clinic in Dickinson, North Dakota due to lack of funds. Veterans in my home state can wait up to 10 months and have to drive up to 12 hours one-way to receive a routine medical visit. I believe that taking care of our veterans is part of the cost of our national defense. Yet, the even though the budget included a \$48 Billion increase for Defense, it did not include sufficient funds to serve all veterans.

—What is your explanation for this oversight? Don't you agree that we must keep our promises to our veterans if we want to recruit and maintain a strong military? What should I tell veterans in North Dakota who have been turned away from community based outpatient clinics because the Administration has not requested sufficient funds?

*Answer.* The Department of Veterans Affairs is committed to ensuring that all veterans seeking medical care at VA this year have access to the system. New VA patients in areas of high demand may have to travel to VA hospitals (instead of using the community outpatient clinics). This ensures that the local clinics in these areas can continue to handle current patient load as well as all emergencies.

The influx of new patients, particularly PL 7 veterans, into the VA system has resulted in higher than expected demand—varying significantly throughout the country. Prior to 1996, only 2 percent of patients were PL 7 veterans. Today, that number is 21 percent and it is projected to be 42 percent by 2010.

In January 2002, Dr. Robert Petzel, Director of VA Upper Midwest Health Care Network (covering North Dakota, South Dakota, Minnesota, and small parts of Iowa and Wisconsin) issued a letter to County Veterans Service Officers and Congressional Offices stating its new policy: "Veterans seeking care at community clinics where workload is projected to exceed the capped level [September 30, 2001 levels], will be referred to our [five] VA medical Centers." In response to questions, Dr. Petzel released a clarifying letter stressing his commitment to community clinics for veterans and his plans for the current fiscal year. He supported the goal of bringing quality care close to where veterans live, but does not want to compromise the quality and timeliness of care.

Since many of the clinics in this Network have exceeded their planned capacities, new patients can only be added to the clinics as space becomes available. In the meantime, new patients will be offered appointments at the VA medical centers. Veterans who have emergency needs are being seen or scheduled for an appointment immediately.

*Question.* I understand that the supplemental that you intend to send up to Congress will include an additional \$12 Billion for the Department of Defense and an additional \$142 million for veterans. I am told that the VA funds, if provided, would prevent further reductions in service from being implemented but would do nothing to improve the level of service or allow additional enrollees. I am surprised that the Administration has put such a low priority on our veterans during this period of increased military activity.

—Why isn't the Administration doing more to ensure that the veterans who are eligible for health care are able to access it? When the Administration had the opportunity to address this problem in the supplemental, why did veterans get only one percent of the requested funds that DOD received?

*Answer.* The fiscal year 2002 Supplemental request that was transmitted to the Congress on March 21, 2002, includes an additional \$142 million to provide sufficient funding for the VA to take care of all veterans who wish to enroll for VA health care benefits in fiscal year 2002. VA estimates that this amount of funding will ensure that all requesting care will be treated.

#### CORPS OF ENGINEERS

*Question.* The Corps of Engineers was dramatically underfunded in the President's budget request. Just in my state, there were several projects that were funded below capability by tens of millions of dollars. The Grand Forks Flood Control project, for example, was funded at less than half of the level necessary to keep the project on schedule. If this project is not substantially completed by December 2004, the city has been told that FEMA will spend money to remap the 100 year floodplain, which would include over 90 percent of Grand Forks and East Grand Forks and thousands of new properties, forcing residents to pay between \$10–\$15 million annually in additional flood insurance. This mapping will need to be redone a year or two later when the flood control project is complete. Mapping this area twice in the course of a couple of years seems like a huge waste of Federal dollars and would be totally unnecessary if the Corps of Engineers' budget wasn't so severely underfunded.

Grand Forks is just one example of the additional costs involved in underfunding projects currently underway at the Army Corps of Engineers. All across the country, this underfunding causes overall costs to rise because the projects are drawn out and not built on the most efficient schedule. In addition, it leaves tens of thousands of people vulnerable to flooding for years beyond the original deadline goal.

—Why wouldn't the Administration pursue a policy of finishing projects on the most efficient time frame?

*Answer.* The Budget does give priority to completing ongoing construction projects that are within the Corps' primary missions—commercial navigation, flood and storm damage reduction, and environmental restoration. The Grand Forks/East Grand Forks project is an ongoing construction project to provide flood damage reduction for these two cities. The project reflects an innovative solution that combines traditional levee work with non-structural activities, including removing a substantial number of structures from the most flood-prone areas of this project. The fiscal year 2003 funding of \$30 million that the Administration proposes would enable the Corps to build the project more quickly, so that this area does not experience a repeat of the devastating floods of 1997.

*Question.* Earlier this month, the press reported on a memo from you to Andrew Card, Josh Bolton and Karl Rove about Mike Parker's colloquy with Senator Conrad and General Flowers. In this memo, you describe General Flowers' statements about

stopping Corps projects and losing jobs as a result of underfunding of Corps projects as “totally bogus.”

I have a few Corps projects in my state, like the Grand Forks Flood Control project, that were dramatically underfunded in your budget and the result of your budget will very clearly be work stoppage and subsequent layoffs. I sympathize with General Flowers’ concerns and really regret the Administration’s decision to fire Mike Parker based on his testimony to the Senate Budget Committee. In my estimation, I think he was just giving a straightforward assessment of the result of your budget. As you know, a number of my colleagues from both sides of the aisle agree with me.

—My question is whether you still believe that the testimony given by the Corps about the dangers of underfunding of Corps projects is “totally bogus?”

Answer. I understand that the Army Corps of Engineers has requested that the Senate Budget Committee modify the hearing transcript to indicate that the General said that the funding impact was 4,500 jobs rather than “in the neighborhood of 45,000 jobs.” I believe this confirms OMB’s assessment that the job loss claims as stated in the original transcript were inaccurate by an order of magnitude. Even with this revision, the Corps estimate of job losses is overstated for reasons explained in my answer to your previous question.

#### TRANSPORTATION FUNDING

*Question.* The President’s budget included a cut in highway funding of more than \$8 Billion. For North Dakota alone, this would mean a reduction in highway construction funds of \$45 million and the loss of nearly 2,000 high paying jobs. It seems ironic that at a time when the Administration was pushing hard for an economic recovery package, OMB was proposing a budget that would eliminate thousands and thousands of jobs and would drastically reduce important stimulative construction projects.

—The Senate Budget Committee has wisely added back over \$4 Billion in highway construction funding. Will the Administration publicly support this increase?

—How can you reconcile the seemingly inconsistent policy of asking for an economic recovery package while making huge reductions in highway spending?

—Why would the Administration blindly follow an arbitrary formula which prevents funds already collected from being used [the TEA–21 formula] instead of providing some discretionary funds, given the economic situation?

Answer. The Administration is committed to working with Congress to ensure a process exists that adequately funds highway programs

One of the guiding principles behind Transportation Equity Act for the 21st Century (TEA–21) was ensuring that highway funding levels track actual and anticipated revenue into the Highway Trust Fund, and a mechanism (RABA) was included in that legislation to set guaranteed funding levels accordingly. In fiscal year 2000–2002 this Administration and the last adhered to this principle when revenue into the Highway Trust Fund was higher than what was anticipated in TEA–21 and provided States with an additional \$9 billion to support the Nation’s highway infrastructure. In fiscal year 2003 actual and anticipated revenue into the Highway Trust Fund are lower than what was anticipated in TEA–21. Our fiscal year 2003 budget request reflects this decline in receipts.

On the eve of the reauthorization of TEA–21 it is important that we not abandon the principle of linking highway funding levels to revenue coming into the Highway Trust Fund. We will however work with Congress to address the wild swings in funding created by the RABA mechanism in a manner consistent with TEA–21 principles and fiscal restraint.

#### AGRICULTURE AND PAYMENT LIMITS

*Question.* One of OMB’s responsibilities is to coordinate and issue Statements of Administration Policy (SAP) and to approve letters from agencies that state Administration policy. During the debate on the Farm bill there have been some confusing messages included in the Administration’s SAPs, and some troubling omissions as well. Specifically, the Administration has never taken a position on the payment limitation amendment that Senator Grassley and I successfully offered to the Farm Bill.

The amendment appears to me to address the very concerns that the Administration has raised. You yourself have said that there were objections to legislation that would direct “all the money to rich farmers and leave large sectors of the farm economy unattended.” The Department of Agriculture has raised similar concerns. It seems that the Administration would embrace our efforts to limit payments and

close the loopholes so that payments are more targeted to family farmers. And yet, OMB has declined to comment on the amendment or to publicly endorse the Dorgan-Grassley amendment; and a recent letter from Secretary Veneman which was presumably cleared through OMB is oddly silent on the issue.

—Can you explain this inconsistency?

Answer. The Administration shares your concern raised here and in your February 14, 2002 letter to the President about providing too much Federal assistance to those producers least in need. We believe that the policies articulated in Secretary Veneman's March 13th letter to Chairman Combest will best address this issue by broadening the types of farm support and more effectively targeting limited funds. Key points in the Secretary's letter include:

- Adhere to the Congressional Budget Resolution funding limits and avoid frontloading funding in the first 5 years, thereby placing farm programs in jeopardy in the second 5 years;
  - Support farmers without encouraging overproduction and further depressing farm prices through overly high loan rates;
  - Maintain compliance with our international trade obligations through "circuit breaker" language and use of "green box" payments such as the House bill's fixed decoupled payments;
  - Provide new risk management tools to help non-program crop producers and others through use of farm savings accounts.
  - Support a strong conservation title that also bolsters farm and ranch income.
- We appreciate your concerns and look forward to working with you to develop programs that will better target agriculture assistance to those who need it.

#### DEFENSE

*Question.* Last year in the DOD Authorization bill, the Congress included language that permitted the Administration to implement so-called "concurrent receipt." This allows disabled veterans to receive both disability compensation and military retirement pay without being penalized with an offset. Unfortunately, the Administration did not take the steps necessary to implement concurrent receipt. Even though there was a \$48 Billion increase in the defense budget, the Administration was unable to identify funds that would finally allow this problem to be corrected.

—Why did the Administration choose not to make this change?

—Why do you think military retirees should be penalized with an offset when other retirees are not?

Answer. Many veterans have served this country long and faithfully and subsequently suffered from illness or injury. The Administration deeply appreciates their service and sacrifice. The principle behind the statutory prohibition of concurrent receipt of military retirement and VA disability compensation benefits is the idea that no one should be able to receive concurrent retirement benefits and disability benefits based upon the same service. This is because all Federal employee-benefit systems aim for an equitable percentage of income replacement in the case of either work-related injury or retirement. Compensating for both simultaneously over-compensates the individual and the Administration opposes repeal of the current prohibition on concurrent receipt.

A retired civil servant, for example, may not receive civil service disability benefits or workers' compensation benefits in addition to civil service retirement benefits. A similar ban exists against concurrent payment of retirement and disability benefits by the Social Security Administration. Within the military retirement system, retirees can receive up to 75 percent of basic pay based on years of service or percentage disability rating, whichever gives them the greatest benefit, but not both. With regard to veteran survivor benefits, survivors cannot receive annuities under VA's Dependency and Indemnity Compensation (DIC) and military retirement survivor benefits without offset either. If we reverse our approach on veterans, the principle would have to be reconsidered for civil servants as well.

If a VA disability compensation recipient (based on military service) qualifies for Federal civilian retirement (based on civil service), there is no offset because civilian retirement is a benefit for civil service. Similarly, an individual receiving Federal workers' compensation benefits (based on work-related injuries in a Federal civilian job) incurs no offset from military retired pay, since the retirement benefits were earned for military service.

Recently, VA and DOD evaluated the impact of lifting the restrictions on veterans receiving both retirement pay and disability compensation. Over a ten-year period the costs would be nearly \$58 billion. Moreover, this expansion would stress the Department of Veterans Affairs' ability to meet its current responsibilities to veterans,

requiring the Department to process over 800,000 new or reopened claims over the next 5 years.

Section 641 of the National Defense Authorization Act for Fiscal Year 2002 requires that the \$58 billion cost of this proposal be offset. As we wage the war against terrorism, our highest priority must be to provide the resources the Department of Defense needs. We must take a hard look at every issue. Undoing the principle underlying the law creates a \$58 billion impact on the budget, and potentially impacts the Department of Veterans Affairs' ability to serve our veterans.

#### RENEWABLES

*Question.* The Renewable Energy and Energy Efficiency office at the Department of Energy conducted a strategic review of its programs last year, and this review is being held up and has not been released to Congress.

—What is the status of this review?

—Has completed the OMB process, which agency currently has the document and at what stage of review, and why it has not yet been released?

—If this review is used for the RE/EE Office to develop its budget proposal, how are we supposed to evaluate that proposal and the rationale for some of the budget cuts we are seeing, without the benefit of having seen this review document, in its original form? When can we expect to see this important document?

*Answer.* DOE's Office of Energy Efficiency and Renewable Energy (EERE) conducted the Strategic Program Review (SPR) review throughout the summer of 2001. DOE submitted the draft SPR for OMB review in December 2001. OMB carefully reviewed the draft document and worked closely with EERE to ensure that all comments (which largely dealt with internal inconsistencies) were addressed. On March 25, OMB approved the SPR. DOE has posted the SPR on its web-site ([www.eren.doe.gov/ee.html](http://www.eren.doe.gov/ee.html)) and expects hard copies to be available by mid-May.

The President's budget reflects some—but not all—of the SPR recommendations due to the timing of the review of the draft SPR. It is important to note that many of the SPR recommendations are not budget-related and will not be accomplished overnight (e.g., implementation across programs of "best program practices" that the SPR identified).

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#### QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

##### ARMY CORPS OF ENGINEERS

*Question.* The President's budget reduces the Army Corps of Engineers Civil Works projects from \$4.486 billion in fiscal year >2002 to \$4.026 billion for fiscal year >2003, a reduction of 10 percent. I am particularly concerned with how these cuts will affect the Corps' work in Louisiana. The Army Corps of Engineers is currently building flood control systems on the Comite River and hurricane protection systems around Lake Ponchartrain, as well as improving the Inner Harbor Navigation Canal Lock where the Inter-Coastal Waterway meets the Mississippi River. Flood control and hurricane protection are life and death issues in Louisiana. That lock on the Inter-Coastal Waterway and the Mississippi means jobs and economic development in the region.

I also noticed in the budget that the Corps was rated "Moderately Effective" or "Effective" in 7 out of 9 of its program areas, including "Effective" ratings for: 1) Flood Control and Storm Damage Reduction and 2) Emergency Response, as well as a "Moderately Effective" rating for its work on Inland Waterways.

What is the justification for cutting the Corps given the essential and important nature of the work it does and its record of effectiveness?

*Answer.* The President's proposal must be viewed in the context of the need to target resources to winning the war against terrorism, and improving the Nation's homeland and economic security. For this reason, funds are redirected in the President's Budget. The Budget for the Corps is \$4.175 billion, excluding the government-wide retirement funding proposal. This represents a reduction of seven percent from the fiscal year 2002 level of \$4.486 billion. Most of this reduction is due to excluding projects added by Congress in fiscal year 2002 that are outside the Corps' primary missions (commercial navigation, flood damage reduction, and environmental restoration), are not economically justified, or are inconsistent with long-standing Corps policies. In light of the existing \$21 billion backlog of ongoing construction projects, and the aforementioned national security needs, the Budget proposes to use available funds to accelerate the completion of priority, ongoing construction projects. This acceleration will allow the Nation to realize sooner the benefits of these projects.

In addition to completing construction of ongoing projects, the budget focuses on increasing overall effectiveness of Corps programs. While it is true that the Corps was rated “moderately effective” or “effective” in seven out of nine out of its program areas, it was only rated effective in two of these areas. Whether the funding level for a program needs to change to improve performance will depend on the specific circumstances of that program.

For example, the budget rates the Corps’ Inland Waterways program as “moderately effective,” primarily because some segments of the inland waterway system operated by the Corps provide few commercial benefits to the Nation. To improve the performance of this program, the Budget targets funds to those waterways that provide the greatest economic return, and substantially reduces funding for those that provide minor commercial benefits to the Nation. For other Corps programs, additional funding was requested to improve performance. For example, the Budget proposes to increase funding of the Hydropower program, which is also rated “moderately effective” by allowing the Power Marketing Administrations to directly finance from power revenues the Corps’ costs to operate and maintain its hydropower facilities. This change would enable the Corps to reduce facility downtime and increase power production.

#### OFFICE OF HOMELAND SECURITY

*Question.* The Administration request for the White House Office is \$84.6 million, an increase of nearly \$30 million, or 55 percent over last year. The bulk of this increase, according to the budget, is for the Office of Homeland Security and 40 full time equivalent employees. That is a significant investment for what I consider to be an area of national concern. Given the importance of this office, I encourage Governor Ridge to appear before Congress to report on his vision for the Office of Homeland Security.

How many employees does the Office of Homeland Security currently have? How many of those employees are working in that office on detail from other agencies?

Of the 40 FTE you are planning to hire for the Office, what roles will those employees play? How many will be experts in law enforcement and/or counter terrorism? How many of these employees will be support personnel? How many will be involved in public affairs, press relations, and outreach efforts? Will these positions be filled from outside of the Federal Government or from within the Federal Government?

Will the Office of Homeland Security be entering any contracts for consulting or other services as part of its work? Are there any contracts in place at this time? Can you provide the Subcommittee with an accounting of any contracts, their cost, and the type of consulting work being performed as part of those contracts.

*Answer.* It is our understanding that the Office of Homeland Security currently employs 91 personnel, of whom 62 are detailees.

The Office of Homeland Security does plan to hire 40 FTE who will work in the areas that you describe. We do not have an exact breakdown of their fields of expertise at this time.

It is our understanding that OHS expects that the contracts it executes will fulfill the following needs:

- Review and assess the adequacy of the Federal emergency response plans.
- Develop criteria for reviewing security measures for critical infrastructure, e.g., energy production, telecommunications, utilities.
- Ensure coordination of public health preparedness.
- Design and review programs to facilitate incident response and exchange of information by and among Federal, State and local agencies as well as private entities.

None of these contracts has been executed to date.

#### CHILD CARE AND ADOPTION

*Question.* As the largest employer in the United States, the Federal Government has a unique responsibility to serve as a leader in developing policies that address certain quality of life that are not only important to their employees but also society as a whole. In particular, the provision of affordable, accessible high quality child care and equity in workplace benefits for employees who adopt. In fiscal year 1999, I proposed that language be inserted into the Treasury Postal Appropriations bill that allowed for Executive agency funds to provide child care services for their employees. I fought very hard to ensure that the child care that was provided with these funds was high quality, affordable care that was accessible to the families in need. While this was a success, lack of child care remains a critical issue for hundreds of thousands of Federal employees. Members of my own staff have tried un-

successfully to get access to these services and have found there are very long waiting lists. What is OMB doing to address this issue?

Answer. The fiscal year 2000 Treasury General Government appropriations bill authorized the use of certain appropriated funds to provide child care services for Federal civilian employees. This authority was made permanent on November 12, 2001. The Office of Personnel Management (OPM) issued the "Guide for Implementing Child Care Legislation," which provides information to Federal agencies, Federal employees, child care providers, and child care governing boards on how to develop and implement child care programs for lower income employees. The guide contains various tuition assistance models to help agencies choose a model that suits their needs.

Furthermore, GSA supports the national commitment to provide quality child care as an essential component of a quality work environment. GSA has over 110 Child Care Centers across 32 states and the District of Columbia. Federal agencies have the authority to establish child care centers for Federal families with the requirement that at least 50 percent of the children enrolled in a child care center must be children of Federal employees.

OMB's role in this process is to evaluate agency budget requests in the context of their overall program priorities and human capital strategy. We will look to agencies to demonstrate, as a part of their annual performance plans and performance reports, how their human capital strategies, including work/life programs, are linked to the accomplishment of agency mission requirements.

*Question.* In the past, Senator Bond and I have worked to pass a piece of legislation entitled, the Federal Adoption Assistance Act to provide \$2,000 in reimbursement for adoption expenses. We are again working to pass this legislation, what if anything, is the OMB doing to ensure that there is equity in the benefits offered (paid leave, reimbursements, etc.) to employees who adopt versus those who give birth to a child?

Answer. The Administration has proposed substantial assistance for all taxpayers seeking to adopt children. In the past, families who adopt children were provided a nonrefundable tax credit of 100 percent of the first \$5,000 per adoption. Building on a proposal in the President's fiscal year 2002 budget, Congress included a provision in the Economic Growth and Tax Relief Reconciliation Act of 2001 to increase this credit to \$10,000.

In addition, the Federal Government already has an impressive and flexible array of family-friendly leave options that support Federal employees' family responsibilities and enhance the productivity of its workforce. The two most notable laws for adoptive parents are the Sick Leave for Adoption Act and the Family and Medical Leave Act (FMLA). The Sick Leave for Adoption allows Federal employees to use sick leave for absences relating to adopting a child. The FMLA ensures that family and medical leave is available on a gender-neutral basis to both male and female employees and mandates job security for employees who take leave. In addition, it entitles an eligible Federal employee to 12 workweeks of unpaid leave during any 12-month period for certain family and medical needs. Furthermore, Federal employees may cover a legally adopted child or a foster child under their Federal Employees Health Benefits family enrollment upon showing proof of the child's eligibility as a family member.

#### IMPROVING THE CURRENT FEDERAL BUDGET

*Question.* In several speeches on the budget, you have clearly outlined the goals of your agency and the Bush Administration for improving the current Federal budget.

Among these goals you include the following principles:

- Eliminating "pork projects" or "earmarks" so as to preserve our limited national resources for national programs and priorities.
- A move away from Federal programs and toward a greater use of performance based block grants with broad goals and greater state and local flexibility.
- An effort to rate the performance of programs funded and to fund only those found to be "effective."

While I appreciate these goals and in a theoretical sense would support them, I am curious as to how in reality these goals would be applied and what effect they would have on certain important ongoing national priorities such as education and health care. As you may know, in almost every case, when programs are shifted away from a line item and into a block grant, it almost always results in a gradual decline in funding. What's more, outcomes for programs such as child abuse prevention, prenatal health care, and education reforms may be hard to quantify and a

poorly constructed rating system may not reflect the real success of a more subjective program.

Could you better explain how you see these goals being incorporated into this and future budgets?

Answer. For years, serious advocates of public policy have sought to better link information on program performance with budget decision making. The major reason for doing so is precisely to better address important national priorities such as education and health care. For too long, regular spending increases for programs has been the measure of success in how well the public is served. Less attention has been paid to how well these programs have been achieving their objectives. We propose to transform this equation by better linking information on program performance to the decisions that are made on the budget.

Evaluations of the effectiveness of programs are only one of many factors that go into decisions on spending. Policy makers must also consider priorities, the proper role of the Federal government, and many other factors. But surely there is no argument with a proposition to better inform budget decision making with the best possible information on program performance. This information will be used to highlight areas that require management attention, and also to inform budget decision making to reward good performers, and reform, curtail, or terminate activities that are not producing good results.

As a way to expand the use of information during the coming year, we will increase the use of the effectiveness ratings that were used in last year's budget, and report on selected crosscutting common performance measures in some program areas. Agencies will be expected to provide information on the effectiveness of their programs as a part of their September budget request to OMB. Where that is lacking, the OMB staff will review the information that agencies prepare as a part of reporting on the Government Performance and Results Act. OMB will also be working with the agencies to develop other specific information on program effectiveness, and in selected areas to compare measures of performance across programs. To supplement information provided by agencies, the OMB staff will be reviewing evaluative information provided by the General Accounting Office, the Congressional Research Service, and other analyses of program effectiveness produced by entities in and out of government. To the extent practicable, OMB staff will spend time in the field learning at first hand the operation of agency programs. All of this information will be used to support OMB budget decisions based on program performance.

As we expand the use of performance related information in the budget, we will continue to hold a dialogue with the Congress—we are very interested to hear congressional views.

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QUESTIONS SUBMITTED BY SENATOR JACK REED

LIHEAP

*Question.* Your Office continues to withhold \$300 million in LIHEAP contingency funds appropriated last year to help low-income families and senior citizens pay their energy bills. In September, 23 Senators sent a letter to you requesting release of the funding due to last winter's high energy prices and the significant increase in utility disconnections. In addition, a majority of our nation's Governors, including Governor Bush of Florida and Governor Shaheen of New Hampshire, requested release of these funds. The only response we received from the Administration is that the contingency funding remains available in case of an emergency. The statute defines an emergency to include a significant increase in home energy disconnections, a significant increase in participation in a public benefit program or a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits. Please explain why the Administration does not believe that working low-income families and senior citizens going without adequate heat or food or medicine because they cannot pay their energy bills does not constitute an emergency? And why the current recession which is causing an increase in individuals applying for unemployment benefits and other public benefit programs does not constitute an emergency as defined by the statute?

Answer. LIHEAP emergency funds have traditionally been used to assist states experiencing unusually severe weather or high home energy prices. By any measure, the current situation does not meet previously-used standards for emergency assistance. We were very fortunate this past winter to have record high temperatures and lower fuel prices. In fact, the Northeast and Midwest experienced their warmest winter since the government began keeping records in 1895.



The combination of warmer weather and low fuel prices means that heating costs will be invariably lower than last year. The Department of Energy recently updated its estimate of household heating bills for selected fuels. DOE's calculations show the following expectations for the six-month period ending March 31 compared to the 2000–2001 heating season: a 42 percent reduction in average natural gas heating bills per gas-heated household in the Midwest, a 36 percent falloff in oil-heated household heating costs in the Northeast, and a 37 percent decline in comparable expenditures for households using propane for heating in the Midwest.

These conditions can change quickly, which makes it all the more important to ensure resources are available when a crisis emerges. We plan to continue to carefully monitor energy needs in the weeks and months ahead with this in mind.

#### ERGONOMICS

*Question.* Over a year ago, after repealing the ergonomics regulation, the President promised to “pursue a comprehensive approach to ergonomics.” Unfortunately, there has been no substantive action over the past year by the Administration to protect America’s workers from the leading cause of workplace injury. In fact, the Department of Labor has not yet even put forward an action plan on the issue despite repeated deadlines for doing so. Apparently, the release of the Administration’s plan is now held up at the Office of Management and Budget. Why is this process taking so long and why is this Department of Labor initiative stalled at OMB? What kind of regulation to protect workers from ergonomic injury would OMB support?

*Answer.* On April 5 Secretary Chao announced the Administration’s comprehensive plan to reduce ergonomic injuries through a combination of industry-targeted guidelines, tough enforcement measures, outreach, research, and dedicated efforts to protect Hispanic and other immigrant workers. This approach was developed based on input provided at the Secretary’s three ergonomics forums last year; relevant information from a number of sources, including the information from the ergonomics rulemaking record; and injury and illness data from the Bureau of Labor Statistics. I want to assure you that no part of the Administration had been stalling this initiative. In developing this plan, we sought to carefully consider all options, rather than rushing to an ill-conceived solution. The announcement last week is the product of this careful consideration and we expect it to result in greater protection for workers.

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#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* Presidential Decision Directive 62 provides authority for Federal agencies to make sure that National Special Security Events are safe and secure. The Secret Service is responsible for putting together a comprehensive security plan and enlisting the assistance of other Federal agencies for law enforcement personnel to carry out that plan. Although budgets have been tight, the majority of Federal law enforcement agencies have provided the necessary support because that’s what the PDD–62 envisioned.

The President’s fiscal year 2003 budget includes a request for \$40 million for the Treasury Counterterrorism Fund, and specifically requests statutory language which would allow payments from this fund to “any Federal agency” which provides assistance to the Secret Service at these events.

- Are we rewarding inappropriate behavior by providing reimbursement to Federal agencies which have a track record of refusing to cooperate with a Presidential directive without additional funding? What message does this send to those agencies which have consistently responded to the call?
- If such a fund is the appropriate way to go, should it rest within the Treasury Department? Wouldn’t it make more sense to have the funding reside with the entity which is responsible for making the initial NSSE designations?
- I assume that under the current review process, consideration is given to the need for this high level of security. What consideration, if any, is given to the cost of such a designation? I would appreciate it if you could outline for me exactly what process is followed in making these determinations.

*Answer.* Due to the events of September 11, the frequency of NSSE designations has increased. After September 11, the annual United Nations General Assembly meeting and the Superbowl were designated NSSEs for the first time. Security measures at the Winter Olympics (an NSSE) were also increased. The expected increase in NSSE designations as well as the unpredictability of the NSSE designation process (i.e. which agencies will be asked to help at which event) make planning and implementation of a Secret Service security plan at future NSSEs much more difficult. A Counterterrorism Fund with wider eligibility covering both Treas-

ury and non-Treasury entities will provide the flexibility necessary for the Secret Service to complete its mission under Presidential Decision Directive (PDD-62).

PDD-62 gave the Secret Service the responsibility of planning and designing operational and perimeter security at NSSEs, the FBI the responsibility for crisis management, and FEMA the responsibility of consequence management. Funding for the Secret Service to carry out its responsibilities as described in PDD-62, which may include enlisting assistance of Treasury and non-Treasury entities, appropriately rests within the Treasury Department just as funding for FBI and FEMA, Secret Service's partners in carrying out PDD-62, lies in their respective agencies.

The Office of Homeland Security currently considers requests for NSSE designation, in consultation with the Secret Service, FBI, and FEMA. Consistent with section 3(e)(iv) of Executive Order 13228, the Assistant to the President for Homeland Security is responsible for recommending to the Attorney General and the Secretary of the Treasury whether events should be designated as NSSEs. The primary factors taken into account when making an NSSE designation are the scope of the event, jurisdictional and local public safety agency concerns, and threat considerations.

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QUESTION SUBMITTED BY SENATOR TED STEVENS

*Question.* I have been informed that OMB budget examiners are beginning to examine Corps of Engineer infrastructure projects using an internal OMB cost-benefit analysis. This is after the Corps has completed a Chief's Reports with well grounded cost-benefit analysis, Congress has authorized the project and Congress has funded the projects.

This is happening in the case of Seward and Wrangell Harbors. Both were authorized and funded after the Corps of Engineers found a positive cost-benefit ratio associated with the projects. Why is OMB second guessing the work performed by expert engineers who actually visit the sites and meet with local leaders thousand of miles from D.C.? This threatens to create an even larger backlog of Corps projects.

*Answer.* OMB examiners do review the Assistant Secretary of the Army's recommendations for the disposition of Chief's reports that he is sending to Congress. Executive Order 12322 directs OMB to review all agency water projects for consistency with the policies and programs of the President and with Federal guidelines for water resources projects, which are supposed to be followed by the Chief in preparing his reports. This executive order was issued by President Reagan in 1981. The OMB review does not add to the backlog. Rather, this review ensures that only the best projects are eligible for construction.

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QUESTION SUBMITTED BY SENATOR CHRISTOPHER S. BOND

*Question.* Please supply the Subcommittee with the number of program examiners at OMB who work on budget, management, and other issues related to programs administered by each of the following agencies: the U.S. Army Corps of Engineers, the Department of Commerce, the Department of the Interior, the Department of State, the Environmental Protection Agency, the Federal Emergency Management Agency, and the National Science Foundation.

*Answer.* OMB currently has: 4 full-time and 1 part-time staff with primary responsibility for oversight of the Corps of Engineers civil works programs; 4 examiners working on Department of Commerce issues; 9 examiners with primary oversight for the Department of the Interior and its bureaus and programs (8 are in the Interior Branch and 1 is in the Water and Power Branch); 8 program examiners for State Department programs; 8 program examiners who work on budget, management, and other issues related to programs administered by the Environmental Protection Agency; 2 full-time examiners with responsibility for FEMA programs; and, 1 full-time staff person with primary responsibility for oversight of the National Science Foundation programs.

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SUBCOMMITTEE RECESS

Senator DORGAN. This hearing is recessed.

[Whereupon, at 2:30 p.m., Wednesday, March 20, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

# **TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2003**

WEDNESDAY, APRIL 17, 2002

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

The subcommittee met at 1:30 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan, Reed, and Campbell.

DEPARTMENT OF THE TREASURY

OFFICE OF ENFORCEMENT

STATEMENT OF JAMES GURULÉ, UNDER SECRETARY FOR ENFORCEMENT

OPENING REMARKS

Senator DORGAN. We will call the hearing to order today. This is the Subcommittee on Treasury and General Government of the Senate Appropriations Committee. We welcome our witnesses and also the guests.

I would like to mention I am joined by the ranking member, Senator Campbell. After we had scheduled this hearing, Secretary Rumsfeld has now scheduled a top secret briefing beginning at 2:30 in the Capitol building, and so because of that—that will deal with the war in Afghanistan, and because of that, I want to try to expedite this hearing so that we might be able to access the information that Secretary Rumsfeld is going to provide to the Senate this afternoon.

We will ask witnesses to put their entire statement in the record by consent and ask that they limit their oral statements to 5 minutes each.

I also want to note that each of the law enforcement agencies here will be represented at the annual Law Enforcement Technology Show April 30 in SD-106, right around the corner. That is something that my colleague, Senator Campbell, started some while ago and I was pleased to participate with him. We are continuing that tradition and we appreciate the cooperation of the agencies to do that.

Let me make a very brief statement and then call on my colleague, Senator Campbell. This afternoon, we continue our series of hearings on President Bush's fiscal year 2003 budget request for

agencies under the jurisdiction of this subcommittee. Today, we will receive testimony from the Under Secretary for Enforcement as well as the Director of the Secret Service, the Director of the Bureau of Alcohol, Tobacco and Firearms, the Director of the Financial Crimes Enforcement Network, and the Acting Director of the Federal Law Enforcement Training Center.

Because of the size of its budget and the specific homeland security issues it faces, we will have a second Treasury law enforcement hearing tomorrow afternoon with the U.S. Customs Service. There are other issues that relate to the Customs Service with respect to reorganization and so on and we will have a second hearing tomorrow.

The events of September 11 have focused the attention of this Nation on its ability to protect itself as never before. We witnessed the heroism of our first responders, the fire fighters, police, and EMS workers as they rushed to rescue innocent Americans at the World Trade Center and the Pentagon and also in Pennsylvania. We cheered the rescuers and we grieved with the families of those who made the ultimate sacrifice in the line of duty.

Our Nation has begun to learn the extent to which the men and women who serve our country in various Treasury law enforcement bureaus represent us and contribute to our homeland defense. Although we repeat it every year, few people realize that the Treasury Department agencies comprise about 40 percent of all Federal law enforcement.

With respect to all of the agencies that are here today, I want to say on behalf of my colleagues in the Senate that the men and women who work in your agencies, who serve our country in times of great difficulty, have the admiration and deep respect of the American people for their service and we hope that the manner in which we work with you and the manner in which you work with the men and women who serve under you would allow that understanding to exist among all those who serve our country in these times.

I am going to put my entire statement in the record. It is probably clear to all of us that we face significant budget problems this year. The President has requested a \$49 billion increase for national security at the Pentagon for funding requests for armed forces. About a \$35 billion request is made for homeland security. Some of that affects your agencies. I believe that Congress will react favorably to most of those requests.

#### PREPARED STATEMENT

It is clear to every American that we face very serious challenges in all of these areas. Your agencies, in many respects, are at the front line of the search for terrorists, the search for homeland defense that will be impenetrable to would-be terrorists, and it is very important to us that you have the resources and the men and women who work for you and with you have the resources to do their job that our country needs doing at this point.

So with that, I will put my entire statement in the record.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

This afternoon we continue our series of hearings on President Bush's fiscal year 2003 budget requests for agencies under the jurisdiction of this Subcommittee.

Today we will receive testimony from: Under Secretary for Enforcement, Jimmy Gurule; Director of the Secret Service, Brian Stafford; Director of the Bureau of Alcohol, Tobacco and Firearms, Bradley Buckles; Director of the Financial Crimes Enforcement Network, James Sloan; and Acting Director of the Federal Law Enforcement Training Center, Paul Hackenberry.

Because of the size of its budget and the specific homeland security issues it faces, we will have a second Treasury law enforcement hearing tomorrow afternoon with the United States Customs Service.

The events of September 11 have focused the attention of this Nation on its ability to protect itself as never before. We witnessed the heroism of our first responders—the firefighters and police and EMS workers—as they rushed to rescue innocent Americans at the World Trade Center and the Pentagon. We cheered the rescues and we grieved with the families of those who made the ultimate sacrifice in the line of duty.

Similarly, the Nation has begun to learn of the extent to which the men and women who serve the country in the various Treasury law enforcement bureaus represented here today are part of our homeland defense. Although we repeat it every year, few people realize that the Treasury Department agencies comprise approximately 40 percent of all Federal law enforcement.

- The Secret Service has taken the lead in designing and implementing protective plans for major public events such as the Winter Olympics in Salt Lake City and the Super Bowl in New Orleans.

- The ATF has been charged with preventing terrorists from obtaining the firearms and explosives with which they can carry out acts of terrorism.

- FinCEN is a major player in the efforts to unravel the international web of terrorist financing for groups such as al Qaeda.

- And FLETC is agency whose sole responsibility it is to train almost all Federal law enforcement employees—not just those of the Treasury Department.

Together, these agencies provide a strong foundation for the protection of the Nation.

Unfortunately, while claiming increases in funding over the current fiscal year for these agencies, the President's budget shortchanges the vital activities of nearly all Treasury law enforcement agencies.

The President's budget claims to increase funds for these agencies because the budget chose not to include the Supplemental appropriations for homeland security added for most agencies' activities post-September 11. The OMB director was quoted as recently as Monday stating that much of the homeland security funding was a one-time expense. That may be true for the National Institutes of Health or the Department of Agriculture, but that is not the case at Treasury. Much of those costs were associated with hiring additional agents and other law enforcement personnel to protect the homeland. They are not hired for one-year and then let go. They become important, and hopefully, long-term Federal employees. Thus a true, apples-to-apples comparison in funding between Fiscal year 2002 and the request for fiscal year 2003 reveals that:

- FLETC faces a 4.6 percent cut in its salaries and expenses account at a time when it is being tasked to train one of the largest group of law enforcement hiring classes in the history of its operation and

- The Secret Service faces a 4.4 percent funding reduction at a time when the number of people it protects has more than doubled and when it is being stretched thin in protecting the integrity of our currency.

To be fair, FinCEN and ATF would receive modest increases under the President's budgets, but not without making difficult cuts to meet what appears to be an arbitrary bottom-line.

We will explore these requests, and the additional needs of each of these agencies, during the hearing. This will be a difficult year to find additional and much needed funding for our law enforcement agencies. We are waging a war overseas and face a weak economy at home. This subcommittee fully supports each of the agencies testifying today and commends the hard work that the women and men perform for the Nation each and every day.

We look forward to your testimony and will make your complete statements part of the record. Before we hear from our witnesses, however, I call upon the Ranking Member, Senator Campbell, for his remarks.

Senator DORGAN. Let me call on our ranking member, Senator Campbell.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Mr. Chairman. With your permission, I will also put my written statement in the record. I know we will be short of time and I believe every one of the people that are on this panel have been in to speak to me, as they have you, about their needs this year, so we are pretty well aware of what you want us to do.

I would like to associate my comments with yours, too. This is a new kind of war, and certainly the gentlemen that represent their agencies here today are on the front line of that new kind of war. As I saw the reaction, not only from September 11 by your agency and the ongoing things, such as the terrific job that you did at the world Olympic Games in Salt Lake City, I am well aware that even though we do not have a surplus anymore—that sort of disappeared after September 11—that the priorities that you need are going to be important to all of us in the Nation.

I cannot imagine anything worse than not funding this agency at the highest level we can, and then having something terrible happen, as we were told just recently by former Prime Minister Netanyahu when he gave us a briefing about the Middle East crisis, he said it is only a matter of time. “It is only a matter of time before you are facing the same thing we are,” i.e., Israel with terrorist attacks of suicide bombers and so on. I cannot imagine anything worse than us not taking action and funding these agencies as well as we can and then having that happen.

PREPARED STATEMENT

So, I just want to tell the men that are here at this table, that I am certainly going to do everything I can within the limits of what we have to spend to make sure that you are well taken care of in our appropriations bill.

Thank you, Mr. Chairman.

Senator DORGAN. Senator Campbell, thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you, Mr. Chairman. And, thank you for scheduling this hearing on Treasury Law Enforcement. We should have an interesting afternoon.

The events of September 11 will forever remain in the psyche of all Americans, but even more so for law enforcement officers whose jobs have taken on even more urgency.

The responsibilities of Treasury agencies touch just about every aspect of Federal law enforcement—tracking terrorist financing, blocking access to assets, training, keeping firearms out of the hands of criminals, border security, and protection of our Nation’s leaders.

But, Mr. Chairman, you know as well as I do that there is more to our Treasury Law Enforcement agencies than that.

We all tend to think of the individual protection responsibility when someone mentions the Secret Service but that is only a part of their duties. They also investigate things such as computer and other electronic crimes, identity theft which has become a huge problem in our country, and counterfeiting which requires a global presence to name a few.

Most people instinctively think of guns when talking about the bureau of alcohol, tobacco and firearms but there is so much more to that agency. They protect the

American public by making sure that alcohol products are safe for legal consumption, that explosives are properly stored. They also collect close to \$15 billion in revenue from the alcohol, tobacco, firearms, and explosives industries.

The Financial Crimes Enforcement Center or FinCEN has been working at top speed since September 11 doing what they do best—tracking the money. While they are currently mainly focused on terrorist assets, they are still providing support to investigations into money laundering and other financial crimes.

And, border security is only part of what the customs service does. We will talk more about them tomorrow afternoon.

However, one of the most important agencies is one which works behind the scenes to provide comprehensive and consistent basic training to about 85 percent of all Federal law enforcement officers—the Federal Law Enforcement Training Center. FLETC was the quiet workhorse of treasury law enforcement prior to September 11 and they have been called upon to do even more since that time.

Mr. Chairman, I am looking forward to talking with the representatives of these agencies this morning to learn what they are doing during fiscal year 2002 and what resources they need in fiscal year 2003. Thank you.

Senator DORGAN. Senator Reed?

Senator REED. Mr. Chairman, I just want to commend the law enforcement professionals that are here and your colleagues who protect us so well. I associate myself with the comments of the chairman and ranking member and yield back my time.

Senator DORGAN. Senator Reed, thank you.

The Secret Service this year took the lead in designing and implementing the protective plans for the major public events, the Winter Olympics and the Super Bowl, among other things. ATF has been charged with preventing terrorists from obtaining firearms and explosives with which they can carry out acts of terrorism. FinCEN is a major player in the efforts to unravel the international web of terrorist financing for groups such as al Qaeda. And FLETC, of course, is the agency whose sole responsibility it is to train almost all Federal law enforcement employees, not just those of the Treasury Department. So this is a very important hearing and the budget issues here are paramount these days in terms of their importance with what we are doing in Congress, dealing with terrorism.

Let me call on Jimmy Gurulé, who is the Under Secretary for Enforcement at the Treasury Department. Mr. Gurulé, why don't you proceed.

#### OPENING REMARKS FROM UNDER SECRETARY JIMMY GURULÉ

Mr. GURULÉ. Thank you. Chairman Dorgan, Ranking Member Campbell, and Senator Reed, I am privileged to be here today to introduce the President's 2003 budget request for the Department of the Treasury's Office of Enforcement. Each of the bureau directors is certainly prepared to answer any questions that you have with respect to their programs and initiatives, but I would like to take the limited time that I have and just highlight a couple of key areas, beginning first with the budget overview.

#### FISCAL YEAR 2003 BUDGET REQUEST

The President's fiscal year 2003 budget request seeks a program level of \$5.497 billion and 31,847 FTEs for Treasury Enforcement. This level is significantly higher than the President's initial fiscal year 2002 request. It is due in large part to the response to the horrific events of September 11. The request is 20 percent above the President's initial fiscal year 2002 budget request for Treasury

Enforcement and it provides an increase of 2,403 FTEs for Treasury Enforcement.

The resources that are requested in this budget are essential to ensure that Treasury Enforcement is able to continue the efforts that it has undertaken since September 11 to combat terrorism and specifically terrorist financing. As I am sure you are well aware, since September 11, under Secretary Paul O'Neill's leadership, the Treasury Department's enforcement bureaus have launched a number of new initiatives to identify, disrupt, and dismantle the financial networks of the terrorist organizations that are responsible for the attacks on the World Trade Center and the Pentagon.

I am pleased to report to the subcommittee today that Treasury has named 192 individuals and entities as financiers of terror and has blocked over \$34 million in assets domestically. Our coalition partners have blocked an additional \$70 million, for a total of approximately \$104 million.

The resources that are set forth in this budget will enable the Treasury Enforcement offices to continue in a very aggressive way to go after the funds, to block the funds, and bring the perpetrators of acts of terror and the would-be perpetrators (the conspirators) to justice. This effort has truly been a cooperative intra-agency and interagency effort. OFAC has been at the forefront of this effort with respect to investigating and providing the financial profiles for the organizations and entities that we have blocked.

#### OPERATION GREEN QUEST

In October of last year, Treasury Enforcement established a new multi-agency task force, Operation Green Quest. It brings together, in a very coordinated way, the best of Treasury Enforcement, the extensive expertise that exists in the Treasury Department with respect to investigating complex financial crimes, including, of course, IRS-CI, Customs agents, FinCEN, OFAC, as well as our interagency partners in the FBI and the Department of Justice. The Secret Service has also been an important player in Green Quest, as has been ATF with respect to some investigations that they have conducted.

Additionally, this strategy is an international strategy. It requires international cooperation. At the forefront of the international cooperative strategy has been the Financial Action Task Force. We have tasked FATF to move its multilateral organization that is focused on money laundering to kind of refocus and target on terrorist financing. As a result of an extraordinary plenary session that was held in Washington, D.C., in October, FATF announced for the first time eight international standards on terrorist financing. So this work is important. The resources that we are requesting are essential to continue this work and to upgrade our efforts.

#### 2002 WINTER OLYMPICS

As you stated, Senator Campbell, we have also been involved with respect to preventing terrorism, and one specific case, of course, is the Winter Olympics. I think that is a model example of how Federal law enforcement agencies, as well as State and local



agencies, can work together in a cooperative way, and when we do, you see the results.

This was a model for the world of what law enforcement can do to prevent, protect, and deter terrorist attacks, and to that end, clearly, my hat is off to Director Stafford. The work of the U.S. Secret Service was exemplary. Customs was an essential player in this, as was BATF (the Bureau of Alcohol, Tobacco and Firearms).

#### BORDER SECURITY

And finally, and I will close on this point, border security. I know that we will have an opportunity to get into this in greater detail tomorrow, but that is one other top priority for the Treasury enforcement office. Of course, there are important terrorism implications with respect to enhancing security at our border. We have undertaken efforts to do that with respect to multiple, diverse components, including increasing inspectors at the border, increasing the distribution of technology at the border, working very closely with our law enforcement counterparts in Mexico and Canada, sharing of information, and now a new program, the Customs Trade Partnership Against Terrorism program that was announced at the Ambassador Bridge yesterday, which involves the trade community. So we are doing a lot to ensure that our borders are safe.

#### PREPARED STATEMENT

Thank you for the opportunity to provide an overview of the President's fiscal year 2003 budget request and to highlight some of the efforts of the Office of Enforcement. I look forward to answering any questions that you may have.

Senator DORGAN. Mr. Gurulé, thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF JIMMY GURULÉ

Chairman Dorgan, Ranking Member Campbell, and Members of the Subcommittee, I am privileged to be here today to introduce the President's fiscal year 2003 budget request for the Department of the Treasury's law enforcement bureaus and offices. It is indeed an honor to appear before you this week to represent the more than 31,000 dedicated men and women who quietly and selflessly serve their country every day—often at great personal peril and sacrifice.

Testifying with me this afternoon are Bradley A. Buckles, Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), James F. Sloan, Director of the Financial Crimes Enforcement Network (FinCEN), Brian L. Stafford, Director of the United States Secret Service (USSS), and Paul Hackenberry, Acting Director of the Federal Law Enforcement Training Center (FLETC). Tomorrow, I will be joined by Robert C. Bonner, Commissioner of the United States Customs Service (Customs).

I am pleased to note that this week's hearings are the first time this Subcommittee will hear from five, rather than four, Treasury Enforcement bureaus, since FinCEN recently was authorized as a bureau within Treasury Enforcement with enactment of the USA PATRIOT Act. I take this opportunity to thank the members of this Subcommittee for your support of this provision and the many new tools which the USA PATRIOT Act provided to the Treasury Department to fight terrorism and dismantle and disrupt terrorist financing.

The President's fiscal year 2003 budget seeks a program level of \$5.497 billion and 31,847 FTEs for Treasury Enforcement. This level is significantly higher than the President's initial fiscal year 2002 request largely due to additional resource needs associated with the horrific events of September 11 and the overall support of this Subcommittee. The request is 20 percent (\$879 million) above the President's initial fiscal year 2002 budget request for Treasury Enforcement, and it provides for an increase of 2,403 FTEs for Treasury Enforcement. The 2,403 FTE increase includes 1,779 FTE for Customs; 381 FTE for the Secret Service; 124 FTE for ATF;

94 FTE for FLETC; and 25 FTE for FinCEN. Furthermore, the fiscal year 2003 budget request indicates a staffing level of 48 FTE for the Office of Enforcement, with the provision of staffing up to 58 FTE within the Office's appropriated level—the same level for the third consecutive year.

In response to the terrorist attacks of September 11, Congress provided essential fiscal year 2002 emergency appropriations of \$674.1 million to the Treasury Enforcement bureaus: approximately \$428.6 million to Customs; \$141.5 million to the Secret Service; \$31.4 million to ATF; \$31.5 million to FLETC; and \$1.7 million to FinCEN. Much of this emergency funding was for one-time, non-recurring costs. I am pleased to inform the Subcommittee that the recurring costs from the Terrorism Supplemental have been annualized and incorporated in the President's budget request.

When the President submitted his budget request on February 4, 2002, he indicated it "recognized the new realities confronting our Nation, and funds the war against terrorism and the defense of our homeland." To implement this objective, the President's fiscal year 2003 request contains \$159 million in new funding for Homeland Security program initiatives for Customs (\$158 million) and FinCEN (\$1 million). The fiscal year 2003 budget request includes \$29.2 million for other program initiatives—\$21.7 million for ATF and an additional \$7.5 million for the Customs Automation Modernization programs. The budget request also includes \$8 million in additional resources for Secret Service protection services to begin preparation for the 2004 Presidential campaign.

The fiscal year 2003 Budget includes inflation type increases and Homeland Security annualizations of \$259.2 million. Although the immediate Office of Enforcement (\$8.5 million) fiscal year 2003 budget request is \$231,000 more than the fiscal year 2002 Financial Plan, it is \$139,000 less than the (\$8.6 million) fiscal year 2002 Enacted. As I mentioned, the staffing level remains the same.

Over the next 2 days, the Subcommittee will hear from the Treasury Enforcement Bureau Directors regarding their respective bureaus' new initiatives and programs. Therefore, I would like to take this opportunity to provide the Subcommittee with an overview of the newest challenges facing the men and women in Treasury law enforcement and the exemplary manner in which they have responded. That they have been able to do so effectively is due, in large part, to the support that this Subcommittee and the Congress have provided us both before and in the aftermath of September 11.

We have all been deeply affected by the horrific acts of that day. We at Treasury lost a respected member of our law enforcement family, Secret Service Master Special Officer Craig Miller, who perished in the World Trade Center. And of course, the New York offices of Customs, Secret Service, and ATF were destroyed.

Combating terrorism has become the Nation's primary agenda. As you are aware, on September 24, 2001, President Bush stated, "We will direct every resource at our command to win the war against terrorists, every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence. We will starve the terrorists of funding." Under Secretary Paul O'Neill's leadership, we in Treasury Enforcement have devoted extensive resources and expertise to fulfill this mandate.

We have worked, and continue to work, in close coordination with the Justice Department, the Federal Bureau of Investigation (FBI), State Department, the intelligence community and the Defense Department. Specific examples of our close cooperation include joint activities in the September 11 investigations and on the Financial Review Group (FRG). In these investigations, Treasury has added its investigative expertise and access to unique databases to support the U.S. Government's efforts.

Our war against terrorist financing extends to financial intermediaries and facilitators who infuse terrorist organizations with money, materiel, and support. We have come to clearly appreciate and understand that terrorism has been nourished by ample funding channeled from a plethora of sources, including banks, charities, hawalas,<sup>1</sup> narcotics traffickers, and money launderers.

#### DISRUPTING AND DISMANTLING TERRORIST FINANCING

Since September 11, Treasury Enforcement, including its component bureaus, has launched a number of new initiatives to identify, disrupt, and dismantle terrorist financial networks both domestically and abroad. I am pleased to report to the Subcommittee this morning that Treasury has named 192 individuals and entities as

<sup>1</sup>Hawala is a type of alternative remittance system that is common in many parts of the world, including the Middle East and Far East.

financiers of terrorism, and has blocked over \$34 million in assets. Our Coalition partners have blocked another \$70 million. A portion of that amount has since been unblocked for the new Afghan Interim Authority to assist in its critical period of rebuilding. This is truly a global effort—196 Nations have expressed support to disrupt terrorist financing and 149 Nations can block terrorist assets.

We are grateful that you and your colleagues made significant improvements in the laws that allow us to tackle the issue of terrorist financing in a more unified, aggressive manner. Of particular importance to our counter-terrorism efforts is the USA PATRIOT Act that clarifies the law enforcement and intelligence communities' authority to share financial information regarding terrorist investigations. These provisions are already being utilized and are bearing fruit in disrupting financing networks.

#### *Office of Foreign Assets Control*

The Office of Foreign Assets Control (OFAC), an office within Treasury Enforcement, plays a key role on the inter-agency working group, chaired by Treasury, that has been targeting and listing individuals and entities pursuant to Executive Order 13224 which President Bush signed on September 23, 2001. In this process, we have identified, among other entities, front companies, charities, banks, and a hawala conglomerate that served as the financial support networks for al-Qaeda and other global terrorist groups. We have shut down the operations of these entities in the United States and abroad. Foreign countries have been remarkably cooperative in this process.

OFAC has widely disseminated the names of new designated terrorists to the business and financial communities through websites, Fedwire Alerts, CHIPS system notices, communications to Federal and State regulators, and electronic broadcasts to 175 key industry groups. Information on terrorist designations is also distributed to the public by way of Customs, the Government Printing Office, and other agency networks.

As you will recall, the Foreign Terrorist Asset Tracking Center (FTAT) was in the process of being organized and staffed when the terrorist attacks of September 11 occurred. In fact, the Financial Crimes Enforcement Network (FinCEN) had already been staffed for the purpose of providing analytical support to the interagency FTAT and was supplying the product of that staffing to the Office of Foreign Assets Control (OFAC). Immediately following the attacks, the Treasury Department helped to accelerate the development of the interagency FTAT by establishing a temporary operational presence within the secure environment of FinCEN. The unit quickly began to serve as an analytical center for combating the problem of terrorist financing.

Section 906 of the USA PATRIOT Act requires that the Director of the CIA, the Attorney General and the Secretary of the Treasury jointly file a report on the "feasibility and desirability" of reconfiguring FTAT. This matter was reviewed by senior Government officials, including the Principals Committee of the National Security Council. Based on that review, a decision was made to move and reconfigure FTAT to ensure it was fully integrated into the ongoing terrorist financing activities of other agencies. Treasury will continue its support of FTAT and its broader efforts to disrupt and dismantle terrorist financing.

#### *Blocking Assets*

One of the higher profile results of OFAC analysis was the identification of Al-Barakaat as a major financial operation that supported terrorist organizations. The Al-Barakaat case is a good example of model coordination between the Treasury Department, the FBI, and other enforcement agencies both domestically and abroad.

Al-Barakaat is a Somali-based hawaladar<sup>2</sup> operation, with locations in the United States and in 40 countries, that was used to finance and support terrorists around the world.<sup>3</sup> The investigative work of the FBI, Customs, and IRS-Criminal Investigation, along with analysis by OFAC, FinCEN, and the intelligence community, identified Al-Barakaat as a major financial operation that was providing material, financial, and logistical support to Usama bin Laden and other terrorist groups.

Treasury, along with the Department of Justice, coordinated efforts to block assets and to take law enforcement actions against Al-Barakaat. On November 7, 2001, Federal agents executed search warrants in three cities across the country—Boston, Columbus, and Alexandria—and shut down eight Al-Barakaat offices across the

<sup>2</sup>A hawaladar is an entity that engages in hawala transactions.

<sup>3</sup>Some individuals may have used Al-Barakaat as a legitimate means to transfer value between individuals in different countries without passing through the formal international banking system.

U.S., including locations in the following cities: Boston, Massachusetts; Columbus, Ohio; Alexandria, Virginia; Seattle, Washington; and Minneapolis, Minnesota.

As part of that action, OFAC was able to freeze approximately \$1,100,000 domestically in Al-Barakaat-related funds. Treasury also worked closely with the United Arab Emirates (UAE) to enable the UAE to block Al-Barakaat's assets at its financial center of operations in Dubai. Disruptions to Al-Barakaat's cash flows, resulting from OFAC's designation actions and international cooperation, are estimated to be in excess of \$65 million from the United States alone. In addition, the combined work of OFAC, Operation Green Quest, and law enforcement had led to additional leads in the Al-Barakaat investigation.

This is an example of what our combined efforts can accomplish when we join our resources and our expertise to fight the common scourge of terrorist financing.

#### *Joint Designations*

On March 11, on the 6 month anniversary of the September 11 attacks, the Treasury Department, joined by the Saudi government, took a new step in the war on terrorist financing by making its first joint designation of a financial supporter of terrorism. Prior to that date, Treasury received significant cooperation from other countries in blocking accounts of those named by the United States, and our European allies have made designations of their own. The joint blocking action on March 11 is especially significant for it is a sign of the growing strength of the anti-terror coalition and marks a new level of international coordination and cooperation.

Treasury and the Saudi government blocked the accounts of the Somalia and Bosnia-Herzegovina branches of the Saudi Arabia-based Al-Haramain Islamic Foundation. While the Saudi headquarters for this private charitable entity is dedicated to promoting Islamic teachings, Treasury and our Saudi Arabian allies determined that those specific branches of Al-Haramain have been engaged in supporting terrorist activities and terrorist organizations such as al-Qaeda, AIAI (al-Itihaad al-Islamiya), and others.

Last month, Treasury Secretary O'Neill visited the Persian Gulf region, where he had the opportunity to meet with King Fahd and Crown Prince Abdullah, others in the Saudi government, and the leadership in Bahrain, Kuwait and the UAE. Throughout the region, the Secretary encountered a clear understanding that the September 11 attacks were not only an attack on the United States, but were an attack on the civilized world. These Governments' leaders assured Secretary O'Neill that they, like others in the world, are doing what they can to cut off terrorists' access to funds, wherever those funds are found.

This action also highlights the special need to safeguard charities, so that well-intentioned donors can be assured that their donations will be used only for their intended good purposes, and not for acts of terrorism. During his trip to the Gulf, Secretary O'Neill underscored that misusing charity funds to support terrorism harms the people who gave the donation, harms the people who should have received it and is dangerous to us all. The Treasury Department is committed to finding those organizations that use charities to fund terrorists or terrorist acts, exposing them, and shutting them down.

#### *Operation Green Quest*

On October 25, 2001, Treasury created Operation Green Quest ("Green Quest"), a new multi-agency financial enforcement initiative designed "to augment existing counter-terrorist efforts by bringing the full scope of the Government's financial expertise to bear against systems, individuals, and organizations that serve as sources of terrorist funding." This task force is led by the Customs Service and includes the Internal Revenue Service, the Secret Service, ATF, OFAC, FinCEN, the Postal Inspection Service, the FBI, the Department of Justice, and the Naval Criminal Investigative Service. Operation Green Quest also receives support from Interpol's National Central Bureau, based in Washington, D.C. Green Quest brings together the extensive financial expertise of the Treasury Enforcement bureaus along with the exceptional experience of our partner agencies and departments to focus on terrorist financing.

Green Quest has complemented the work of OFAC in identifying terrorist networks at home and abroad, and it has served as an investigative arm to aid in blocking actions. Green Quest's work has led to 12 arrests, 4 indictments, the seizure of nearly \$4 million, and bulk cash seizures—cash smuggling—of over \$11 million. Green Quest agents, along with those from the FBI and other Government agencies, have traveled abroad to follow leads, exploit documents recovered, and to provide assistance to foreign governments. In this effort, Green Quest has made full use of its overseas Customs Attachés to investigate suspect networks and to gather information for its own use and the use of OFAC. The work of these financial ex-

perts is just starting as they have opened well over 200 terrorist financing investigations and are following leads on a daily basis. Green Quest's work, in combination with the work of OFAC, serves as a seminal part of our enforcement efforts.

#### *International Cooperation*

Our efforts will not have the greatest success if prosecuted unilaterally, and may ultimately fail if we cannot obtain the cooperation of other nations. To date, all but a handful of countries have expressed their support for the international fight against terrorist financing. Currently, 149 countries and jurisdictions around the world can block terrorist assets. The Office of Enforcement, in concert with other Federal agencies, is providing technical assistance to a number of countries to strengthen their capacity to freeze terrorist funds. Daily, we are in contact with foreign financial officials and are engaged in bilateral and multilateral discussions regarding international cooperation and action against terrorist activities and financing.

The Office of Enforcement has also helped coordinate the deployment of financial "jump teams" consisting of experienced accountants, bank examiners, and other financial experts from OFAC, the Customs Service, IRS, FinCEN, the FBI, and other agencies. These experts review business records and possible links to money associated with bin Laden's al-Qaeda network.

Treasury has engaged in numerous international fora, including the G-7, G-8, G-20, the Financial Action Task Force (FATF), the Egmont Group—the global network of Financial Intelligence Units (FIUs) of which FinCEN is a key member—and the international financial institutions to combat terrorist financing in a global, systematic way.

The Treasury Department, in conjunction with the Departments of Justice and State, hosted an Extraordinary Plenary session of the Financial Action Task Force in Washington, D.C., at the end of October 2001 to address terrorist financing. This meeting was immediately followed by a meeting of the Egmont Group to discuss information sharing and terrorism. At the plenary session, FATF established eight Special Recommendations regarding terrorist financing which represent an important step to establishing a global regime to cut terrorists off from the international financial system.

These new Recommendations were endorsed by countries throughout the world at a special FATF Forum on Terrorist Financing held in February and attended by over 55 jurisdictions. Moving forward, FATF, with the strong support of the U.S., is now leading a global effort to bring all countries in compliance with these new standards. The U.S. has recently completed a self-assessment questionnaire against these standards, which is posted on the Treasury web site. In June, FATF will begin to consider a process with respect to countries that are not cooperating in the international effort against terrorist financing.

While countering terrorist financing is a Treasury Enforcement priority, we are also committed to preventing terrorist acts on U.S. soil and against U.S. interests abroad, and to reducing violent crime here at home.

#### PREVENTING TERRORISM AND REDUCING VIOLENT CRIME

Not only is the mission of Treasury law enforcement uniquely suited to combating terrorist financing, but we play a leading role in homeland security efforts—from protecting the Nation's borders to protecting its leaders, to ensuring the integrity of our financial institutions and critical infrastructures. The President's budget request will ensure that Treasury bureaus can continue to effectively fulfill missions that are integral to protecting the homeland.

#### *U.S. Secret Service*

The U.S. Secret Service protects the Nation's top leaders, combats financial fraud, protects the integrity of the financial systems against cyberattacks, and leads the effort to ensure the safety of thousands of citizens participating in designated National Special Security Events (NSSEs). We have seen the stellar work of the Secret Service in providing security for two recent NSSEs—the Super Bowl and the Winter Olympic Games in Salt Lake City. The complexity of these security events highlighted the special expertise and professionalism of the Secret Service. The dedicated men and women of the Secret Service are to be commended for their outstanding work at protecting thousands of spectators, employees, and athletes at these events. The President's budget request will allow the Secret Service to strengthen its efforts in an increasingly complex and threatening environment.

### *U.S. Customs Service*

The U.S. Customs Service also played a key role in security for the Salt Lake City Olympic Games. The Customs Service role included providing air surveillance in restricted air space, ground support to the United States Secret Service, increased presence at the Northern Border, and screening general aviation aircraft and their passengers and pilots. A total of 500 Customs officers were committed to day-to-day oversight of the Games.

The Customs Service is the vanguard agency in protecting the country against weapons of mass destruction as it monitors travelers and cargo crossing the northern and southern borders and through the Nation's seaports and airports. Last November, Secretary O'Neill, Commissioner Bonner, and I met with our Canadian counterparts in Ottawa, Canada, to discuss cooperative efforts between the U.S. and Canada along our shared border. We have since been engaged in a number of new collaborative initiatives to strengthen security along our shared border, while working on ways to expedite the flow of trade. Commissioner Bonner and I also are working with the Office of Homeland Security to help implement the 30-point Action Plan announced in December by Governor Ridge and Deputy Prime Minister John Manley. The "Action Plan for Creating a Secure and Smart Border" has four pillars: (1) The secure flow of people; (2) The secure flow of goods; (3) Secure infrastructure; and (4) Coordination and information sharing. I can assure this Subcommittee today that the coordination and cooperation among Federal border agencies and their Canadian counterparts has never been stronger.

A similar Smart Border Accord is now in place for the U.S.-Mexico border. On March 22, 2002, President Bush and President Fox announced in Monterrey, Mexico, a 22-point agreement to build a smart border for the 21st century between our two countries. In their joint announcement, President Bush stated, "President Fox and I are determined to make our shared border modern, efficient, and secure. The Smart Border Declaration our countries have just signed will move us toward this important goal. Our common border must be closed to drugs and terrorists, and open to trade and legitimate travel." The U.S. Customs Service and the Treasury Department will play a key role in implementing this important Smart Border Accord.

### *Bureau of Alcohol, Tobacco and Firearms*

The President's budget request will ensure that the Bureau of Alcohol Tobacco and Firearms will be able to expand its training capacity at the Canine Training Facility in Front Royal, VA, increase ATF Canine Handler teams, and expand ATF's participation in critical Joint Terrorism Task Force activities. ATF has developed the most respected program in the world for detection of explosives and accelerants. This expertise is vital in our war on terrorism, in which explosives is the terrorists' weapon of choice.

ATF also played a significant role in the security of the Winter Olympics. For several years, ATF worked with its law enforcement and public safety partners on a comprehensive and integrated Olympic security plan. ATF committed over 330 special agents and support personnel to support security for the Olympic Games. ATF Special Agent Certified Explosive Specialists, Explosive Enforcement Officers, Explosive Detection Canines/Handlers, and National Response Team members were assigned to the Olympic Bomb Management Center. These experts were available to respond to any critical incident, explosive or suspected device at any of the venues. At these Olympic Games, unlike at the Atlanta Olympics, ATF had a new mobile crime laboratory with state of the art detection and analysis equipment on-site. The crime lab could identify explosives and other evidence within minutes, which would provide immediate leads to investigators on the ground.

### *Federal Law Enforcement Training Center*

The Federal Law Enforcement Training Center, known as FLETC, conducts the training for the vast majority of the Federal Government's law enforcement personnel. FLETC is projecting the greatest increase in training requirements in its history as it responds in full measure to the September 11 attacks.

In the days following September 11, representatives of the U.S. Department of Transportation's Federal Air Marshal Division reached out to FLETC regarding increased training needs for the Federal Air Marshal Program (FAMs). These requests have resulted in an increase of over 20,000 student weeks of training. In October, the FLETC and the FAA developed a 5-week integrated basic training program and a 3-week agency specific basic follow-on training program.

In January, Transportation Security Administration (TSA) representatives met with FLETC staff to identify resources needed to develop a training curriculum for the TSA Security Screeners. FLETC subject matter experts then met with TSA and

FAA representatives to develop that training curriculum. The result was a pilot TSA Basic Screeners training program conducted at FLETC in February. The TSA Management Team continues to meet with FLETC personnel to determine the extent to which the FLETC will be asked to further assist the TSA in training Federal Law Enforcement Officers/Agents within a very short time frame. The quality of training developed and delivered by FLETC will set the standard for our level of protection in the air for years to come.

#### *FinCEN*

The increased funding in the President's request for the Financial Crimes Enforcement Network will strengthen FinCEN's law enforcement investigative support efforts to enforce the Bank Secrecy Act, combat money laundering and other financial crimes, and implement its new responsibilities under the USA PATRIOT Act of 2001.

Immediately after the tragedy of September 11, FinCEN redirected approximately 30 percent of its resources to the initial investigation of the terrorist attacks. Those efforts included: establishing a 24-hour operation center to enhance liaison with the FBI Counter-terrorism Center; establishing a telephone hotline for financial institutions to report suspicious activity; facilitating a multi-agency effort using their specialized tools and secure facility; and developing valuable investigation referrals and financial lead information by redirecting 100 percent of its intelligence liaison office to that effort.

On November 7, 2001, President Bush, Treasury Secretary O'Neill, Secretary of State Powell and Attorney General Ashcroft visited the FinCEN offices where the President thanked all of the FinCEN employees for their work on the front lines in the war against terrorist financing. At that time, the President stated: "We put the world's financial institutions on notice: if you do business with terrorists, if you support them or sponsor them, you will not do business with the United States of America." FinCEN plays a critical role in this effort and will continue to provide this invaluable service to our Nation.

#### *IRS Criminal Investigation*

While the Office of the Under Secretary for Enforcement does not have direct oversight authority over IRS-Criminal Investigation, we do provide policy guidance for IRS-CI criminal investigators. These investigators offer a unique blend of accounting and enforcement expertise that is invaluable in perfecting complex financial investigations, including cases involving leaders and members of extremist groups who have committed tax, money laundering, or currency violations and individuals engaged in fundraising activities to support terrorism, especially if tax exempt organizations are being used. In the aftermath of September 11, IRS criminal investigators have played critical roles in the Strategic Information Operations Center; the Joint Terrorism Task Force; Operation Green Quest; the Office of Foreign Assets Control; the Anti-Terrorism Task Forces throughout the country; the High Intensity Money Laundering and Related Financial Crime Area Task Forces, and the Air Marshal Program.

#### COMBATING MONEY LAUNDERING

The Office of Enforcement is currently developing the 2002 National Money Laundering Strategy, as well as overseeing the implementation of the 2001 Strategy. The main focus of the Strategy is on enforcement and investigation of money laundering enterprises and sophisticated networks. This work has been significantly impacted by the passage of the USA PATRIOT Act. We have been working with the Treasury General Counsel to draft timely implementing regulations for the various provisions of the USA PATRIOT Act, such as the provision that terminated the relationship between U.S. financial institutions and shell banks.

The Office of Enforcement is overseeing the progress and development of the six High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces. The six HIFCAs are now focused on operational activities, in addition to gathering intelligence which is useful in money laundering investigations. I am confident the HIFCAs will play a significant role in our anti-money laundering efforts.

At this point, I take the opportunity to highlight for the Subcommittee the recent success of Operation Wire Cutter, a 2½-year joint DEA/Customs undercover operation targeting the largest Colombian Black Market Peso Exchange (BMPE) money brokers. These brokers are professional money launderers who sell their services to the Colombian drug cartels.

On January 15, 2002, U.S. and Colombian officials arrested 37 people in the U.S. and Colombia and seized over \$8 million in cash, over 800 pounds of cocaine, and a total of over 1,000 pounds of narcotics. One suspect tried to evade arrest in New

York City by throwing a suitcase with \$400,000 in cash out of his apartment window. The El Dorado Task Force, operating out of the office of the U.S. Customs Service Special-Agent-in-Charge in New York, played an important role in this law enforcement operation.

The Multinational Black Market Peso Exchange (BMPE) Experts Working Group (Colombia, Aruba, Panama, Venezuela, and the United States), led by the Office of Enforcement, has produced a report that recommends BMPE initiatives to participating Governments to improve international cooperation in efforts to combat and dismantle the BMPE. Last month a joint statement was issued embodying the conclusions and recommendations of this Working Group. We are also working closely with senior executives of major trade associations and corporations operating in the United States whose products are vulnerable to being involved in BMPE transactions.

Treasury Enforcement also works closely with the Department of Justice's Bureau of Justice Assistance to oversee the Financial Crime-Free Communities Support Program (C-FIC) which awards anti-money laundering grants to State and local law enforcement agencies and prosecutors' offices through a competitive grant award program. Treasury has awarded approximately \$4.2 million in grants to 17 recipients in the first 2 years of this program.

#### REDUCING FIREARMS VIOLENCE

One of the top priorities of the Bush Administration is to make a lasting reduction in the gun crime rate in America. Last May the President announced Project Safe Neighborhoods, a comprehensive approach that targets violent offenders and crime guns.

Project Safe Neighborhoods has been implemented by U.S. Attorneys across the country, working in partnership with communities and State and local law enforcement. The strategy has five components: (1) Partnership/Coordination; (2) Strategic Planning; (3) Training; (4) Community Outreach and Public Awareness; and (5) Accountability. Stronger relationships among Federal prosecutors and agents with their State and local counterparts has strengthened their ability to identify, investigate and prosecute gun violence.

The Treasury Department, through its Bureau of Alcohol, Tobacco and Firearms, plays an integral role in implementing Project Safe Neighborhoods through its Integrated Violence Reduction Strategy (IVRS). The strategy provided additional resources to ATF to add new agents, inspectors and support staff to enhance its enforcement and investigation of firearms violations and efforts to reduce violent crime. Under IVRS/Project Safe Neighborhoods, ATF has a broader impact in target cities by educating police departments about the effectiveness of crime gun tracing and firearms trafficking. ATF supports Project Safe Neighborhoods through the excellent work of its National Tracing Center, which performs traces of crime guns, and its Youth Crime Gun Interdiction Initiative.

#### COUNTERING NARCOTICS

One of Treasury Enforcement's highest priorities is reducing the supply of dangerous drugs entering the United States. It is also one of our most difficult challenges. We are confronted by well-financed criminal organizations that adapt quickly to every advance we make in the detection of illegal drugs. Moreover, interdiction is only one piece of a comprehensive drug control strategy that includes eradication of drug production abroad, sanctions against drug kingpins, investigation and disruption of trafficking activities within the United States, treatment of drug users, and, as mentioned above, combating money launderers.

The Office of Enforcement and its bureaus are decisively engaged as part of the Federal Government's effort in support of Plan Colombia, which is a comprehensive and balanced response to that nation's multiple challenges. In addition to targeting the critical drug trafficking problem, the integrated strategy addresses human rights, democratization, judicial reform, social development, the economy, and the peace process. Colombia's lawlessness, corruption, and long internal conflict are exacerbated by the immense profits generated by the drug trade. Ninety percent of the cocaine supplied to the United States originates in or passes through Colombia, as does two-thirds of the heroin seized in this country. As a result, Colombia is the central focus of the United States' Western Hemisphere efforts to reduce the supply of illicit drugs.

Treasury's support of Plan Colombia is an integral part of the U.S. Government's programs aimed at strengthening the justice sector and financial infrastructure throughout Colombia. The Emergency Supplemental provided funding to the State Department under the provisions of the Foreign Assistance Act, by which State



transfers authority to Treasury and its components for programs via specifically negotiated letters of agreement ("632 agreements"). However, sustainment of most Treasury Plan Colombia programs beyond amounts appropriated by the Terrorism Supplemental will rely on assistance provided by the State Department in 2002 and 2003.

We appreciate the Subcommittee's support for Treasury's role in Plan Colombia. The Plan Colombia package passed by Congress included programs with \$71.5 million in specific line item allocations for Treasury. These are:

- \$68 million for Customs detection and monitoring aircraft radar upgrades;
- \$2 million for the Office of Foreign Assets Control;
- \$1 million for banking supervision assistance (Office of the Assistant Secretary for International Affairs/Office of Technical Assistance);
- \$500,000 for tax revenue enhancement (OASIA/OTA).

In addition to these specific allocations for Treasury components, we have received \$14.67 million for law enforcement programs from Justice accounts in the legislation, for a total of \$86.17 million. We anticipate all Treasury programs should be completed by June 2003, approximately 24 months from the transfer of Plan Colombia spending authority from State to Treasury and its components in June of 2001.

#### ENFORCING TARIFF AND TRADE LAWS

The United States is the world's largest exporting and importing country, and the volume of both exports and imports is growing rapidly. Over the 5-year period from 1994 to 1999, the dollar value of exports increased by over a third (about 36 percent). During the same period the dollar value of imports increased by more than half (about 51 percent). These increases translate into increased workload for the Customs Service.

Our trade with other Nations is vital to our economic strength and our standard of living, and we want to do everything we can to ensure that the movement of trade across our borders is as expeditious as possible. At the same time, however, we recognize our responsibility to assure Congress and the American public that laws enacted to protect public health and safety, as well as other interests, are being effectively enforced at the border.

Treasury Enforcement's Office of Regulatory, Tariff, and Trade Enforcement performs a variety of important functions, including review of all regulations relating to enforcement of trade laws, participation in negotiations of international trade agreements, and management of the private sector Advisory Committee on the Commercial Operations of the Customs Service (COAC).

The COAC is a legislatively constituted advisory committee of 20 private sector members, which meets with Enforcement and Customs officials quarterly. Until September 11, their advice focused on trade facilitation. After September 11, I requested COAC's input on border security and the role the private sector can play in increasing cargo security. Utilization of the group's expertise provides a unique opportunity to examine synergies between enhanced cargo security and the private sector concern that the smooth flow of trade not be impeded unnecessarily due to increased security concerns.

The COAC produced an excellent report in January with 60 recommendations. Many of these have already been implemented, and others are under close examination by Customs and Treasury officials. Three COAC members also have entered into agreements with Customs under the new Customs-Trade Partnership Against Terrorism program.

#### PRESIDENT'S MANAGEMENT AGENDA

The Treasury Department's fiscal year 2003 budget recognizes the importance of achieving the President's Management Agenda. The Office of Enforcement is working with the law enforcement bureaus to support Secretary O'Neill's goal of Treasury becoming a results-driven world class organization, consistent with the President's five Presidential Management Initiatives:

- Strategic Management of Human Capital;
- Expanded Electronic Government;
- Improved Financial Performance;
- Budget and Performance Integration; and
- Competitive Sourcing.

Only through a balance of implementing all five Presidential Management Initiatives will the Treasury Department and its enforcement offices and bureaus be able to achieve world class status and become an organization that is performance-driven with specific, measurable results linked to investment of resources. In working towards this goal, the Department emphasizes the importance of leadership, account-

ability, integrity, improving the work environment, and giving employees the tools they need to do their jobs with excellence.

#### ENFORCEMENT ORGANIZATION

The Office of the Under Secretary for Enforcement has oversight responsibility for more than a third of all Federal criminal investigators, including roughly 32,000 personnel and a \$5 billion operating budget. Moreover, Treasury Enforcement collects about \$35 billion in revenues. When I assumed the duties of the Under Secretary, one of my first imperatives was to ensure that the Office had an efficient organization to be informed adequately about the day-to-day functions and operations of the bureaus and offices it supervises. This became even more critical in the post September 11 environment. In coordination with the Treasury Department's leadership, we have implemented a reorganization of the Office of Enforcement, within existing FTE ceilings, that I am convinced will enable the Office to achieve its mission more effectively and efficiently.

The reorganization strengthens Enforcement's ability to address critical budgetary, resource, and training needs for the immediate Office of the Under Secretary as well as the Enforcement Bureaus. Additionally, the new organization also provides needed emphasis in the major areas of Terrorism and Violent Crime and Money Laundering and Financial Crimes.

#### STRATEGIC GOALS AND PERFORMANCE MEASURES

Each year, the world becomes a more complex place. The events of September 11 only emphasize this point. As a result, Treasury's law enforcement mission grows in complexity, scope, and impact. The Enforcement Bureaus must continue to meet these challenges as they perform their critical roles in advancing America's law enforcement priorities. To provide a long range focus, the Office of Enforcement identified six strategic goals for fiscal year 2000-fiscal year 2005:

- Combat money laundering and other financial crimes;
- Protect our Nation's borders and major international transportation terminals from traffickers and smugglers of illicit drugs and weapons of mass destruction;
- Reduce violent crime and the threat of terrorism;
- Protect our Nation's leaders and visiting dignitaries;
- Provide high quality training for law enforcement personnel; and
- Collect revenue due to the Federal Government.

In the aftermath of September 11, we plan to add an additional strategic goal and supporting objectives in the next revision of the Treasury Strategic Plan. This new goal will focus on "Targeting, disrupting and dismantling terrorist financing and terrorist financing organizations."

In addition, Treasury's law enforcement bureaus support two other Treasury strategic goals through the following strategic objectives:

- Protect the public and prevent consumer deception in specific regulated commodities; and
- Facilitate legitimate trade, enhance access to foreign markets, and enforce trade agreements.

To ensure excellence in achieving these goals, and in keeping with the spirit of the Government Performance and Results Act, Treasury continues to engage in a strategic management process to enhance and improve the results we deliver to the American people. To that end, the Office of Enforcement is committed to setting long-term strategic and annual performance goals, managing our resources and investments to achieve those goals, instituting measures, and reporting annually on the results of our performance.

Overall, Treasury law enforcement bureaus' achievement against established performance targets continues to improve. For example, in fiscal year 1999, the law enforcement bureaus achieved 64 percent of the established performance targets. In fiscal year 2000, 77 percent of the established targets were achieved, and in fiscal year 2001, 79 percent of all performance targets were achieved. While not every goal was met, the results were significant.

For fiscal year 2003, the Office of Enforcement and the Treasury law enforcement bureaus will continue to work hard to accomplish our defined strategic goals and objectives. We will also strive to achieve an even higher percentage of our established performance targets. Doing so will help to ensure excellence in protecting our borders and our Nation's leaders, disrupting and dismantling terrorist financing, fighting terrorism and violent crime, combating money laundering and financial crimes, and training our law enforcement personnel for the challenges they will face in the future.

Thank you for the opportunity to provide an overview of the President's fiscal year 2003 budget request and to highlight the efforts of the Office of Enforcement in support of the mission of Treasury's enforcement bureaus. I look forward to answering any questions you may have.

## U.S. SECRET SERVICE

### STATEMENT OF BRIAN STAFFORD, DIRECTOR

Senator DORGAN. Next, let us hear from Mr. Stafford, the Director of the United States Secret Service. Mr. Stafford?

Mr. STAFFORD. Chairman Dorgan, Senator Campbell, Senator Reed, it is a pleasure for me to be here today and represent the dedicated men and women of the Secret Service. With me today are the recently appointed Deputy Director Danny Spriggs and Assistant Directors Steve Colo and Paul Irving. With your permission, I will highlight my statement and submit the remainder.

#### SECRET SERVICE MISSION FUNDING

The fiscal year 2003 funding request recognizes the Secret Service's commitment to enhance and strengthen the security of our Nation. Specifically, this budget will enable the Secret Service to satisfy our mandate of safeguarding the Nation's leaders and visiting heads of state. This budget also provides the resources for our historic investigative mission of protecting the Nation's currency and financial infrastructure.

Since September 11, the Secret Service has experienced unprecedented growth in our protective and our investigative missions. We have assumed additional duties with new protective assignments and we continue to adjust the depth of coverage to enhance the Presidential, Vice Presidential, and former Presidential details. These enhancements, coupled with the designations of Super Bowl XXXVI and the Winter Olympics as National Special Security Events, have had a substantial impact on our staffing.

#### NATIONAL SPECIAL SECURITY EVENTS

After a thorough review of security operations at the Olympics, I am pleased to report that the planning effort involving unprecedented interagency cooperation among over 60 Federal, State, and local law enforcement and public safety agencies and the military, was a complete security success; in no small part because of the support of this subcommittee. The Winter Olympics included 15 venues, 900 square miles, 3,500 athletes, and more than 2 million visitors during the 4-week period. It was the largest coordinated security effort in our Nation's history.

#### INVESTIGATIVE MISSION

Despite the demands of our protective mission, the Secret Service continues to provide this Nation with a very significant investigative program. The thrust of our investigative efforts is to safeguard our currency, our financial payment systems, and our critical infrastructure; all are fundamental components of our homeland security.

## CYBER-CRIME

Even though the Secret Service is our country's oldest investigative Federal enforcement agency, the enhanced investigative authority provided in the recently-enacted USA PATRIOT Act has made this a landmark year. The USA PATRIOT Act authorized the Secret Service to establish a national network of electronic crime task forces, made permanent our statutory authority to investigate financial institution fraud, and expanded our existing authority with regard to computer-based crimes.

We have entered an age where most types of financial fraud and counterfeiting involve electronic crime committed through the Internet. Recognizing this transformation, the Secret Service continues to invest in the nucleus of our cyber-crime effort, the Electronic Crime Special Agent Program. These agents are highly trained, mobile, and qualified experts in the preservation and analysis of electronic evidence and in the investigation of network intrusions and database theft. In the course of investigating cyber-crime and developing strategies in search of the best formula, we have found prevention, information sharing, training, and speed, to be essential factors.

## FORWARD EDGE PROGRAM

The Secret Service, in partnership with the International Association of Chiefs of Police, has recently released our Forward Edge program. Forward Edge represents what we believe is a cutting-edge training program providing state-of-the-art computer training on proper ways to secure electronic crime scenes. It is geared for law enforcement of all levels of jurisdiction. We have distributed more than 20,000 copies of Forward Edge nationwide.

Mr. Chairman, the common denominator in our approach to protection and investigations is prevention. In financial crimes, the cost of consequence can be too high. In protection, the cost of consequence is unacceptable.

## COUNTERFEIT UNITED STATES CURRENCY

The Secret Service also works with foreign law enforcement officials to investigate financial crimes and counterfeit U.S. currency. In fiscal year 2001, nearly 50 percent of all counterfeit U.S. currency passed in the United States originated overseas, predominantly in Colombia. Approximately 85 percent of all counterfeit currency seized in fiscal year 2001 was produced outside the United States. That trend is likely to continue as other countries move to adopt the dollar as their official unit of currency. We will continue to explore establishing foreign offices in regions that make strategic sense and offer the potential for a favorable return on the investment.

## MISSING AND EXPLOITED CHILDREN

I also want to mention our continued commitment in working with the National Center for Missing and Exploited Children and to thank you for the subcommittee's strong support of this partnership. Protecting our children is a noble cause and we derive enormous professional and personal satisfaction from the analytical, fo-

rensic, and investigative support we provide to the National Center.

#### WORKLOAD RETENTION AND WORKLOAD BALANCING

Finally, I want to thank you for your actions in recognizing and providing the resources to hire and train additional personnel for the Secret Service. This initiative, as you know, was designed to address the excessive overtime and quality of life issues facing our personnel. We are now in the final phase of this initiative and I want to express my sincere appreciation for the investment you have made in our most valuable resource, our people.

#### PREPARED STATEMENT

Mr. Chairman, this concludes my statement and I am happy to answer questions.

Senator DORGAN. Mr. Stafford, thank you very much.  
[The statement follows:]

#### PREPARED STATEMENT OF BRIAN L. STAFFORD

Chairman Dorgan, Senator Nighthorse Campbell, and distinguished Members, it is indeed a privilege to be here today before the Subcommittee, and to be afforded the opportunity to represent the 5,800 dedicated men and women of the Secret Service, to testify on the fiscal year 2003 budget.

With me today Mr. Chairman is C. Danny Spriggs, who was recently appointed as Deputy Director.

#### FISCAL YEAR 2003 APPROPRIATION REQUEST

The Secret Service's fiscal year 2003 funding request totals \$1,048 million and 6,111 FTE, and includes funding from two sources: the Salaries and Expenses appropriation, and the Acquisition, Construction, Improvements and Related Expenses appropriation.

The fiscal year 2003 funding request recognizes the Secret Service's commitment to enhance the security of our homeland by accomplishing the goals and objectives set forth in our 5-year Strategic Plan. Specifically, this budget will enable the Secret Service to pursue its primary goal of protecting our Nation's leaders, visiting heads of state, other protectees, and providing security for events designated as National Special Security Events (NSSEs). With regard to our investigative mission, this budget helps advance our ability to safeguard the Nation's currency and financial infrastructure against those who would aspire to exploit computer-based advances to attack our critical banking, telecommunications and other financial systems. Finally, this budget allows the Secret Service to provide a responsive support infrastructure to meet the needs of our protective and investigative missions.

#### SALARIES AND EXPENSES (S&E)

The Secret Service's Salaries and Expenses appropriation request for fiscal year 2003 totals \$1,044,070,000 and 6,111 full-time equivalents (FTE). This is an increase of \$89,820,000 from the level appropriated, excluding Supplemental appropriations, to the Service for this fiscal year. It is an increase of 120 FTE over this fiscal year's staffing level. This budget includes: \$3,527,000 in funding for the Administration's legislative proposal on full costing of benefits; \$30,206,000 needed to maintain current program performance levels, and cover base pay and benefits annualization costs; \$8,090,000 for the start-up costs of the protective effort relative to the 2004 presidential campaign; \$19,180,000 to annualize the cost of staffing provided in the fiscal year 2002 Budget Supplemental; and a permanent transfer of \$358,000 from the Department of Labor for administrative costs involved with processing Federal Employees Compensation Act claims. These increases are offset by \$102,673,000 in non-recurring costs, and \$6,824,000 resulting from business strategy adjustments.

## ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES (ACIRE)

The Secret Service's fiscal year 2003 request for its Acquisition, Construction, Improvements, and Related Expenses (ACIRE) account totals \$3,519,000, an increase of \$62,000 from the fiscal year 2002 appropriated level of \$3,457,000. This increase is to maintain current program performance levels. There are no programmatic changes or initiatives proposed for this account.

The past 7 months have been unlike any other period in the Secret Service's 137-year history. The September 11 attacks left our New York Field Office within the ruins of what used to be the World Trade Center. Beneath the rubble was Master Special Officer Craig Miller, who we believe was assisting in the rescue effort when the World Trade Center towers collapsed. These attacks on our own soil have increased both the complexity and the scope of our protective and investigative missions.

## PROTECTIVE PROGRAM

Consistent with our Strategic Plan, the Secret Service's goal is to protect our Nation's leaders, visiting world leaders and other protectees, provide the safest environment to those participating in National Special Security Events (NSSEs), and to reduce threats posed by global terrorists and other adversaries. We perform this mission by providing continuous protective operations that offer comprehensive protection, as mandated by law and executive order, for our protectees and the facilities where they work and live; and, by coordinating, planning and implementing security plans at important events and functions designated as National Special Security Events. Secret Service protectees include: the President, the Vice President, their families, former Presidents, visiting foreign heads of state and government, as well as major Presidential and Vice Presidential candidates and their spouses. We also provide security for the White House complex, the Vice President's residence, and 463 foreign missions within the Washington, D.C., area.

Last year began with an extended election cycle. This anomaly had a direct impact on our protective workload. As we proceed in the current fiscal year, the Secret Service continues, as a matter of practice, to assess the threat and evaluate the application of our protective methodologies. We have assumed new responsibilities in the form of additional details, and we continue to adjust the depth of coverage to enhance the Presidential, Vice-Presidential, and former presidential details. At the beginning of this fiscal year, the Secret Service had 17 full time protectees; as a result of the September 11 attacks we now have 39 full time protectees. Also, additional fixed posts and mobile assignments at the White House Complex, Vice President's Residence and other facilities have been incorporated. The necessary changes have impacted staffing.

To provide more effective security for 39 full time protectees, NSSEs, and facilities in a changing environment, the Secret Service has recently incorporated the "Counter-Surveillance" program into our protective methodology. The "Counter-Surveillance" program is essential to all protective operations. This approach employs state-of-the-art technology in a cost-effective manner to enhance the threat assessment and countermeasure aspects of all protective operations. Utilizing assessment matrices, digital photography and other tools, the "Counter-Surveillance Team" assesses areas of vulnerability at all venues and motorcade routes from an "outside-in" perspective by observing events in physical locations from which threats or attacks are likely to occur. After conducting the analysis, the "Counter-Surveillance Team" then recommends ways (countermeasures) to diminish those vulnerabilities or threats. To improve efficiency while not sacrificing effectiveness, in-progress studies are being conducted to determine the viability of using hand held computing devices and two-way paging devices to provide the "real time" flow of intelligence or other information obtained by "Counter-Surveillance Teams" to command centers, protective details or "Counter-Surveillance" teams concurrently operating at different venues associated with the same event or protective visit.

We consider the protective mission as an evolutionary process, essential to the security of our homeland. We apply that thought process when planning and executing security; and, we analyze the actual and potential threats during increasingly complex protective operations. Adapting to changing situations in a changing environment, sound planning on all planes, and employing technology or other applications to our advantage is fundamental to our strategy.

To further illustrate our adaptability to changing conditions, the Secret Service in collaboration with Computer Emergency Response Team (CERT) of Carnegie Mellon University in Pennsylvania, has recently embarked on an 18-month project entitled, "The Critical Systems Protection Initiative," also known as the CSPI. The goal of the CSPI is to strengthen the planning phase of the Secret Service's protective

mission by analyzing how critical information networks are related to physical protection activities. This study is designed to:

- Find ways to identify, assess, and enhance the critical systems upon which Secret Service protective operations rely; and
- Find ways to identify, assess and manage individuals who may have the potential to compromise those systems. These individuals could include past or present employees.

By virtue of this relationship between the CERT and our core of agents specializing in computer crimes through the Electronic Crimes Special Agent Program (ECSAP) or Electronic Crimes Task Forces, we look to prevent network intrusions in the systems that are controlled by computers, capable of disrupting a protective visit or NSSE in the event of a computer attack. Those systems include: water, gas, and electric utilities controlling venue power or plumbing; air conditioning, heating and ventilation systems that control the intake and quality of air; internal building operations such as elevators, back-up generators, or fire alarm control panels; or something seemingly inconsequential such as a scoreboard.

The Secret Service relies on the utilization of related networks that are now essential considerations when developing and implementing security plans. At the conclusion of the study, we plan to release the findings in a report, and provide operational guidance on methods of preventing network intrusions that could impact physical security. When completed, these findings and other publications will be made available to law enforcement and industry.

The analysis of critical systems and other forms of cyber security were integral components in the planning and execution of the security plans for both Super Bowl XXXVI, in New Orleans, and the 2002 Winter Olympics in Salt Lake City, Utah.

#### *National Special Security Events*

Presidential Directive 62 (PDD-62) issued in 1998, and codified in our authorizing statute, Title 18 United States Code 3056, names the Secret Service as the lead Federal agency for the planning, designing and implementation of security plans at events designated as National Special Security Events (NSSEs). Since January 2002 the Secret Service has implemented security for the following events designated as NSSEs: the 2002 Winter Olympics and Super Bowl XXXVI. The actual planning and coordinating however, is a much longer effort, sometimes months or years. The other events last year declared NSSEs were: the 2001 Presidential Inauguration; the 56 United Nations General Assembly; and the planned International Monetary Fund/World Bank Meetings scheduled to be held in Washington D.C. this past fall. Within the last 90 days the Secret Service has also been on the forefront of the security effort for the World Economic Forum in New York, even though these meetings were not designated as NSSEs. With the completion of the Winter Olympics, the Secret Service coordinated and implemented security plans for each of the thirteen events declared NSSEs, starting with the World Energy Congress held in Houston, Texas in 1998.

I would like to acknowledge the support of the Chairman, Senator Nighthorse Campbell and Members of the Subcommittee in recognizing, early in the process, the amount of human and other resources required to develop and execute a sound physical security plan for each of the NSSEs, especially the Winter Olympics. The 2002 Winter Olympics involved an unprecedented interagency collaboration of Federal, State, and local law enforcement, and the military working with the Salt Lake Organizing Committee, the Utah Olympic Public Safety Command, the International Olympic Committee, the State of Utah, and other entities. Security for the competition and ceremonies was provided for an estimated 65,000 daily spectators, and 2,500 athletes in 15 protected venues, in an area covering 900 square miles for about a 4-week period.

#### INVESTIGATIVE PROGRAM

As you know Mr. Chairman, the Secret Service's investigative roots began with our creation in 1865 to suppress counterfeiting. In addition to the demands of our protective mission, the Secret Service continues to provide the Nation with a very productive and efficient investigative program. The thrust of our investigative efforts and authority is to protect our currency, and financial and banking systems from criminal acts or from attacks used as tools of terrorism. The financial infrastructure and confidence in that infrastructure is a critical component of our homeland security. The Secret Service's investigative methodology is directed at maximizing the effect of our core areas of expertise, leveraging technology, efficiently partnering with other Federal, local and State law enforcement, sharing information, and avoiding redundancy caused by overlapping jurisdiction. Our approach and investigations of counterfeiting and computer crimes involving attacks on our finan-



cial systems are consistent with the goals and objectives set forth in the Secret Service's 5-year Strategic Plan. As in protection, the focus of our energy in investigations is prevention.

Because of the new and enhanced investigative authority provided in the recently enacted Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, also known as the USA Patriot Act, the current fiscal year can be described as a landmark year. The USA Patriot Act provisions applicable to the investigative activities of the Secret Service include:

- Expansion of National Electronic Crime Task Force Initiative. This section directs the Secret Service to develop a national network of electronic crimes task forces, based on the model of our operational and successful New York Electronic Crimes Task Force. The purpose of the task forces authorized in this section is to prevent, detect, and investigate various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.
- Permanent Jurisdiction for Financial Institution Fraud. The USA Patriot Act re-authorized and made permanent our statutory authority to investigate financial institution fraud and identity theft. The amendments contained in this section recognized the evolution of technology and the impact technology has on traditional methods of crimes against financial institutions. This section also expanded our jurisdiction in computer crime under Title 18 U.S.C 1030.
- Counterfeiting Domestic Currency and Obligations. Enhancements to the existing counterfeit statutes were made to reflect the impact that digital and analog computer technology has had on counterfeiting U.S. and foreign currency.
- Extraterritorial Jurisdiction. The changes in this section amend the Access Device statute to expand jurisdiction, under certain conditions, to persons outside the jurisdiction of the United States.

#### *Computer Crime*

Since 1984, and with the re-authorization contained in the USA Patriot Act, the Secret Service has been authorized to investigate crimes committed with the use of a computer. We have entered the age where most types of financial institution fraud, counterfeiting and other attacks against our financial infrastructure are increasingly supported by electronic crime occurring on-line through the Internet on various platforms including computers, telecommunications devices, printers, scanners and other electronic equipment. Financial crimes and counterfeiting are inextricably linked to what is now referred to as cyber-crime.

In realizing this transformation, the Secret Service continues to invest in the nucleus of our cyber-crime effort—the Electronic Crimes Special Agent Program, or ECSAP program. The ECSAP program consists of 159 agents, of which 111 are stationed throughout the country in our field offices. These personnel are highly trained, highly mobile, qualified experts in the preservation and analysis of electronic evidence. They are proficient in the investigation of network intrusions and database theft. The ECSAP agents are also trained to examine the variety of devices utilized in furtherance of today's criminal activity. Some of these devices include credit card generators, electronic organizers, telecommunications equipment, scanners, computer hard drives, and most devices manufactured or altered to intercept or duplicate telecommunications services.

In fiscal year 2001, ECSAP agents completed over 1,168 forensic examinations on computer and telecommunications related equipment. ECSAP agents are known for their excellence in accuracy and efficiency; their investigative skills are continually sought after on a referral basis by industry and law enforcement at all levels of jurisdiction.

The development of hardware and software tools produced for the benefit of the average consumer, small business, or large corporation is frequently utilized, in illicit ways, with impressive quality. The use of relatively inexpensive computers and printer equipment, often referred to as "desktop publishing equipment," has enhanced the ease and manufacturing standard of counterfeit currency, checks, bonds, securities, false identification and other financial instruments or obligations.

The Secret Service works closely with stakeholders in the financial services industry, electronics manufacturing sector, and information services, to provide feedback regarding the misapplication of advances in computer related products. This approach returns dividends because industry representatives also provide valuable training to ECSAP agents in the form of current information and material relating to capabilities and methods that could be used for the wrong purposes.

The growth in computer-related crimes witnessed by the Secret Service only mirrors similar trends experienced in the jurisdictional areas of our sister law enforce-

ment agencies within the Treasury Department. The increasing complexity of computer crime has posed a challenge to those responsible for investigating, collecting, analyzing and preserving electronic evidence. The Secret Service, through the sharing of resources and collaboration with our sister Treasury Enforcement Bureaus has been able to optimize our ability to investigate and solve cyber-crime. The cooperation of the Treasury agencies, in this Departmentally coordinated effort known as the Computer Investigative Specialist (CIS) program has resulted in an organized program of training, equipping and facilitating communications among special agents tasked with the analysis of electronic evidence. The CIS program has created efficiencies and added value to the investigative effectiveness of the Secret Service.

In the field, we have experienced that the first line of defense in combating cyber-crime is often an agent or officer who is well trained in methods of preserving and securing evidence at electronic crime scenes. In recognition of the time sensitivities associated with computer crime, the importance of properly seizing computer-related evidence, and the increasing complexity of cyber-related crime, we continue to see the value in promoting partnerships and training. In the course of investigating electronic crime and developing strategies in search of the best formula, we have found prevention, collaboration, information sharing and timely response to be essential factors in the equation. We have worked to advance these characteristics as a solution to investigate computer crime.

To underscore our philosophy in this area, the Secret Service, in cooperation with the International Association of Chiefs of Police, recently introduced the "Forward Edge" training package. "Forward Edge" represents what we consider to be a cutting edge training program, utilizing state-of-the-art computer training for all law enforcement: local, State, and Federal, with regard to securing electronic crime scenes and safely seizing computer-related evidence. The "Forward Edge" training package includes an 8-hour CD-ROM, utilizing a three-dimensional, "virtual reality" interactive training format, to provide the officer or agent with different scenarios involving identity theft, financial crimes, network intrusion, credit card fraud, counterfeiting, data theft and other computer-related crimes. The "Forward Edge" CD also furnishes a field guide that contains practical information such as local laws concerning computer crimes for every State jurisdiction, along with sample search warrants pertaining to the seizure and safe handling of computer-related evidence, drugs and weapons. Each scenario guides the user through crime scenes and enables him/her to interact with objects, individuals and situations they may encounter in real life. In late fiscal year 2001, the Secret Service, through our network of field offices and headquarters began a nationwide distribution of 20,000 copies of the CD-ROM to local, State and Federal law enforcement agencies.

For fiscal year 2003 and beyond, we intend to follow through with the development and implementation of additional specialized training, and pursue recently enacted legislative authority by forming electronic crimes task forces based on the New York Electronic Crimes Task Force model.

#### *Electronic Crimes Task Forces*

The New York Electronic Crimes Task Force (NYECTF) continues to grow in membership and achievements. This task force represents a strategic alliance of more than 250 regional members or groups including: prosecutors; local, State and Federal law enforcement; academia; and companies in private industry with interests in banking, financial services, brokerage, and telecommunications. The common denominator in the NYECTF is that each member, be it law enforcement or industry, is a stakeholder with a business or investigative interest in preventing electronic crime. Each member adds value through specialized knowledge or expertise in contributing to the common goal. Since its inception in 1995, through the third quarter of fiscal year 2001, the NYECTF has made 826 State and locally prosecuted arrests investigating an estimated \$500 million in actual and potential loss due to fraud. As a testament to the resolve and adaptability of the agents and members, the NYECTF resumed operations within 48 hours of the loss of its base of operations in the New York Field Office. The NYECTF defines the Secret Service's priority on partnerships, and demonstrates the economies of scale inherent in the task force approach.

Based on the mission and organization of the NYECTF, the Secret Service, beginning in fiscal year 2003, plans to establish other electronic crimes task forces throughout the country, in locations with significant or specialized interests in the critical financial, banking or information infrastructures.

#### *Counterfeiting*

Technology continues to be used in illicit ways to manufacture counterfeit U.S. and foreign currency, securities, bonds, checks and other obligations. Despite the in-

clusion of enhanced security features on the new series of Federal Reserve Notes, counterfeiting is accomplished with varying degrees of quality on desktop printers, color copiers, scanners, computers, software and other "off the shelf" desktop publishing equipment. The amount of counterfeit activity attributed to computing devices and other electronics, as a percentage of all counterfeit currency and obligations passed or seized, continues to rise. For fiscal year 2001, we estimated that 40 percent of all counterfeit currency and obligations seized was computer generated. To prevent such attacks on our financial infrastructure, the Secret Service sponsors awareness and education events through our field offices and headquarters at home and abroad. We also publish and issue brochures describing security features to educate business owners and the public. Advances in the methods of counterfeiting have accompanied the advances in technology, and the USA Patriot Act revisions to the counterfeit statutes were necessary and reflected the impact of technology on what was predominantly and historically accomplished through an offset printing press.

We estimate that nearly 50 percent of all counterfeit U.S. currency passed in the United States originates overseas. Recent counterfeit plant suppressions and seizures indicate that Colombia is the leading producer of counterfeit U.S. currency. The Secret Service maintains a permanent office in Bogotá, Colombia, our only continued permanent presence in Latin America. While lacking jurisdiction overseas, we work closely in an investigative assistance capacity with law enforcement and government officials in Colombia, and the region, to provide training and investigative support aimed at deterrence, education and early detection.

One of the ongoing enforcement initiatives to combat counterfeit currency at the source is the Congressionally funded "Plan Colombia." In May 2001, the Department facilitated \$1.5 million in funding to the Secret Service for the purpose of working with the Colombian government to establish specialized anti-counterfeiting units. With the funding, the Secret Service conducted polygraph examinations to clear and sanction candidates selected from law enforcement agencies for participation in these task forces. We also purchased and delivered police equipment to the units and increased our staffing in Bogotá. Less than one year in operation, "Plan Colombia" has disrupted crime directed at our currency, and has yielded early successes through several arrests, the execution of dozens of search warrants, and most recently, resulted in the seizure of approximately \$40 million in counterfeit U.S. currency, the largest seizure of counterfeit U.S. currency in Latin America. The Secret Service has learned through investigation that this counterfeit currency was destined for Ecuador, a country that has recently converted to the U.S. dollar.

With the decision of certain countries in Latin America to adopt the U.S. dollar as their base unit of currency, the Secret Service believes that counterfeiting activity in newly "dollarized" economies will increase because of the lack of familiarity with the dollar. Within the Latin American countries that have recently converted to the dollar, Ecuador, El Salvador and Guatemala, the smuggling and distribution of counterfeit U.S. currency has already been documented. Ecuador, which shares a border with Colombia, "dollarized" in 2000. During that year \$3.5 million in counterfeit U.S. currency was seized in Ecuador, compared with only \$50,000 seized in 1994. Just prior to "dollarization," local media estimated that 92 percent of the population had never seen a U.S. dollar. In preparation for Ecuador's conversion, the Secret Service provided twenty-eight training seminars attended by over 2,600 police, Government officials, bankers, business owners and others. We continue to receive similar requests for currency recognition training, instruction on methods of investigation, and liaison from other Latin American countries, Europe and elsewhere.

#### *Financial Crime is Global*

The Secret Service believes that our professional and effective relationships with the Colombian government and elsewhere do not happen by accident. The success there and our other eighteen foreign field offices and resident agencies, including Interpol, can be attributed to, in large measure, our long-term commitment in working with the host Nation. Long-term relationships build trust and offer the benefits of consistent and reinforced liaison, timely assistance, face-to-face communication, and result in the sharing of information and expertise.

Where permanent assignments are not available, the Secret Service relies on temporary overseas assignments to satisfy the requests for participation in overseas financial crimes and counterfeit task forces. Within the last two years alone, the impact of our work through temporary assignments in Lagos, Bucharest and Frankfurt has resulted in the opening of permanent offices. The temporary duty concept allows us to conduct a survey in a specific area to determine if the cost of opening a field office in that country is warranted.

In addition to the protection of our currency, the Secret Service's efforts overseas, in Canada and in Mexico are directed at protecting the integrity of our critical financial infrastructure through responsiveness and timely assistance at the point of attack. The ease of using of computers, the expanded use of electronic payments, and speed of transactions has "globalized" our economy, but can make the systems upon which the infrastructure relies just as vulnerable overseas as at home. The Secret Service will establish additional foreign offices in areas where there is a demand for our expertise, continued requests for partnerships, and in regions that make sense strategically and offer a high probability of a favorable return on the investment.

#### *Identity Theft*

It remains an investigative priority of the Secret Service to work with law enforcement at all levels in communicating and educating the public about identity theft. The first line of defense against identity theft is for private citizens to be equipped with the awareness and knowledge of what identity theft is, and how they can effectively safeguard their private information. In its purest form, the goal of stealing one's identity is to provide criminals with the tools and information necessary to establish good credit and obtain things of value through illicit means. Using personal information belonging to someone else, criminals usually establish bank accounts, obtain credit or debit cards, or use the information to gain unauthorized access to financial accounts or other sources of capital. It is a fact that most financial crimes including bank fraud and credit card fraud involve identity theft.

The basic pieces of information required to achieve the theft of another's identity are name, date of birth and social security number. Additional information of value includes bank account numbers, credit card numbers, and maiden names. There are several effective first line precautions individuals can take to safeguard their personal information from being compromised. Some of these include:

- Protecting social security numbers at all times.
- Not providing social security numbers to requestors if at all possible during business or non-business transactions. Admittedly, this is not always practical when applying for loans, leases, mortgages or similar transactions.
- Not placing social security numbers on personal checks.
- Destroying documents no longer needed that contain personal information.
- Being judicious in providing personal information over the Internet.
- Reviewing bank and credit card statements carefully for indications of fraudulent activity.

The Secret Service provides identity theft presentations on a community level to businesses, civic groups, community organizations and other law enforcement bureaus concentrating on best practices methods in order to raise the level of awareness regarding the impact of identity theft. We also work closely with the financial industry to share information on the misapplication of technology and feasible means of deterrence.

#### *National Center for Missing and Exploited Children*

The Secret Service derives enormous professional and personal satisfaction from our relationship with the National Center for Missing and Exploited Children (NCMEC). Through the Forensic Services Division (FSD), the Service will continue to provide the valuable analytical, forensic and laboratory support, and other assistance that the Center has benefited from in recent years.

Since the passage of the Violent Crime Control and Law Enforcement Act of 1994, the Secret Service has provided forensic and technical support to NCMEC. The types of support include: the use of the Automated Fingerprint Identification System (AFIS); the Forensic Information System for Handwriting (FISH); ink analysis and comparison; traditional handwriting and fingerprint comparison; polygraph examinations and consultation; visual information services such as image enhancement, suspect drawings and video and audio enhancement; graphic and photographic support; and age regression/progression drawings.

In fiscal year 2001, the Secret Service conducted 35 polygraph examinations in direct support of NCMEC's mission. The examinations for these cases involved missing, abused and murdered children.

We actively support the Center's Operation Safe Kids initiative. Operation Safe Kids is a national, community based awareness effort. FSD personnel utilize a computer-enhanced application known as the Children's Identification System (KIDS), to photograph, fingerprint and store biographical data at public events throughout the country. To date, we have entered more than 25,000 children into the KIDS program.

Through outreach, the Secret Service has communicated with and provided law enforcement groups with information about our services. Recipients of such presentations include the International Association of Chiefs of Police, the INTERPOL Standing Working Party on Offenses against Minors, and the Federal Law Enforcement Training Center. Various publications and brochures have also aided in promoting FSD's ability to provide critical forensic support in these cases. FSD has provided the Center with an icon and a web page of information, which has been included on the desktops of more than 1,500 computers belonging to State and local law enforcement agencies nationwide.

The FSD staff is currently developing a Forensic Investigative Response and Support Team (FIRST). FIRST will be composed of forensic experts, who would be able to respond on short notice to requests for assistance from State, local, or other Federal law enforcement agencies. The goal would be to provide time sensitive forensic support (handwriting analysis, ink and paper analysis, fingerprint evaluations, polygraph examinations and other services) to requesting agencies in cases involving missing or exploited children. In essence, when the NCMEC is notified by a local law enforcement department of an abduction, the Secret Service at the NCMEC's request, will launch a FIRST to respond within the first 8 hours of abduction, to provide computer, forensic and "real-time" investigative support to the department that may lack the resources to respond in an effective manner during that critical period.

#### OFFICE OF PROTECTIVE RESEARCH

##### *Intelligence Division*

The protective research and intelligence programs continue to serve a critical role in support of the protective and investigative mission of the Secret Service. Within the Office of Protective Research, the Intelligence Division oversees the identification, assessment, and management of threatening communications and incidents directed toward Secret Service protectees and events of national significance. The division develops threat assessments in support of domestic and foreign protectee visits; conducts evaluations of risk potential associated with specific and generalized threats; prepares analyses of protectee-specific threats; maintains liaison with other law enforcement, mental health, and intelligence agencies; plans and reviews the case management for high risk subjects; and, through our National Threat Assessment Center, collaborates in the design and implementation of program evaluation studies and other risk assessment research designed to improve our understanding of violence directed toward public officials.

Other Intelligence Division activities during fiscal year 2001 and fiscal year 2002 included support provided for the development and implementation of the security plans for the Winter Olympics, Super Bowl XXXVI, the United Nations General Assembly, the World Economic Forum, the 2001 Presidential Inauguration, and the planned International Monetary Fund meetings.

Prior to the September 11 attacks, the Secret Service actively participated in Department of Justice led Joint Terrorism Task Forces (JTTFs). We remain committed to continued representation and have increased that representation since September 11. In addition to collaborating in a combined and coordinated effort, the Secret Service provides and derives the benefits of sharing information on investigative matters that may be related to our protective mission. The Intelligence Division coordinates our participation in the JTTFs.

In addition to directing and performing such operational activities, the Intelligence Division continues to provide leadership for the Protective Detail Intelligence Network (PDIN), a consortium of Washington, D.C., area law enforcement, security, and public safety agencies with protective and security related functions. Initiated in 1999 by the Secret Service, the PDIN has emerged as an important forum for sharing intelligence information that affects security planning issues across agencies in the metropolitan area. Hosted on a regular basis by the Intelligence Division, PDIN meetings include briefings and training concerning significant and designated major security events coordinated by the Secret Service, and they facilitate cooperative partnerships among agencies who share protective and security responsibilities. Through the PDIN, the Secret Service has offered assistance in the preparation of security assessments for incoming Cabinet members and senior officials of the administration.

##### *National Threat Assessment Center*

As part of the Secret Service's protective intelligence mission, our National Threat Assessment Center (NTAC) continues to gain national attention through its training, outreach, consultation, and research efforts in the specialized field of targeted

violence. Its principal goal since its inception encompasses the spectrum of threat assessment and targeted violence as it relates to our protective mission. As a natural extension of our protective intelligence methodology, we have shared our knowledge and depth of experiences by expanding the concept and findings through outreach and training in the area of school and workplace violence. The outreach effort has had a national impact.

Following the attack at Columbine High School in 1999, NTAC entered into a partnership with the Department of Education and the National Institute of Justice to apply the methodology used in our traditional analysis of targeted violence, in the form of a study designed to examine if similar behavior was involved in school shootings. This study, known as the Safe School Initiative, reviewed 37 school shootings occurring in the United States in the preceding 25 years. The Safe School Initiative was completed in 2000.

With the support of this Subcommittee, the NTAC staff has been able to communicate what we have learned in assessing threats on public officials and discuss our findings in the Safe School initiative and other assessments of school violence to those with an interest in preventing school and workplace violence. This is accomplished in a practical and tangible way. NTAC offers weeklong and abbreviated threat assessment seminars attended by law enforcement, other public safety officials, educators, and school administrators nationwide. In fiscal year 2001 alone, NTAC conducted more than 100 seminars and forums, attended by approximately 30,000 State and local educators, school administrators and law enforcement personnel. We continue to provide and participate in these events sponsored by local communities, administration officials, Members of Congress, and former Presidents.

Following through on the success of this initiative, NTAC, in collaboration with the Department of Education, is currently writing a guide to suggest methods for school administrators, educators, law enforcement personnel, and mental health professionals to conduct threat assessments in their schools. This guide will be published and released in the spring, 2002.

#### *Technical Security Division*

The Technical Security Division (TSD) is responsible for all chemical/biological/hazardous materials countermeasures programs of the Secret Service that safeguard our protectees, protect the workforce and facilities, and mitigate the threats of terrorism.

As part of its ongoing support mission, TSD identifies and implements ways to improve its detection capabilities in and around the White House Complex, Naval Observatory and other protected locations. Outside of Washington, chemical/biological/hazardous material support is integral to any protective security plan during motorcade movements or at fixed locations, including the recently completed Super Bowl XXXVI and the 2002 Winter Olympics.

In addition to chemical/biological/hazardous material efforts, TSD engineers serve on several committees within a Treasury led, multi-agency consortium known as the Technical Security Working Group (TSWG). The TSWG is charged, in part, with researching and developing ways to enhance the Secret Service's protective and investigative mission capability, by recommending methods, materials or technology that could improve efficiency yet maintain the integrity of mission and safety of the workforce. Some of the projects in progress include: enhancing the capability of our armored limousine fleet; developing lighter yet stronger ballistic glass; researching advanced generation body armor; studying blast mitigation; and, biometrics testing in the form of facial recognition technology and fingerprint scanning.

#### *Information Resources Management Division*

The Information Resources Management Division (IRMD) is committed to the continuation of its objective to provide an information and communications infrastructure to support the protective and investigative missions of the Secret Service. To that end, IRMD will continue to make progress to achieve its goals of upgrading and improving efficiencies in radio, telephone and wireless communications system-wide. In fiscal year 2001, digital narrowband system radio upgrades were installed in ten field offices, with upgrades projected for ten more offices by the end of fiscal year 2002. Radio interoperability efforts are also in progress to continue to improve communications within Secret Service entities and with other Federal, State and local law enforcement agencies. During fiscal year 2001, IRMD completed the issuance of wireless pagers nationwide, moving from a regional paging system with more than 40 contracts to a single contract. The uniform contract and service provider now enables Secret Service users to provide alphanumeric messages through a web-based Intranet application.

IRMD is also pursuing operational efficiencies through its involvement with the Treasury SmartCard/Public Key Infrastructure (PKI) Proof of Concept. In February 2002, the Treasury Chief Information Officer Council appointed the Secret Service as the Executive Agent for the SmartCard/PKI project. This initiative is managed and operated by a committee consisting of representatives from the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Bureau of Engraving and Printing, Treasury Departmental Offices, in addition to the Secret Service. The Committee has developed a set of standards and specifications governing a uniform Treasury SmartCard, which will be designed for physical access to facilities, authorized access to computers, property and inventory control. The SmartCards will also be used to hold and manage PKI Certificates, which will enable Treasury Department employees to send and receive digitally signed and encrypted e-mail. The Proof of Concept will set the benchmark for how other business processes can be improved within the Department.

#### *Emergency Preparedness Program*

Established in 1999, the Emergency Preparedness Program (EPP) is responsible for coordinating the emergency preparedness programs of the Secret Service. The EPP concentrates its efforts on program areas, which ensure our commitment to emergency preparedness, operations security, the continuity of Government, and critical infrastructure protection. The EPP staff actively engages in liaison and coordination with the White House Military Office, the Federal Emergency Management Administration, and the CIA regarding matters involving the Continuity of Government and emergency preparedness. Internally, EPP staff coordinates emergency preparedness exercises and provides frequent educational material and training to staff in all areas of emergency preparedness, especially Operational Security (OPSEC).

### HUMAN RESOURCES AND TRAINING

#### *Workforce Retention/Workload Balancing Initiative*

This Subcommittee has recognized and supported my priority to confront the declining quality of life of the workforce caused by excessive overtime and out-of-district travel, by making the resources available to recruit, train and hire 678 additional agents and support personnel for field assignments. In fiscal year 2002, the Secret Service plans to hire the final 280 men and women called for under Phase III of the Workforce Retention/Workload Balancing initiative. The safety, morale and job satisfaction of the entire workforce are of paramount importance.

#### *Diversity*

It is the policy of the Secret Service to attract, develop, retain and maximize the potential of a diverse workforce in a changing and competitive environment. We are committed to this policy. As a means of fully achieving and emphasizing an organizational culture that recognizes the value added by a diverse workforce, the Service has formalized its Diversity Management Program to fall under the direction of a Deputy Assistant Director for Recruitment, Employment and Diversity Programs (REDP). Through a coordinated process, the REDP develops and implements recruitment policies with the Service's Recruitment and Hiring Coordination Center and the Chief of the Personnel Division. Some of ongoing and recent efforts include:

- Job Fairs and Recruiting Seminars: In fiscal year 2001 the Service sponsored thirteen recruiting seminars attended by nearly 2,500 potential applicants for Uniformed Division and Special Agent positions. The Recruitment and Hiring Coordination Center has continued to maintain liaison with colleges and universities throughout the country, including Historically Black Colleges and Universities and Hispanic Servicing Institutions. In fiscal year 2001 the Service participated in and/or sponsored over 100 nationwide job fairs.
- Media: The Service utilizes nationwide print, radio and electronic media to attract qualified candidates with diverse skills and backgrounds for all positions.
- Internet: Presently, a diversity web site is under development. Once completed, this Internet tool will be used to inform all employees of the diversity initiatives, conferences and objectives. For potential applicants, the Service has conducted outreach by advertising on public and campus career websites targeting college students. We will continue to explore and utilize the Internet as a valuable recruiting aid.

The Secret Service supports and encourages employee participation in conferences dedicated to minority interests. In fiscal year 2001, approximately 120 employees attended the following conferences: the Women in Federal Law Enforcement Conference; the Hispanic American Police Command Officers Association Training Conference; the National Organization of Black Law Enforcement Executives Training

Conference; the Blacks in Government Training Conference; and the National Native American Law enforcement Association Training Conference.

The Secret Service is committed to diversity within the organizational and management ranks. As of January 1, 2002 twenty seven percent of the Secret Service's GS-14 and GS-15 positions were occupied by women and minorities. Twenty eight percent of the Senior Executive Service positions in the Secret Service as of January 1, 2002 were held by women or minorities.

In the past year, the Service has developed a core training course curriculum for our Equal Opportunity Program to lay a foundation for highly skilled and trained personnel to work in special emphasis programs and provide EEO counseling services. Additionally, we have established collateral duty special emphasis program manager positions for Hispanic, African-American, Asian-Pacific Islander, Native American, Persons with Disabilities/Disabled Veterans and Federal Women's Program constituency groups.

#### *Personnel Division*

One of the major initiatives of the Personnel Division is H.R. Connect, an integrated human resources information system being developed by the Department of the Treasury. The goal of this system is to enhance efficiency by providing access to managers and employees to review and update human resources information, including on-line processing of personnel actions and training requests.

#### *James J. Rowley Training Center (JJRTC)*

The staff, curriculum and facilities at the James J. Rowley Training Center (JJRTC) continue to provide state of the art, real world, performance based training. The emphasis for future operations at JJRTC will be to add value to both the content of the training and the facility as a continued center of excellence by ensuring efficient operations and improving the management of existing resources. To improve operations and administration at the Center, the JJRTC staff is developing a scheduling database that will enable the efficient scheduling and usage of all facilities within the complex.

Improvements in the area of course content and course evaluation remain a top priority. Recently, the JJRTC staff completed a special agent curriculum review and revision, and included a "real-world," 6-day performance based field office practical exercise involving interactive, team oriented exercises in the areas of investigative case work management and arrest procedures for financial crimes, counterfeiting, and protective intelligence investigations. Further curriculum review addressing the duplication of effort at JJRTC and the Federal Law Enforcement Training Center (FLETC), in Glynco, GA has resulted in an estimated savings of \$24,000 per special agent class. JJRTC is currently applying the same curriculum review and methodology to the Uniformed Division Officer Basic Training Course.

JJRTC in collaboration with the Office of Protective Operations has completed the development and implementation of an improved protective methodology initiative. This course is entitled "Counter Surveillance Unit Training," incorporates greater emphasis on the identification and utilization of surveillance skills for use during protective and investigative assignments. The methodology is aimed at improving performance efficiency and effectiveness in protective and investigative operations.

Given our emerging function as the lead Federal law enforcement bureau involved in the planning, coordination and implementation of security plans at NSSs, JJRTC has integrated improved training through hands-on practical exercises, tabletop exercises and computer simulations with local, State, other Federal law enforcement bureaus and hosting entities.

The pursuit of academic excellence is in the best interest of the agency and essential to the success of the training program at JJRTC. A foundation to achieve this goal is seen in our continued partnership and commitment with Johns Hopkins University. This relationship incorporates management programs, validation and revision to special agent basic training testing, policy, test automation and statistical efficacy. Additional efforts are underway to develop advanced degree management courses of study.

Consistent with Departmental guidance, the Secret Service, through the innovative use of resources, continues to develop effective methods and improve ways to train the workforce. One way this is being accomplished is through the Distance Learning Initiative. This initiative makes available to all employees, regardless of location, learning tools formatted on CD-ROM, video conferencing, and the Secret Service Intranet. Topics include diversity training, CPR and first aid kit review, conflict resolution, computer applications, legal information and other developmental courses. For the immediate future, the Secret Service is engaged in the evaluation and design of improved multi-media technology based applications for train-



ing to be used for improved and expanded distance learning courses to save on the expense of traveling to Washington, D.C. for training.

During fiscal year 2001, the JJRTC facilities were used to train ten Special Agent Training Courses (240 students), nine Uniformed Division Officer Training Courses (192 students), and approximately 32,000 in-service and re-qualification training visits for the workforce. The following construction improvements were also made during fiscal year 2001: completion of the Beltsville Field Office; infrastructure improvements on the support generator station and sewage lift station; security enhancements on the perimeter and inside facilities; and repairs to JJRTC and "off site" firing ranges. To ensure the continuity of operations (COOP), the Secret Service continues to examine the viability of using JJRTC as a designated relocation site in the event of catastrophe.

#### CONCLUSION

Mr. Chairman, the Secret Service remains committed to the security of our homeland through the daily performance of our dual mission of protecting our Nation's leaders and safeguarding the critical financial infrastructure and payment systems. We will continue to utilize technology to our advantage to create efficiencies and enhance the effectiveness of our investigative and protective operations. Through developing partnerships and information sharing, especially in the areas of cyber crime, we see value being achieved.

On behalf of the men and women of the Secret Service, I would like to thank you Mr. Chairman, Senator Nighthorse Campbell and the Members of the Subcommittee, for your leadership, vision and guidance. The Secret Service would not be where it is today without your support.

This concludes my statement. I would be pleased to answer any questions that you or other members of the Subcommittee may have.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

**STATEMENT OF BRADLEY BUCKLES, DIRECTOR**

Senator DORGAN. Next, we will hear from the Director of the Bureau of Alcohol, Tobacco and Firearms, Mr. Bradley Buckles. Mr. Buckles, you may proceed.

Mr. BUCKLES. Thank you, Mr. Chairman, Senator Campbell, Senator Reed. I am proud to be here today representing the outstanding men and women of ATF. On behalf of all ATF employees, I would like to take this opportunity to thank you and your staff for your continuing support for our mission.

The budget request for ATF today is for \$913,114,000 in direct budget authority and 5,106 FTEs. With my full statement submitted for the record, I will keep these remarks brief.

TERRORISM AND HOMELAND SECURITY

When I was here last year, the focus of ATF's budget request was on violent crime. However, ATF, along with law enforcement agencies throughout the United States, has reformed its priorities to meet the new challenge of terrorism and homeland security. Explosives and firearms remain the terrorists' tools of choice and we cannot afford to underestimate the dangers they present. As the agency charged with enforcing Federal firearms and explosives statutes, ATF will continue to play a critical role in the war on terrorism.

Terrorists need money to buy explosives and firearms and otherwise fund their activities, and terrorists have found that there is untapped illegal money in alcohol and tobacco diversion schemes. ATF is investigating these crimes as well.

Traditional firearms and explosives work, and the collection of \$14 billion in revenue will continue to dominate the bulk of our efforts. However, ATF's responsibilities towards homeland security will be our top priority.

In Joint Terrorism Task Forces, National Special Security Events, and other multi-agency endeavors, ATF is engaging in preventing and investigating terrorist activity. For example, through our explosives detection canine program, we have partnered with over 450 State, local, Federal, and foreign law enforcement agencies to help them prepare for and prevent potential terrorist acts.

Having America safe from foreign terrorists is essential, but it is not enough. A mother afraid to let her children play outside because of the sound of gunshots feels terrorized, as well. And though gun homicides are down from their peak in the early to mid-1990s, the numbers are still chilling, at 10,000 a year. Moreover, recent statistics report that over half-a-million crime victims faced an assailant with a gun in calendar year 2000. Our collective goal must be to make the criminal with the gun the one who feels unsafe in America.

## FISCAL YEAR 2003 BUDGET REQUEST

Our fiscal year 2003 request addresses the challenges of fighting terrorism and violent crime that I have mentioned. With respect to these items, directly related to terrorism, we are seeking to annulize FTE funding from the 2002 terrorism supplemental provided for canine teams and for agents to be assigned to Joint Terrorism Task Forces.

With respect to violent crime, our request builds on a foundation of existing initiatives to be deployed to the President's Project Safe Neighborhoods initiative. This request includes \$11 million and 41 FTE for these continuing efforts.

Finally, we are requesting \$10.7 million to support construction of our new headquarters building. While this is a GSA building project, these funds are needed in the ATF budget for agency costs associated with security, technology, and technical support for the construction.

## PREPARED STATEMENT

In closing, I would again like to thank the committee and your staff for your continued commitment to ATF and its mission and I would be pleased to answer any questions you might have.

Senator DORGAN. Mr. Buckles, thank you very much for your testimony.

[The statement follows:]

## PREPARED STATEMENT OF BRADLEY A. BUCKLES

Thank you Mr. Chairman, Senator Campbell, and members of the Subcommittee. I welcome this opportunity to appear before the subcommittee to report on the pivotal year just ended as well as to present ATF's goals for fiscal year 2003.

As with all law enforcement agencies in the United States today, ATF faces an unprecedented challenge. Our world in 2002 is very different than it was a year ago. The magnitude and effect of the attacks on September 11 cannot be measured, but we are committed and united in ensuring the safety of all Americans from future attacks and from the continuing tragedy of violent crime in our society.

In response, ATF has aligned its priorities to the current priorities of the President and the Nation—to the fight against terrorism and to make our communities safe from violence. ATF special agents, inspectors, and professional support personnel are making daily and significant contributions in the Nation's battle against terrorism. In furtherance of the objectives of Presidential Decision Directives 39 and 62, ATF is charged with the responsibility of preventing terrorists from acquiring firearms and explosives, the principal instruments by which they carry out their terrorist acts. ATF's statutory mandates and unparalleled investigative expertise places us on the forefront of the battle against terrorism. We expect this to continue for some time, yet we recognize that we must strike a balance between the war against terrorism and the continuing battle of reducing armed violence in America.

Our new national vigilance carries additional responsibilities, and I assure you ATF is up to the task. Whether the work being done involves investigation of a bombing or gun trafficking; participation in the Joint Terrorism Task Forces (JTTFs) with the FBI and other law enforcement agencies; or examination of explosives and firearms licenses and permit applications, possible terrorist connections must be examined and identified.

ATF has always played a lead role in the investigation of violent crimes involving explosives, arson, or firearms, whether committed by terrorists or other criminals, and we are more determined and committed to our partnerships with other Federal, State, and local agencies in a broad range of prevention efforts and direct investigative efforts.

Since the horrific events of September 11, the ATF is facing increased demands on its resources. The battle against violent crime, whether in the form of terrorism or otherwise, is a part of ATF's core mission responsibility. However, the dramatic increase in the threat of terrorism and the consequent shift in national priorities

has required ATF to direct resources to JTTFs, National Security Special Events, inspections of explosives permittees and licensees, and other areas essential to homeland security, while still attempting to hold the line against violent criminals whose activities are not politically motivated.

With the tremendous support of this committee during the past several years, we have hired entry-level agents and inspectors to reinvigorate our workforce. Because our mission is complex, and the laws and regulations we enforce intricate; it will take our new personnel 2 to 3 years of training to become proficient. The majority of our current investigative and terrorism-specific work will require our experienced agents, intelligence specialists, and explosives technicians to focus a majority of their time actively pursuing investigations with multi-agency peer partners. Therefore, even with these new personnel resources, we must still achieve a balance between protecting the public against further terrorist acts and ensuring that violent career criminals are also taken off the street.

In an immediate response to the September 11 terrorist attacks, ATF provided 500 special agents and other investigative personnel to JTTF operations, dramatically increasing our on-going support to the Nation's anti-terrorism efforts. Participation in the JTTFs is one of ATF's top priorities for fiscal year 2002, and ATF continues to assign its most experienced criminal investigators to the JTTFs. With the support received from this Committee through supplemental funds, an additional 28 special agents will be assigned to JTTFs in fiscal year 2002, including a full-time ATF program manager for the FBI's Counter-Terrorism Center.

With the fiscal year 2002 supplemental funding received for our Canine Explosives Detection Program, ATF plans to train 30 additional special agent explosives detection handler/canine teams to provide canine support to the National Security Special Events, JTTFs, and other counter-terrorism efforts, but still remain involved in non-terrorism-related investigations and activities. The additional canine teams will be strategically located throughout the U.S. These teams will be able to meet critical needs in the field that directly contribute to the Bureau's goals of reducing violent crime and protecting the public. The canine teams will augment the efforts of ATF's field divisions, National Response Team (NRT) callouts, and special agent and explosive enforcement officer activities. The canine teams will establish partnerships with State and local agencies that lack canine resources, and they will be available to assist with counter-terrorism measures, such as searches and security sweeps at special events. The expanded program will allow ATF to perform diagnostic field evaluations of ATF-certified teams belonging to Federal, State, and local agencies.

ATF is providing personnel to support Treasury's "Operation Green Quest," a task force program created to combat terrorist financing and money laundering. ATF's expertise in alcohol and tobacco diversion and smuggling schemes will greatly serve this task force. Illegal proceeds from global and domestic tobacco and alcohol diversion and smuggling are often used to further criminal and terrorist activities. We will enhance the "Operation Green Quest" effort by having the ability to identify individuals who may have ties to terrorist organizations, and who utilize legitimate business fronts to conceal proceeds that finance terrorist activity. In response to the national investigation, ATF analyzed information of potential terrorists and their associates, and focused on possible alcohol and tobacco product diversion in support of their criminal activities.

ATF detailed 45 special agents to the FAA's Federal Air Marshal Program for 6 to 18-month assignments.

ATF provided, and continues to provide, analytical intelligence in support of joint Federal anti-terrorism efforts. There is important intelligence data available from ATF's internal investigative and regulatory databases, including the Arson and Explosives Incidents System (AEXIS), firearms tracing, permit holders, revenue collection and licensing. We have modified the AEXIS reporting system to interface with the Department of Justice, allowing the FBI to use ATF reports to identify possible terrorist connections. Additionally, numerous Bomb Data Centers throughout the world actively contribute to ATF's Arson and Explosives National Repository.

Following the September 11 terrorist attacks, ATF sent a letter urging all explosives licensees and permittees to take immediate measures to ensure the security of their explosives inventories. Between October and December 2001, ATF field personnel conducted 7,459 inspections of explosives licensees/permittees (out of a total of 9,400). ATF personnel encouraged the proprietors to emphasize explosives security and accountability following the terrorist attacks, and to report thefts, losses, or suspicious activity to ATF and the appropriate local authorities. ATF carried out these inspections in order to gauge internal security controls and report any unusual purchase attempts; break-ins; or any other anomalies that would indicate a breach to security.

In connection with the 7,459 inspections, ATF uncovered over 200 instances of possible criminal violations. We also found 1,763 instances of violations in record keeping, storage and conduct of business. Many follow-up inspections will be required to ensure that corrective actions were taken. In one instance we issued a notice of revocation and seized approximately four million pounds of explosives materials that were stored in violation of Federal explosives law.

Since 1993, ATF has assigned a senior special agent as a representative to the Central Intelligence Agency's Counter-Terrorism Center. This ATF representative facilitated an exchange of operational intelligence that proved critical during the investigation of the first attack against the World Trade Center in 1993. Operational intelligence will be an essential component in resolving the latest terrorist events and preventing future events. On an ongoing basis, our ATF CIA representative is involved with tracking the international movement of U.S. manufactured firearms, explosives, and other contraband used in terrorist operations or the financing of terrorist operations.

In addition, ATF's representatives to the FBI and CIA Counter-Terrorism Centers coordinate their activities with ATF representatives to the Financial Crimes Enforcement Network (FinCEN), the El Paso Intelligence Center, and the INTERPOL National Central Bureau. In so doing, they are able to share intelligence related to suspicious financial transactions and other activities within ATF's purview. Most important is the sharing of threat assessments, which focus enforcement action.

ATF has expanded its electronic link to the intelligence community and has initiated protocols for transmitting classified terrorism-related intelligence from ATF Headquarters to field investigative elements. This link includes access to State Department and Defense Department classified data processing systems. The National Security Agency (NSA) has established a permanent detail position within the ATF Intelligence Division to provide ATF with real-time access to classified intelligence, international cable traffic, and national security information relevant to ATF's counter-terrorism efforts.

ATF special agents and intelligence research specialists have supported security operations in numerous National Security Special Events, including the NATO 50 celebration, the Republican and Democratic National Conventions, the IMF/World Bank Conference, the United Nations General Assembly Millennium Meeting, and the Presidential Inaugural Ceremony. ATF had approximately 300 personnel participating in the security operation for the 2002 Winter Olympics in Salt Lake City and provided personnel and equipment throughout the event. ATF was well represented in the joint intelligence center, as well as the joint operational component.

ATF is also a key player in the intelligence community-based Law Enforcement Working Group sponsored by the National Reconnaissance Office, under the direction of the Director of Central Intelligence. The Law Enforcement Working Group brings together representatives from Federal law enforcement and intelligence community organizations to focus on the appropriate and legal uses of technologies and data collected in support of law enforcement operations.

ATF is appropriately situated and prepared to respond to the needs of our Nation, whether in our traditional role of investigating the criminal misuse of explosives and firearms, arson investigation, alcohol and tobacco diversion schemes, or contributing to our Nation's call to prevent and investigate terrorist acts. I would like to take this opportunity to briefly describe significant investigations that highlight ATF's integration and contribution to these efforts.

#### ATF TERRORISM CASE EXAMPLES

*ATF West Palm Beach Field Office.*—This investigation was initiated as a firearms trafficking case. Foreign nationals, as well as U.S. citizens, were involved in the illegal purchase of explosives and firearms, including stinger missiles, on behalf of persons associated with the Taliban in Pakistan and Afghanistan. The suspects negotiated with an undercover ATF agent for the purchase of 200 stinger missiles, as well as a large quantity of assault rifles, T.O.W. missiles, and L.A.W.S. rockets. The weapons were to be transferred to members of the Taliban for use in Afghanistan. All suspects were arrested and indicted. ATF seized assets of individuals who had been hired to assist in money transfers and to launder diverted foreign funds into U.S. dollars. The funds for the purchase of the weapons came from Taliban and/or Al Qaeda sources in the Middle East. ATF partnered with the United States Customs Service, the FBI, the West Palm Beach Police Department, and the Palm Beach County Sheriff's Office in successfully investigating this case.

*ATF Ft. Lauderdale Field Office.*—Firearms Trafficking Investigation: This case involved active members of the Provisional Irish Republican Army (IRA) who illegally purchased firearms and smuggled them into the Republic of Ireland for dis-

tribution in Northern Ireland. The suspects purchased the firearms at various Federal firearms licensees (FFLs) and through newspaper advertisements and gun shows in Ft. Lauderdale and Hollywood, Florida. The firearms were disassembled and packed into children's toys for shipment to Ireland. Once in Ireland, they were recovered by members of the Provisional IRA. All suspects in the U.S. were arrested, indicted and convicted of all firearms charges and are currently awaiting sentencing. Funds for the purchase of the firearms came from the Provisional IRA.

Our fiscal year 2003 budget request will allow ATF to continue its efforts to reducing violent crime, contributing to homeland security, collecting all revenue due and protecting the public. The men and women of ATF are very appreciative of the Committee's trust and continued support, and as you will see, your investments have paid dividends. I now wish to highlight our accomplishments and detail our fiscal year 2003 budget request, which will enable us to build on your investment.

#### FISCAL YEAR 2003 BUDGET REQUEST

ATF has a unique combination of law enforcement and regulatory responsibilities. As Director, I will continue to focus on our core mission and vision of "Working for a Sound and Safer America . . . Through Innovation and Partnership," through our three principal strategic goals: (1) to reduce violent crime; (2) to collect all revenue due to the United States; and (3) to protect the public. ATF's unparalleled expertise in firearms, explosives, and arson makes it an essential component of the Nation's homeland security efforts. ATF will continue to target its resources towards preventing and responding to crime and violent acts that threaten public safety and seek to instill fear in Americans.

ATF's fiscal year 2003 Salary and Expense (S&E) request is \$913,114,000 in direct budget authority and 5,106 full-time equivalents (FTE). Our request represents an increase of \$30,836,000, or 3.5 percent over the total fiscal year 2002 enacted level of \$882,278,000.

A share of this increase will assist in maintaining current services program levels for mandatory payroll costs and inflation. The remainder is required for the new ATF headquarters facility and to enhance ATF's Integrated Violence Reduction Strategy (IVRS) efforts, of which the Youth Crime Gun Interdiction Initiative (YCGII) is an integral part.

A new ATF national headquarters building and relocation remain a top priority of the Department and the Bureau to ensure the safety and security of ATF's workforce. An increase of \$10,700,000 is requested to support the construction project. These funds are needed for one-time agency costs associated with security-related aspects of the building, as well as contracts for technology and agency technical support and management.

The \$11,000,000 and 41 full-time equivalents requested for IVRS will allow ATF to apply lessons learned from the YCGII program and institute these successful practices in smaller communities, thereby having more of an impact on the youth crime gun problem. It will also allow ATF to expand YCGII to 10 additional cities. This request will enable ATF to further implement our critical role in the Administration's Project Safe Neighborhoods initiative, which is designed to reduce firearms violence through Federal and State and local law enforcement partnerships throughout the Nation.

To carry out our duty to be sound stewards of the taxpayers' resources, we will continue to focus on improving our business practices, seeking better results at the lower cost. We will continue to refine the integration of budget and performance and use performance-based budgeting to determine the best way to use available resources.

Because of your unwavering support, ATF is healthy and able to achieve its mission goals in a more effective and productive manner. I believe the Committee will be pleased with its investment in ATF, which is best demonstrated through our accomplishments.

#### FISCAL YEAR 2001 ATF ACCOMPLISHMENTS

##### *Reduce Violent Crime*

ATF initiated 15,852 YCGII, National Instant Criminal Background Check System (NICS), and other firearms investigations in fiscal year 2001, resulting in 3,663 indictments and 4,179 convictions, which are 16 and 36 percent higher, respectively, than in fiscal year 2000. Specifically, YCGII investigations rose 277 percent over fiscal year 2000 levels to 2,306 investigations, producing a 62 percent rise in indictments and a 115 percent rise in convictions.

ATF initiated 881 explosive investigations in fiscal year 2001, resulting in 271 cases being referred for prosecution, and 295 convictions. This represents an in-

crease over fiscal year 2000 of 22 percent in investigations, 36 percent in cases referred for prosecution, and 235 percent in convictions. Additionally, ATF initiated 1,546 arson investigations in fiscal year 2001 and referred 222 cases for prosecution, producing 136 indictments. This represents a 23 percent increase in cases referred for prosecution and a 25 percent increase in indictments over fiscal year 2000.

Some cases initiated in fiscal year 2001 are still ongoing and will ultimately result in additional cases referred for prosecution and, consequently, in additional indictments, defendants, and convictions.

I would now like to present the primary programs in our efforts to combat violent crime and terrorism.

#### INTEGRATED VIOLENCE REDUCTION STRATEGY (IVRS)/PROJECT SAFE NEIGHBORHOODS

IVRS focuses on investigating violent career criminals and others prohibited from possessing firearms, as well as firearms traffickers who are responsible for diverting firearms to criminals. While IVRS is a national enforcement strategy, ATF recognizes that different communities have different law enforcement concerns. Therefore, IVRS integrates several core concepts that are adapted and applied in varying formulas to address the specific law enforcement needs of a community. Included in these efforts are the investigation of violators under the Youth Crime Gun Interdiction Initiative; the comprehensive tracing of crime guns by Federal, State, and local law enforcement agencies; and the effective regulation of the firearms industry. ATF also promotes community outreach through G.R.E.A.T., the Gang Resistance Education and Training curriculum that is delivered to middle-school students nationwide.

Fiscal year 2002 enacted appropriations provided \$3 million over the President's budget to increase the number of ATF agents to enforce existing firearms laws in support of the Administration's Project Safe Neighborhoods initiative. IVRS is an integral part of the President's Project Safe Neighborhoods initiative. It is a multi-agency initiative designed to tailor approaches to reducing gun violence to the unique needs of communities across the country.

The following provides additional detail about several of the programs that make up IVRS:

##### *Armed Violent Criminal Apprehension Program*

This program seeks to identify, investigate, and recommend prosecution of a wide range of firearms offenders: career criminals who use firearms, individuals who are actively involved in armed violent criminal activities or armed drug trafficking, and other categories of prohibited persons in possession of firearms (e.g., convicted felons, fugitives from justice, illegal aliens, and individuals convicted of certain domestic violence misdemeanors or subject to certain domestic violence restraining orders).

##### *National Instant Criminal Background Check System (NICS) Referrals*

Since the implementation of the permanent provisions of the Brady Law in November 1998, 276,603 referrals of firearms purchase denials have been forwarded to ATF's Brady Operations Branch by the FBI National Instant Criminal Background Check System (NICS). The Brady Operations Branch, has reviewed and forwarded 70,899 of both delayed and standard (firearms not transferred) denials referrals to ATF Field Offices throughout the country for further investigation. Of this number, 12,657 were "delayed denials," instances where a transfer of a firearm may have occurred.

To date, a total of 2,737 NICS cases have been forwarded to U.S. Attorneys' Offices for prosecution, resulting in convictions of 340 defendants. From November 1998 to the present, ATF has recovered or accounted for 7,058 firearms reported by the FBI to have been sold to prohibited persons.

During the past fiscal year, the Brady Operations Branch initiated a system of screening the referrals received from the FBI in order to maximize the efficiency of limited personnel resources. These efforts on the part of the Bureau to maximize the efficiency of the NICS referral process greatly reduced the strain on existing resources thus allowing more focus on anti-terrorism efforts and other law enforcement efforts.

##### *National Integrated Ballistics Identification Network (NIBIN)*

In addition to the firearms tracing process, which helps law enforcement officials identify the perpetrators of violent crime, ATF provides investigative support through its leadership role in the National Integrated Ballistic Identification Network (NIBIN), a contributing program of the IVRS initiative. NIBIN provides for the nationwide installation and networking of automated ballistic imaging equipment in partnership with State and local law enforcement agencies. This technology

uses automation to compare more ballistics evidence than would be possible using only manual comparisons. Links between otherwise seemingly unrelated crimes are discovered, and investigative leads are generated for police follow-up. In addition, the system makes it possible to share intelligence across jurisdictional boundaries, enabling State and local law enforcement agencies to work together to stop violent criminals.

In fiscal year 2001, NIBIN equipment assisted law enforcement agencies in finding 956 links, or "hits." In each of these instances, evidence from two or more crime scenes was identified as being potentially connected. The evidence was then referred to a certified firearms examiner for physical comparison and confirmation of the links. Currently, 125 law enforcement agencies are making use of this valuable technology, and it will be available to more than 200 agencies by the end of fiscal year 2002. As additional agencies participate in the program, ATF expects that greater numbers of hits will be generated that will ultimately lead to the resolution of more violent crimes nationwide.

#### *Illegal Firearms Trafficking Enforcement Program*

The goal of ATF's illegal firearms trafficking enforcement is to reduce violent crime by identifying, investigating, and arresting individuals who illegally supply firearms to others prohibited from possessing them and to deter the diversion of firearms from lawful commerce into the illegal market.

#### *Youth Crime Gun Interdiction Initiative (YCGII)*

YCGII, a component of IVRS (as well as the Illegal Firearms Trafficking Enforcement Program) focuses agent and inspector resources on contributing to a reduction in youth violence, using the unique assets of crime gun tracing. The goals of the YCGII are to identify and interrupt the illegal supply of firearms to youths through enforcement and research efforts. The initiative, which consists of partnerships with State and local law enforcement agencies in 50 metropolitan areas, involves the tracing of every crime gun recovered in those localities. Through the National Tracing Center (NTC), the Bureau is able to obtain investigative leads to develop cases against illicit firearms traffickers who supply firearms to youths.

During the 1990's, ATF developed new information systems to reinforce our firearms enforcement efforts. We can now use the crime gun itself as a vital investigative and evidentiary tool by tracing it back to its criminal user or its illegal supplier. In doing so, we are able to identify, arrest, and refer for prosecution both armed violent felons and those who are illegally supplying criminals and juveniles with guns. The YCGII has been the platform for systematically developing and managing crime gun tracing information.

During fiscal year 2001, ATF provided focused YCGII training to 7,976 ATF, Federal, State, and local law enforcement officers. ATF also conducted two seminars for ATF YCGII coordinators and their State and local counterparts. These seminars reached 150 law enforcement personnel and increased the awareness of and participation in comprehensive crime gun tracing by the attending agencies.

ATF recently submitted its first YCGII quarterly report to the Committee, outlining the results and substantial progress made in implementing the recommendations made by the Treasury Inspector General.

#### *Comprehensive Crime Gun Tracing*

The Comprehensive Crime Gun Tracing Initiative that began in fiscal year 2001 provides nationwide comprehensive tracing capability and will provide faster trace results as technological upgrades are implemented. Consequently, there has been an increase of approximately 11 percent of trace requests over the year 2000, a percentage that is expected to rise. The National Tracing Center (NTC) provides State and local agencies with information on crime guns to support their law enforcement efforts by conducting over 230,000 traces in fiscal year 2001 along with additional analysis. The NTC expects to receive in excess of 240,000 firearms trace requests in fiscal year 2002. The NTC provides valuable investigative leads to assist in solving crimes committed with firearms, and identifies those persons responsible for supplying crime guns to criminals. The NTC maintains the record of all crime guns traced by ATF, firearms stolen from firearms dealers and multiple sales of handguns. The Firearms Tracing System (FTS) provides data on firearms that is used by ATF special agents and inspectors to identify illegal firearms trafficking. The NTC has established direct electronic connectivity to transmit trace requests with over 159 law enforcement agencies to include Mexico and Colombia to further improve the accuracy and efficiency of firearms tracing and analysis. In fiscal year 2001, 50 percent of the trace requests received by the NTC were transmitted electronically using this technology. ATF is also developing a web-based trace submission, response and analysis system to reach a greater customer base at a substan-



tially reduced cost with further improvements the accuracy and efficiency of trace request submissions.

*Gang Resistance Education and Training (G.R.E.A.T.)*

Another component of IVRS is ATF's Gang Resistance Education and Training (G.R.E.A.T) program. G.R.E.A.T. is a life skills competency program designed to provide middle-school children the ability to avoid gangs, resist conflict, make responsible decisions and develop a positive relationship with the law enforcement community. G.R.E.A.T. is designed to make attitudinal changes in children that will lead to a change in behavior. In fiscal year 2001, ATF provided funding to 200 different agencies to support their participation in the G.R.E.A.T. Program, and 3,685 officers were certified to instruct in the G.R.E.A.T. program. Over 1,662 agencies have over 4,875 officers certified to teach the program. During fiscal year 2001, G.R.E.A.T. officers around the country taught approximately 389,787 school-aged children. Since the program began in 1992, nearly 3 million children have been taught. In addition, the program underwent a five-year longitudinal study by the National Institute of Justice. This study showed that the students who received the G.R.E.A.T. curriculum displayed less risk-seeking behaviors, showed lower rates of victimization, more negative attitudes towards gangs, and more positive attitudes towards police. This evaluation shows the effectiveness of the program and ATF's commitment to reducing youth violence nationwide.

In fiscal year 2001, we continued our work with the Bureau of Indian Affairs (BIA) in an initiative to provide tribal police agencies training in the G.R.E.A.T. program. ATF provided two on-site training courses to BIA officers on tribal lands. These officers in turn then began to teach the G.R.E.A.T. curriculum to Native American children in their localities. We have scheduled an additional on-site training activity in fiscal year 2002 and will continue to work in a collaborative effort with BIA through their national conference and other conferences to promote the G.R.E.A.T. program to Native American officers and the community at large.

*Arson and Explosives Enforcement*

ATF has been resourceful in addressing violent arson and explosives-related crimes through enforcement and training. ATF's arson and explosives programs function interactively to provide a comprehensive proactive and reactive force in the fight to protect the American public from the criminal use of fire and explosives. Through these programs, ATF personnel work to thwart criminal and terrorist activity involving explosives at nearly every level of the implementation process. ATF's focus on arson and explosives crimes continues to be a major Bureau priority.

Our National Response Teams (NRTs) are comprised of highly trained and well-equipped professionals that can be deployed within 24 hours to major bombing and fire scenes anywhere in the United States. The NRTs were activated 26 times in fiscal year 2001 to investigate major fire and explosives incidents. Of these 26 activations, 24 were to fire scenes in the United States. Eleven fires were determined to be arson, seven were determined to be accidental fires, and the causes of six fires were undetermined. One response was to the September 11, 2001 attack on the Pentagon, and one was to an incident that was determined to be an accidental explosion. These 26 activations involved 93 deaths, 25 injuries, and nearly \$700 million in estimated property damages. After-action customer survey results rate our NRT services at 90 percent or higher in the law enforcement community. Since its inception in 1978, there have been 511 NRT activations.

In addition to investigating fire and explosives incidents, the NRTs provide assistance to other Federal, State, and local law enforcement agencies during special events. In fiscal year 2001, the NRT provided support at the Special Olympics in Anchorage, the Asian Bank Conference in Honolulu, the Presidential Inauguration, and most recently, to the Winter Olympics in Salt Lake City.

ATF's International Response Team (IRT) participates with the Diplomatic Security Service of the Department of State to provide investigative assistance at international explosives and fire incidents. There have been 21 IRT activations since its inception in 1991. The team has responded to vehicle bombings in Peru and Macedonia, explosions in Argentina targeting the Israeli Embassy, and other incidents in El Salvador, Ecuador, Surinam, Pakistan, Grenada, and Korea. The IRT was activated three times in 2001, to assist foreign governments in explosives investigations and fire scene examinations. The IRT activations were as follows:

- Peru in March of 2001 following a fire in the National Bank of Peru that occurred during civil disturbances following the Presidential elections;
- The Federated States of Micronesia in March to examine a fire scene in a government facility; and

—In April of 2001 to assist the Guatemalan National Police in examining improvised explosive devices.

Also present at many of these events were ATF's explosives enforcement officers (EEOs), or bomb technicians. In fiscal year 2001, ATF EEOs traveled with the Department of State's Antiterrorism Assistance Team to assess the capabilities of 10 foreign countries to respond to terrorist or explosives incidents. In addition, the EEOs participated in each National and International Response Team callout, testified in criminal proceedings 24 times, rendered 237 technical assists, wrote 389 technical statements, and performed many other tasks in support of ATF's explosives mission.

ATF conducted 1,546 arson investigations across the country in fiscal year 2001. ATF's highly trained special agent certified fire investigators respond to incidents at all times of the day and night to make an initial fire cause determination when there is evidence of potential criminal acts warranting further investigation. Our 85 certified fire investigators are the only Federally trained fire investigators in the government.

ATF opened investigations on 58 explosives thefts in fiscal year 2001, and ATF's Arson and Explosives National Repository Branch (AENRB) recorded the thefts of nearly 50,000 pounds of explosives and the recovery of over 12,000 pounds.

In 1996, Congress, recognizing ATF's expertise in the investigation of fire/arson and explosives-related incidents, passed legislation authorizing the Secretary of the Treasury to establish a National Repository of information regarding arson incidents and the actual and suspected criminal misuse of explosives throughout the United States. Treasury's authority over this system was included in an amendment to Title 18, United States Code, Section 846. Subsection (b) was added, as follows:

"The Secretary is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Secretary following such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Secretary by State and local authorities." The Secretary of the Treasury tasked ATF with establishing this National Repository.

The AENRB maintains a state-of-the-art database that now contains detailed information on over 112,000 arson and explosives incidents. This database, the Arson and Explosives Incidents System (AEXIS), is used to trace stolen and recovered explosive material and military ordnance. In addition to providing vital investigative services to law enforcement personnel worldwide, the AENRB uses information from AEXIS to provide threat assessment support to Federal agencies and major event security task forces.

For example, in 2001, the AENRB played a significant role in the investigation and subsequent conviction of a former Chicago police laboratory evidence technician/chemist. The technician was responsible for six bombings in Fremont, California. Targets included the chief of police, a city councilman, a water tower, and a wealthy Taiwanese national. The AENRB used AEXIS to compare the devices' design and components with other device data already in the system. Based on the comparison, AENRB personnel deemed the devices the most sophisticated they had ever seen. After a 3-month State trial, the technician was sentenced to 37 years to life in state prison.

In the spring of 2001, the AENRB embarked on a measured and focused program to connect the Nation's fire and explosion investigators to the latest in information communications and management technology. The project, known as the Bomb Arson Tracking System (BATS), is designed to facilitate and promote the collection and dissemination of fire, arson, and explosives information among participating agencies. As presently envisioned, participating law enforcement agencies and members with established National Crime Information Center (NCIC) access will be able to access BATS via personal computer and Internet. Once connected to the ATF-secured and maintained extranet server, participants will be able to enter information, query information (both locally and across agencies), and produce relevant reports.

The AENRB coordinates explosives intelligence internationally with 12 Bomb Data Centers throughout the world and is involved in planning and coordinating the establishment of Explosive Repository Centers in Mexico and Colombia (Plan Colombia). In fiscal year 2001, AENRB personnel provided presentations on the Repository's capabilities to 2,158 representatives of Federal, State, local, and foreign law enforcement or explosives industry representatives.

ATF continues to vigorously enforce the Federal explosives laws (which include the crime of arson) by providing state-of-the-art training and expertise to Federal, State, local, and international law enforcement partners. This training will be instrumental in preparing our law enforcement partners for the fight against terror-

ists using their conventional “tool,” explosives. AEXIS is a vital investigative threat assessment tool used to reduce the incidences of bombings and arsons. The value of ATF’s investigative skills is demonstrated by the fact that arsons at houses of worship have been solved at approximately twice the commercial arson solution rate.

#### *Explosive Detection Canines*

ATF-certified arson and explosives detection handler/canine teams support ATF’s fire and explosives investigations. In fiscal year 2001, ATF’s six special agent/canine teams searched 10,356 vehicles, buildings, or items during the execution of Federal, State, or local search warrants or in conjunction with searches or sweeps during ATF or Federal security details. Our canines supported preventive security efforts at such diverse events as the response to the September 11 attack on the Pentagon, the Special Olympics, the execution of Timothy McVeigh, the 2001 Superbowl, and many others.

The ATF Canine Training Center, located in Front Royal, Virginia, is now open and the kennels have been completed. In a training arrangement with the U.S. Department of State, ATF trains explosives detection canines for foreign countries to be used overseas in the war against terrorism, and to protect American travelers abroad. Since the start of the program in 1998, ATF has trained and certified 94 accelerant-detection canines for State and local agencies. ATF has also trained and certified 310 explosives-detection canine teams for deployment in 13 countries around the world. Additionally, ATF has trained 47 explosives detection canine teams for other Federal, State, and local agencies, including the Federal Bureau of Investigation, the Central Intelligence Agency, and the Internal Revenue Service. With the funding provided in the fiscal year 2002 Anti-Terrorism Supplemental we will be expanding the canine training center in order to meet the increasing demand for these resources.

#### *Explosives Study Group*

ATF’s Explosives Study Group (ESG) is examining the tagging of explosive materials for purposes of detection and identification; possibilities for rendering of common chemicals used to manufacture explosive materials inert; imposing controls on certain precursor chemicals used to manufacture explosives; State licensing requirements for the purchase and use of commercial high explosives; and the possible use of new prevention (explosives detection) technologies, as directed by section 732 of the Antiterrorism and Effective Death Penalty Act of 1996, as amended by the Omnibus Consolidated Appropriations Act for fiscal year 1997. A report on these findings is in the final stages of review.

The ESG has also compiled a comprehensive list of State Licensing Requirements for the purchase and use of commercial high explosives, and is currently consulting with State regulators and industry members to develop recommendations for consideration by Congress that would advance public safety.

The ESG has worked with The Fertilizer Institute (TFI) to expand the “Be Aware for America” program to address areas of vulnerability for distributors of ammonium nitrate fertilizer and agricultural chemicals. This expansion, the “Be Secure for America” program (an enhancement of the “Be Aware for America” program), is aimed at ensuring the security of the transportation, storage, and manufacturing of the agricultural chemicals produced and distributed.

Additionally, the ATF is funding promising research at the Oak Ridge National Laboratory, including prototype development, engineering, and training on advanced sensing technologies for explosives detection. The ultimate objective is the development of a portable explosives detector that will function with a short, real-time response rate for trace amounts of explosives.

The ESG has continued to communicate and work with other Federal agencies such as the Federal Aviation Administration, the U.S. Customs Service, the Department of Justice, and the Department of Energy. The goal is to achieve a coordinated effort to identify and direct resources toward the most promising technologies for both the detection of additives and the detection of explosives and explosive materials themselves.

#### *Partnerships*

ATF continues its tradition of partnering with other Federal, State, and local agencies on developing protocols and partnerships that will enable us to efficiently utilize our resources in the fight against terrorism and violent crime. Some of the agencies we have partnered with include the Central Intelligence Agency, the United States Department of State, the Customs Service, the Secret Service, the National Transportation Safety Board, the Department of Justice, Federal Bureau of Investigation, the United States Department of Agriculture, and the United States

Chemical Safety and Hazard Investigation Board and the new Transportation Security Administration.

Additionally, ATF has worked to establish a rapport with industry organizations such as the International Society of Explosives Engineers, the Institute of Makers of Explosives, the American Pyrotechnic Association, and the National Shooting Sports Foundation.

ATF's criminal investigative analysts (Profilers), assigned to the FBI's National Center for the Analysis of Violent Crime (NCAVC), spent 2 years conducting research and interviewing 38 imprisoned bombing offenders. In June, they published the findings of their joint study with the NCAVC. The study, "Behavior and Characteristics of Bomb Related Offenders," will serve as a catalyst for further research into understanding the motivations and characteristics of subjects who use explosives for criminal intent.

Our profilers are also assisting in our Nation's war on terrorism. They are developing in-depth assessments of the 19 hijackers and the individual(s) responsible for utilizing mail services to deliver Anthrax spores, and they are working with their FBI counterparts to conduct ongoing threat assessments.

ATF continues to serve on the United States Delegation to the Framework Convention on Tobacco Control at the World Health Organization and takes a lead in the negotiations on the protocol aimed at preventing smuggling and illicit trade in tobacco products that deprive the Government of revenues from these products. As such, ATF is considering hosting a conference for countries to begin informal negotiations on illicit tobacco trade later this summer.

In March 2001, ATF entered into an agreement with United States Customs Service, the Royal Canadian Mounted Police, and the Canadian Customs and Revenue Agency to establish a working partnership on Contraband Cigarette Trafficking. As a first step, a Tobacco Threat Assessment is being developed to determine the nature and scope of the tobacco black market in the United States and Canada to gauge the threat posed by large scale cross-border and international cigarette trafficking.

#### COLLECT THE REVENUE DUE

For fiscal year 2001, ATF continued to honor its obligation to fairly and efficiently collect approximately \$14.1 billion in revenue in accordance with current laws. In fiscal year 2001, ATF collected the following revenue: \$13.8 billion in alcohol and tobacco excise taxes; \$176 million in firearms and ammunition excise taxes; \$103.6 million in special occupational taxes; and \$6 million in licensing and transfer fees, for a total of \$14.1 billion.

In fiscal year 2001, ATF collected an additional \$4.2 million due to excise tax examinations and accepted approximately \$1.6 million in penalties, interest, and offers to compromise taxes due for unpaid or underpaid taxes, and offers-in-compromise for other violations, such as record keeping violations.

Additionally, in fiscal year 2001, ATF opened 77 alcohol and tobacco diversion investigations. Seizures of alcohol and tobacco monies and real property involved in criminal violations totaled over \$1.8 million. Alcohol diversion investigations in fiscal year 2001 resulted in 10 cases with 16 defendants being recommended for prosecution. Tobacco cases referred for prosecution were 20 with 37 defendants being recommended for prosecution. There were 39 convictions recorded as a result of these criminal prosecutions. Several members of organized crime groups were successfully prosecuted for alcohol and tobacco related criminal activity.

During 2001 and 2002, ATF mailed informational notices and floor stock tax returns to over 307,000 sellers of cigarettes for floor stock taxes that are due in April 2002. To date, we have collected over \$980,000 in floor stocks taxes.

In August of 2001, ATF's Strategic Leadership Team approved a proposal to establish a new "Tax Audit Division" within the Office of Alcohol and Tobacco. This new division will, when fully implemented, assume responsibility for field audits of excise taxpayers with annual tax liability over \$250,000. This organizational change is intended to address concerns over decline in field audit activity in recent years and to ensure adherence to audit standards in the work performed. Much of the decline in audit activity is the result of redirecting inspector resources to firearms and explosives programs. ATF believes that an effective and efficient audit program is in the best interest of both the Government and the industry.

In addition, in fiscal year 2001, ATF instituted a pilot program under Pay.gov. For fiscal year 2001, \$1.9 billion, or 13 percent of all revenue collected by ATF, was through Pay.gov. Based on the collection figures, we estimate a modest increase of our tax collections will be received through the Pay.gov program in fiscal year 2002. ATF is committed to expanding availability of Pay.gov to all excise taxpayers. This

E-gov initiative supports both the Government Paperwork Elimination Act and the President's Management Reform Agenda.

PROTECT THE PUBLIC

*Firearms Regulation*

As of January 2002, there were 103,358 Federal firearms licensees in the U.S. authorized to conduct commerce in firearms. In an effort to ensure firearms industry members fully understand the regulatory requirements of maintaining their license, we conducted 52 seminars for licensees in fiscal year 2001.

ATF's National Firearms Act Branch maintains the National Firearms Registration and Transfer Record (NFRTR), which is the central registry of NFA firearms, such as machineguns, short-barreled rifles, short-barreled shotguns, silencers, and destructive devices. At the end of calendar year 2001, the NFRTR had 1,419,220 items in the registry. ATF searches the NFRTR in support of criminal investigations and regulatory enforcement inspections. The NFA Branch is in the process of imaging and indexing all NFA records back to 1934, which will make it easier to verify the accuracy of the data in the computerized registration system.

Our Firearms and Explosives Imports Branch (FEIB) is responsible for processing all applications for permits to import firearms, ammunition, and other defense articles into the United States, and for maintaining the registry of commercial importers of such articles. In calendar year 2001, FEIB received and processed 16,423 import permit applications, and 300 registration applications.

In fiscal year 2001, ATF inspected approximately 4,000 licensees, resulting in the detection of 6A,675 violations and 1,011 referrals to law enforcement. ATF also inspected approximately 5,500 Federal Firearms License (FFL) applicants, resulting in the detection of 182 violations and 184 referrals to law enforcement.

To supplement the general inspections, ATF continues the implemented "focused" inspection policy begun in October 1998, that directs field personnel to select Federal firearms licensees (FFLs) for inspection based on information developed by the Crime Gun Analysis Branch of the NTC. This valuable information provides indicators of possible illegal firearms trafficking.

*Explosives Regulation*

In addition to the inspections of explosives industry members after the September 11 attacks, ATF inspectors carried a considerable workload throughout the year in helping to ensure the lawful storage of explosives materials. In fiscal year 2001, inspectors completed 5,364 full inspections, which encompassed both explosives applications inspections and part of the 9,400 explosives licensees and permittees. They identified and corrected 1,813 violations. In fiscal year 2002 we will direct additional resources to conduct explosives inspections with the goal of achieving a 100 percent inspection rate.

*Alcohol Regulation*

In fiscal year 2001, ATF processed over 81,000 applications for beverage alcohol label approval. This represents a 10 percent increase over the previous year. Twenty percent of these applications were denied approval due to non-compliance with regulatory and statutory requirements. Eighty percent of these applications were processed in 13 days.

ATF also initiated a project to develop and implement electronic submission of applications for label approval via the Internet. This will enhance processing time and efficiency and should increase customer satisfaction. We are holding a series of meetings with industry representatives to explain the system, answer their questions, and listen to their recommendations.

ATF settled 12 cases involving alcohol beverage mislabeling in fiscal year 2001. Most resulted in monetary settlements while one particularly egregious case produced a 45 day suspension of winery operations.

ATF continues to participate in various trade delegations headed up by the United States Trade Representatives' office that relate to global trade in the commodities that we regulate. Through this effort, we assist in improving the conditions for international trade that increases consumer protection and choices with respect to these commodities. Additionally, these improvements in global trade enhance the United States economy and the economies of our trading partners.

We have initiated a number of projects to revise forms and regulations in the plain language style. These changes help to make requirements easier to understand and improve compliance by more effectively communicating legal obligations for industry members.

## BUREAU-WIDE INITIATIVES

*Training for Foreign, Federal, State, and Local Authorities*

ATF continues to assist other Federal, State, and local agencies in their fight against terrorism and violent crime by providing training based on our unique expertise. For example, ATF is the leader in Federal law enforcement when it comes to providing training to thousands of Federal, State, local, and international law enforcement officers in the areas of arson investigation, explosive identification and regulation, firearms trafficking, and post-blast investigations. Sharing ATF expertise, technology and lessons learned helps to prepare America's first responders for preventing, mitigating, and investigating potential terrorist incidents, thus helping in the global fight against terrorism.

I would now like to take a moment to highlight some of the outstanding training we provide.

*Explosives Training*

For the past several years, to protect the Nation's largest airports, the Federal Aviation Administration (FAA) and ATF have teamed together to conduct national Seminars on Terrorism and Explosives (SEMTEX) and field training exercises that better prepare and train aviation, security, and law enforcement personnel in explosive countermeasure techniques. In fiscal year 2001, ATF trained 312 personnel. ATF and FAA are currently updating this curriculum in light of September 11. In fiscal year 2002, 300 additional personnel are expected to be trained.

During fiscal year 2001, we delivered the Advanced Explosives Destruction Techniques (AEDT) course 8 times to approximately 200 students. This has been one of our most successful State and local training programs and is in great demand. The audience for this training is State and local bomb technicians. ATF explosives experts developed this course because more bomb technicians are injured while trying to dispose of recovered explosive materials than performing any other activity, including render safe operations on unknown improvised devices discovered in the field. It is the only training of its kind in the country. To meet the large demand we again have increased the number of courses to be offered this fiscal year to twelve.

During fiscal year 2002, ATF in conjunction with the U.S. Department of Education, will develop a CD-ROM training platform titled Bomb Threat Management and Response. This training CD-ROM will provide a standardized bomb threat management and response template that can be used by school administrators to develop a customized response program for their individual school. This CD-ROM will be completed in April 2002 and distributed to all school districts, local law enforcement offices and ATF offices. It is anticipated that ATF field personnel will be called upon by the school districts to help establish and implement these management and response plans.

*International Training*

Through a continuing partnership with the Department of State, ATF conducted 5 training sessions at various International Law Enforcement Academies (ILEAs). We provided training to 1,031 law enforcement officers from more than 30 countries, including courses on basic and advanced firearms and explosives identification, firearms trafficking, postblast investigation, serial number restoration, and alcohol and tobacco licensing, taxation, and diversion.

*Firearms Training*

In support of the President's Project Safe Neighborhoods (PSN) initiative, ATF has developed a training program that will provide necessary tools and information to all participants. The target audience for this training includes Federal, State, and local line prosecutors, Federal, State, and local investigators, and uniformed police officers and local police department managers. Last month (January), ATF provided an intensive three-day training program in Reno, Nevada to the U.S. Attorney's Office, the Reno Police Department, and other State and County law enforcement and prosecutorial personnel from the area. This training event provided nearly 300 law enforcement officials with training that will enable them to implement the PSN strategy in the Reno, Nevada area and make their community a safer place for all.

Through the National Firearms Examiner Academy (NFEA), ATF developed a unique and innovative training program that has received much acclaim and recognition. This successful program represents a firm partnership between ATF, State and local police departments, and the firearms and ammunition industry. Designed to provide comprehensive training to entry level firearms examiners from State and local crime labs, the NFEA has developed a yearlong training curriculum that has become an all-inclusive benchmark for education in this field. The selection process

is highly competitive and the course work demanding; to date, ATF has graduated 18 examiners. Examiners completing this training are skilled in the ATF NIBIN technology, which greatly enhances the efficiency and effectiveness of ballistics evidence analysis and gun crimes solved.

#### *Arson Training*

ATF and the U.S. Fire Administration (USFA) are redesigning and deploying a web-based system managed by the USFA, entitled "Fire and Explosion Investigation Management System." This system will include information on fires and fire-related explosives incidents that occur nationwide for use by the fire and explosion investigation community. In partnership with the insurance industry, we have finalized the development and begun the distribution of InterFIRE, a virtual reality, CD-ROM-based training tool that is intended to establish "best practices" in fire investigation and bring fire investigators to a base level of knowledge. To date, we have contracted to create and distribute approximately 30,000 CD-ROMs.

To strengthen cooperation between investigators and prosecutors, and to encourage prosecution of cases, ATF provided four Advanced Arson for Prosecutors classes in fiscal year 2001, training 119 prosecutors from across the country.

During fiscal year 2001, two classes were delivered in Advanced Cause and Origin/Courtroom Techniques at the Federal Law Enforcement Training Center. This highly advanced and technical program provided training to 60 students from across the country. These individuals are full-time public safety employees whose workloads are focused primarily upon the investigation of arson-related crimes.

#### *Human Resource Strategies and Accomplishments*

fiscal year 2000 annualization of expanded programs and supplemented by fiscal year 2001, action by the Committee created an intensive hiring effort by ATF this past year. Expansions were made to the IVRS and its component program, YCGII, crime gun tracing and NIBIN. In an effort to backfill positions lost through normal attrition and simultaneously hire hundreds of new personnel, ATF processed 367 gains to the agent rolls, 184 gains to the inspector rolls, and 310 support positions, totaling 861 personnel actions. These efforts supported a 489 net gain to the Bureau's rolls with 291 agents, 153 inspectors, and 45 support personnel. ATF started the year with 4,597 on duty and ended with 5,086. Over 200 new special agents and 148 new inspectors were provided basic training classes at the Federal Law Enforcement Training Center.

ATF completed the second year of a pilot Treasury Demonstration Project for Designated Critical Positions that addresses major recruitment and retention issues. The pilot program, authorized by Congress in 1998, allowed ATF to test new management practices designed to improve our capacity to recruit, develop and retain a workforce of the highest caliber. The project includes a broad banding and pay-for-performance compensation system. Also included are other flexible recruitment and retention options, such as expanded recruitment and relocation bonuses, retention allowances, certification and licensure bonuses, and education supplements. Unlike other demonstration projects, ATF employees were given the option of participating. Approximately 90 percent of the eligible employees (primarily in our scientific and technical occupations) elected to participate in the project.

We are continuing to enhance our pilot flexi-place program for field inspectors that we established last year. Data collected during the implementation of the flexi-place pilot for field inspectors indicates significant interest in continuing the program. Therefore, ATF is preparing to expand the flexi-place pilot project to include bargaining unit employees at ATF Headquarters within the next few months.

#### *Internal Training Activities*

Excellence in performance and programs requires continuous training and development, and the Bureau is committed to fully developing the individual and collective skills of its employees. ATF provides high quality, innovative training programs, thus improving individual and organization performance in support of ATF's Strategic Plan.

In fiscal year 2001, ATF provided nearly 9,000 training sessions for ATF personnel. ATF provided basic training to 212 agents and 148 inspectors through the New Professional Training program (NPT). The New Professional Training Program is designed to provide a uniform approach to the training and development of new ATF employees. Training initiatives enhance employee development and performance in a variety of technical training programs, which seek to expand the base of employee knowledge and improve skills regarding ATF's roles, missions, and capabilities. In much of the technical training provided, there are either pre-tests for admission or academic requirements for graduation. In addition, lessons on ethics and

integrity, customer service, teamwork, and accountability to the American public are woven into many of the training programs.

*Physical Security and Safety Program Focus*

Although we have always treated the safety and security of our employees and assets as high priority concerns, the events of September 11 and subsequent events increased both our sensitivity to the risks that confront us and our efforts to enhance protection and responsiveness. Our multi-faceted response to terrorist threats included and continues to include a range of activities. We have re-evaluated our physical security program throughout the Bureau and have already begun addressing areas in which we see room for improvement. Working both as an individual bureau and as part of a Treasury-wide effort, we have enhanced our emergency management efforts by updating our Continuity of Operations plans, establishing an Emergency Management Operation Center, improving employee understanding of evacuation and relocation plans, and upgrading the functionality of our relocation sites.

To prevent job-related injuries and illnesses, we acquired respiratory protection equipment for all special agents and other employees who may be exposed to hazardous materials. We made substantial progress on an ATF hazardous material protection directive that addresses a wide range of issues including use of respiratory equipment, training, physical requirements, and medical monitoring of individuals who have had exposures. The various components of our hazardous materials protection program are of vital importance to ATF because of our responsibilities in investigating arsons and because of the risk of chemical and biological exposures during investigations of terrorist activities. That directive will be issued in the first half of fiscal year 2002. Through information dissemination and training, we have educated our employees so they may identify and properly handle any potential threat that may be present in the large volume of packages and documents we receive. In addition, we have implemented special mail handling and routing procedures to minimize the possibility of exposure to biological and chemical threats.

CRITICAL INFRASTRUCTURE PROJECTS

*New Headquarters Facility*

Today, a new site for the permanent home of the Bureau of Alcohol, Tobacco and Firearms is a reality. With the unwavering support of this body, ATF and GSA made significant progress in fiscal year 2001 towards relocation of ATF to a safer and more secure headquarters for its workforce and mission. Our new headquarters is being heralded as having one of the most significant design concepts for a Federal office building located in a major urban center. Building construction for the new ATF headquarters will begin in January 2003. Accordingly, in our fiscal year 2003 budget, we are requesting \$10.7 million to fund our project involvement with GSA, which includes reimbursable agency construction items, and a state-of-the-art technology and security infrastructure and construction process. ATF will remain a full partner to GSA for daily management and coordination activities throughout the construction project. Strategies to provide the best opportunity for cost controls and savings are being incorporated at each juncture. ATF plans to occupy this landmark facility in the second quarter of fiscal year 2005.

*New National Laboratory Center*

The ATF National Laboratories provide service for the domestic war on terrorism through our expertise in investigating and analyzing evidence related to firearms, explosives and arson crimes. ATF is grateful our scientific operations and national forensic investigation programs will soon be carried out in a new ATF National Laboratory Center facility. During 2001, enormous strides were made on this project. By the end of the fiscal year, we were 60 percent complete with site and construction, major mechanical systems on site to be installed. Today, the interior systems are being prepared and technology infrastructure and wiring are about to begin. ATF will move from its outdated Rockville laboratory to the new facility by December of this year. We are excited to have the opportunity to advance our mission and provide even greater capabilities in identifying criminals and collecting revenue. Important breakthroughs in facilities engineering during the design of the Fire Research Center of the new National Laboratory will allow ATF to test and gather scientific data from reconstructed fire scenes as large as a two-story town house. The fire science and arson investigation communities will greatly benefit from the work of the Fire Research Center. As members of the Committee are aware, costs for the project went beyond what was anticipated. ATF is grateful for the support received through fiscal year 2001 reprogramming and Treasury commitments, and we are



confident these investments are in the very best interest of the law enforcement, the science community, and the citizens we protect.

*Expansion and Renovation of Martinsburg Facility*

Renovation of the Martinsburg facility is a 10-month construction effort projected to begin on June 1, 2002. We believe that we will be able to begin relocation of the Tracing Center prior to final completion of the construction as individual areas in the building are completed. If there are no delays in the construction, it should be completed by March 31, 2003. Complete relocation of ATF'S National Tracing Center will follow immediately. The Committee's support of this facility is greatly appreciated.

PRESIDENT'S MANAGEMENT AGENDA

*Information Technology*

We continue to place the best available technology into the hands of each ATF employee, enabling us to work more efficiently and to achieve our strategic goals. In August 2001, we began our first seat management equipment refresh cycle, which will replace about 6,500 ATF desktop and laptop computers under our Seat Management contract. We will complete the nation-wide replacement by mid-March 2002. We continue to lead the Federal Government in outsourcing our end-user-computing support to Unisys Corporation, and in providing the best possible support to the personnel responsible for carrying out the Bureau's missions.

One significant effort we started in May 2001 was the implementation of a disaster recovery system. This system will provide ATF with the ability to run either any mission critical application from a primary or an alternate location. This effort took on a greater significance after the events of September 11. This project is almost complete; we have successfully tested the recovery of all Headquarters mission critical applications at our alternate site in West Virginia.

*Security Measures*

Another significant information technology effort for the Bureau is improving the security posture of all systems. All ATF systems undergo a rigorous certification and accreditation process to ensure risks are assessed and either addressed or mitigated. Internet vulnerabilities are assessed and addressed on a continuing basis. The Bureau has implemented rigorous configuration management and systems development life-cycle processes. These processes ensure that systems in development are designed to be as secure as possible, and that changes to operational systems do not introduce security vulnerabilities. ATF has a documented computer security incident response plan that provides early indication of potential problems and a proactive response to actual problems. Finally, a system auditing capability is being implemented to track detailed user actions in all systems and identify additional potential security issues. We have made remarkable progress in securing our information technology systems over the past year.

*E-Government*

In May 2001, ATF's Strategic Leadership Team approved the formation of an office under the CIO to manage ATF's electronic filing projects and strategies. Using current Internet based technologies; ATF's goal is to provide the necessary tools to permit the 630,000 members of the alcohol, tobacco, firearms and explosives industries to file required forms and reports using secure Internet transactions.

ATF developed a Business Case for fiscal year 2002 and fiscal year 2003 for its E-Government Investment. The fiscal year 2002 Business Case was presented to and endorsed by Treasury's Capital Investment Review Board.

Although the completion of full electronic transactions with external customers relies on integration projects, ATF is developing the following interim solutions:

—*E-COLA*.—Responding to the alcohol beverage industry's request to file Certificates of Label Approval electronically, ATF funded the development of the electronic Certificate of Label Approval system. The system is scheduled to be completed by the end of fiscal year 2002.

—*Firearms Services Technological and Management Enhancements*.—In fiscal year 2001, appropriated funds were earmarked to provide technological and management enhancements to the National Licensing Center, the National Firearms Act Branch, and the Firearms and Explosives Imports Branch. The 2 million earmark was utilized for three significant developments: standardization of all the data elements between the various Services databases, so that all the databases will be consistent and will be able to "speak" to each other; development of retrievable management analytical reports through creation of a metadata layer; and development of a prototype which, after development and

testing, will enable electronic submission (e-filing) of the Imports permit application.

—*Firearms Tracing.*—In fiscal year 2001, web-based tracing capabilities for the Electronic Trace Submission System (ETSS) began a pilot project. Since ETSS saves at least 4 days in the processing time for firearms trace requests, the current phase of the FIT project is developing solutions to expand the system for use by other police agencies.

—*Pay.gov.*—In fiscal year 2000, ATF entered into a partnership with Treasury's Financial Management Service (FMS) to pilot a Government-wide system, called Pay.gov, for conducting financial transactions between agencies and their external customers. Beginning in fiscal year 2001, a limited number of excise taxpayers have participated in filing their excise tax returns and payments through Pay.gov. As of October 1, 2001, \$1.9 billion in tax payments have been processed through this system. In fiscal year 2002, FMS will extend the capabilities of Pay.gov to include a pilot with ATF for filing monthly operating reports submitted by the companies included in the tax return pilot.

—*FFL-EZ Check.*—Responding to a need for firearms licensees to check the license status of purchasers who identify themselves as Federal firearms licensees, ATF developed the FFL-EZ Check system in fiscal year 2000. Currently, the FFL-EZ check system has been accessed over 100,000 times for FFL verification.

#### CONCLUSION

Since the tragic events of September 11, our National priorities and the priorities of our Government institutions appropriately changed. Although it has always been the responsibility of Government to ensure the safety and well being of those we serve, ATF's contribution to these efforts are even more critical. I assure you that ATF is ready to meet the new challenges that lie ahead.

ATF will continue our National effort in combating terrorism and violent crime through effective use of investigative techniques, cutting-edge technology and collaborative sharing of Federal resources with our Federal, State and local law enforcement counterparts. Through judicious management and use of the resources you provide the Bureau will continue to make America sounder and safer by reducing violent crime, collecting revenue, and protecting the public. I would be pleased to answer any questions you may have and I would like to express my sincere appreciation for the support that the Committee has provided us. I look forward to working with the Committee to further our mutual goals of providing the best service to the American people.

## FINANCIAL CRIMES ENFORCEMENT NETWORK

### STATEMENT OF JAMES SLOAN, DIRECTOR

Senator DORGAN. Next, we will hear from the Director of the Financial Crimes Enforcement Network, Mr. James Sloan. Mr. Sloan, you may proceed.

Mr. SLOAN. Thank you, Mr. Chairman, Senator Campbell, Senator Reed. Thanks to all of you for this opportunity to appear today to discuss the Financial Crimes Enforcement Network's fiscal year 2003 budget. We greatly appreciate your ongoing consideration of our needs.

Last year was an important and pivotal year for FinCEN. The tragedy of September 11 brought about a greater demand for our unique network and analytical expertise in the areas of financial crime and terrorist financing. Mr. Chairman, I would like to say how very proud I am of the men and women of FinCEN who, like many of my colleagues you have heard from today throughout Government, are making significant contributions in our Nation's war against terrorism.

My remarks today will briefly summarize our priorities as we move forward to meet our obligations, and thank you for including my entire statement in the record.

### COUNTERTERRORISM INVESTIGATIONS

Today, FinCEN's top priority is supporting counterterrorism investigations. On September 13, because of our unique mission capabilities and our existing infrastructure, we were able to immediately implement several new initiatives and enhance core programs to assist in the investigation of the attacks on the United States.

We directed over 30 percent of our resources to the initial investigation and those efforts included, for instance, the establishment of a 24-hour operations center to coordinate investigative requests and responses, which included enhanced on-site liaison with the FBI's Counterterrorism Center and eventually U.S. Customs' Operation Green Quest. We established a 24-hour, toll-free hotline for financial institutions to report the essence of suspicious transactions that might relate to terrorist activity. We began facilitating multi-agency efforts by temporarily housing the Foreign Terrorist Asset Tracking Center at FinCEN in our secure facility, alongside our own existing interagency task force operations, and by enhancing international cooperative efforts with other Nations' financial intelligence units. In fact, in October of 2001, following the FATF meeting that was earlier discussed, FinCEN hosted a special meeting of the Egmont Group of FIUs on terrorist financing to support the law enforcement investigation in the wake of September 11.

## USA PATRIOT ACT

In addition to FinCEN's immediate responses to September 11, Title III of the USA PATRIOT Act has provided us with new authorities and opportunities to augment our primary mission to support law enforcement. In fact, FinCEN is responsible for implementing over half of the 44 provisions contained in Title III and has a key role in many of the working groups established by the Department of the Treasury to address the other provisions; all of which have various due dates over the next 9 months.

Though we are making good strides in implementing the numerous provisions of the USA PATRIOT Act, I would be remiss if I did not add that the resource implications of the Act cannot be fully estimated at this time, and could be substantial in the years to come. So I would like to thank you and the members of the subcommittee for the timely support you have already provided to FinCEN through the Homeland Security Emergency Supplemental. Your responsiveness is enabling us to meet our immediate increased obligations.

## USE OF INFORMATION TECHNOLOGY

As Director, I can assure you that FinCEN will continue to explore creative ways to effectively leverage resources. In fact, two of our most successful programs for providing Federal, State, and local law enforcement with Bank Secrecy Act data rely heavily on leveraging our resources with cutting-edge information technology. That would include our popular Gateway program. In fact, in fiscal year 2001, we supported a 10 percent increase in investigative requests through that program.

More than 300 Gateway customers now participate in our Secure Outreach Direct Net, which allows them to obtain Bank Secrecy Act data over the Internet in a secure mode. In fact, one of the most useful features of the Gateway program alerts FinCEN that two or more agencies have an interest in the same subject. Last year alone, there were over 1,500 opportunities for FinCEN to connect law enforcement agencies at the State, local, or Federal level with one another because they were inquiring on the same individual.

Besides providing case support to law enforcement, FinCEN continues to provide a unique capability to identify trends, patterns, and national level security issues, disseminate information on money laundering methodologies, and prepare geographic threat assessments associated with money laundering and other financial crimes. We have established a Geographic Financial Crimes Assessment Branch to enhance FinCEN's capacity to produce strategic analysis, threat assessments, and financial lead information.

## FINCEN'S REGULATORY MISSION

FinCEN's regulatory mission that serves as the foundation of our ability to carry out our primary function of providing support to law enforcement investigations was heavily impacted by the USA PATRIOT Act. Although FinCEN was in the process of expanding certain provisions of the Bank Secrecy Act to financial sectors be-

yond depository institutions, the USA PATRIOT Act has accelerated that effort.

We are working closely, for instance, with the securities industry to issue the broker-dealer suspicious activity report rule and recently proposed a casino suspicious activity report rule to ensure that we have fully explained to that industry how the standard for reporting suspicious activity will be applied.

Moreover, as the subcommittee is aware, FinCEN's regulatory program to register and require money services businesses to report suspicious activity has been, and continues to be, a significant undertaking. Today, I am pleased to report that the response of money services businesses has been outstanding. In fact, within 2 weeks of the requirement, over 80 percent of the almost 11,000 money service business principals in the United States that were required to register had, in fact, registered. The efforts are continuing to pay off as FinCEN continues to work with its public relations contractor to continue an outreach effort with the industry through the remainder of the year.

In addition, we are working closely with the Internal Revenue Service's Office of Examination to reinforce and build on this effort to alert all money services businesses to their registration and reporting obligations. And our new MSB website, [www.msb.gov](http://www.msb.gov), provides guidance, forms, and other information to assist the industry in complying with the rules.

In the international arena, FinCEN's steady, persistent efforts to promote global cooperation are another of our success stories. The financial intelligence unit network, which FinCEN has been in the forefront of helping to promote, has grown from a handful in 1995 to the current membership of almost 60 Nations.

#### PREPARED STATEMENT

I once again want to thank the subcommittee for its continued support of FinCEN over the years. Without your support, FinCEN could not have progressed so far or been nearly as effective. We respectfully request your continued support as we work with other Federal agencies to fight terrorism, conduct our core business activities, and implement the USA PATRIOT Act. Thank you.

Senator DORGAN. Thank you, Mr. Sloan.

[The statement follows:]

#### PREPARED STATEMENT OF JAMES F. SLOAN

Mr. Chairman, Senator Campbell, and members of the Subcommittee, thank you for this opportunity to appear before you today to discuss the Financial Crimes Enforcement Network's (FinCEN) fiscal year 2003 budget request. We greatly appreciate your ongoing consideration of our needs.

As everyone knows, the horrific events of September 11 changed our Nation forever. That tragic day also changed FinCEN forever and the demand for FinCEN's services rose exponentially. Mr. Chairman, I would like to say how very proud I am of the men and women of FinCEN, who, like their colleagues throughout the Government, have risen to the challenge and are making significant contributions in our Nation's war against terrorism.

Last year was a pivotal year for FinCEN—the tragedy of September 11 brought about a greater recognition of, and appreciation for, our unique network and analytical expertise in the areas of financial crime and terrorist financing. Moreover, the USA Patriot Act of 2001 codified FinCEN as a bureau and added numerous responsibilities and accelerated deadlines in the regulatory area. In addition, we continued our Money Services Businesses (MSBs) outreach program and implemented the reg-

istration and suspicious activity reporting requirements, effective at the end of last year.

My statement today will elaborate on these and other ways in which FinCEN is supporting the September 11 investigation and carrying out the agency's most immediate obligations under the USA Patriot Act. I will then focus on our fiscal year 2003 budget request and the accomplishments we have achieved in fiscal year 2001.

#### FINCEN'S TOP PRIORITY—SUPPORTING COUNTER-TERRORISM INVESTIGATIONS

Prior to the terrorist attacks of September 11, FinCEN's Intelligence Liaison Office had been analyzing Bank Secrecy Act (BSA) information in support of law enforcement investigations into terrorist financing. On September 13, FinCEN's expertise in money laundering and financial crime was recognized and we were requested by law enforcement to provide immediate assistance to the investigation. The agency was well positioned to act quickly to this request. FinCEN's mission and its programs already had been designed to provide exactly the type of comprehensive, interagency information sharing and support that is now needed in this Nation's war against terrorism.

Because of our existing infrastructure, FinCEN was able to immediately implement several new initiatives and enhance core programs to assist in this investigation. With our workforce of less than 300 FinCEN employees, contractors, and detailees, these additional demands placed a significant strain on our ability to perform day-to-day mission-related activities. We directed approximately 30 percent of our resources to the initial investigation and these efforts included:

*Establishing a 24-Hour Operation Center.*—To coordinate investigative requests and responses which included enhanced on-site liaison with the FBI Counter-terrorism Center and the U.S. Customs Service's Operation Green Quest;

*Establishing a Toll-Free, 24-Hour Hotline.*—For financial institutions to report suspicious transactions that might relate to terrorist activity, thus making the information available to law enforcement in real time;

*Facilitating a Multi-Agency Effort.*—Using our specialized tools and secure facility. FinCEN was called upon to make its secure facility available to the Foreign Terrorist Asset Tracking Center (FTAT) as a temporary measure. Aside from logistical assistance provided to the FTAT, FinCEN's importance to FTAT lies in our ability to network agencies having common investigative interests, the information contained in our BSA databases, and in the human and technological expertise used in manipulating financial data to identify relationships between people, places, organizations, and financial transactions; and,

*Enhancing International Cooperation Efforts.*—With other Nations' Financial Intelligence Units (FIUs) to share information and work together on joint analytical projects. These specialized agencies, created by Governments to fight money laundering, first met in 1995 at the Egmont-Arenberg Palace in Belgium. Now known as the Egmont Group, FIUs meet annually to find ways to cooperate, especially in the areas of information exchange, training, and the sharing of expertise. In October 2001, FinCEN hosted a special meeting of the Egmont Group on terrorist financing to support the unprecedented law enforcement investigation in the wake of the events of September 11.

Before I proceed with my statement, I would like to thank you and members of this Subcommittee for the support that was provided to FinCEN in the Homeland Security Emergency Supplemental. The \$1.7 million and 9 FTE gave FinCEN the funding necessary to cover our expanded responsibilities in the wake of the terrorist attacks of September 11.

#### USA PATRIOT ACT OF 2001

Congress recognized the need to expeditiously make additional tools available to law enforcement to fight money laundering and terrorist financing by passing the USA Patriot Act (the Act). On October 26, the President signed this landmark bill into law. Title III of the Act provides FinCEN with new authorities and opportunities to augment our primary mission to support law enforcement investigative efforts and foster interagency cooperation against domestic and international financial crime.

In fact, FinCEN is responsible for implementing 23 of the 44 provisions contained in Title III and also has a key role in many of the working groups established by Treasury to address the other provisions. Fortunately, many of the 23 provisions reaffirmed, and in some cases, codified many programs and initiatives that were already in place or under discussion at FinCEN. Briefly, I would like to provide the Subcommittee with a short summary of the progress FinCEN has made to date on implementing some of these provisions.

## COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING

Section 314 of the Act requires that the Treasury Department promulgate regulations, within 120 days, to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement to share information with financial institutions on individuals, entities, etc., that are reasonably suspected to be engaged in terrorism or money laundering.

On February 25, the Secretary approved an interim final rule immediately implementing information sharing procedures between financial institutions that are designed to enhance the institutions' ability to identify and report to the Federal Government instances of terrorism or money laundering. The interim final rule requires financial institutions that wish to share information with one another to provide a yearly certification to FinCEN, which can be accomplished through our web site. The certification requires participants to protect the confidentiality and security of shared information and use the information solely for identifying and reporting suspected terrorism or money laundering.

At the same time, the Secretary approved the issuance of a notice of proposed rulemaking of a regulation designed to establish a link between Federal law enforcement and financial institutions so that vital information about terrorism and money laundering can be quickly and efficiently exchanged between them. The proposed rule uses the communications resources and networking ability of FinCEN to quickly locate the accounts of persons and entities engaged in such illegal activity. Federal law enforcement will provide the identities of suspected terrorists and money launderers to FinCEN, which will distribute the information to financial institutions to check for accounts and transactions. Any matches found will be immediately transmitted to law enforcement for appropriate follow up. The rule is intended to formalize and streamline the information sharing and reporting process the Federal Government undertook following the attacks of September 11, 2001, by permitting FinCEN to serve as a conduit for information sharing between Federal law enforcement agencies and financial institutions.

*Bureau Status for FinCEN*

Section 361 of the Act establishes FinCEN as a bureau within the U.S. Department of the Treasury. Codification of bureau status also reflects the Congress' recognition that FinCEN is a small but highly effective Government agency that should be put on equal footing with the other Treasury bureaus. FinCEN has now been given full administrative authorities associated with such status. For example, bureau status allows for the acceleration and streamlining of the hiring and procurement process.

*Electronic Filing of BSA Reports*

Section 362 of the Act requires FinCEN to develop a highly secure network to allow financial institutions to file BSA reports and to supply financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny. FinCEN has been working to implement this requirement and has awarded a contract for the prototype and pilot. We expect the pilot program to be completed in late summer.

*Law Enforcement Access to Currency Reports by Non-Financial Businesses (Form 8300)*

Section 365 of the Act requires that the Treasury Department prescribe new regulations for filing currency reports by non-financial businesses with FinCEN. (Before the Patriot Act became law, the Internal Revenue Service (IRS) was required to collect Form 8300 information under Section 6050I of the Internal Revenue Code. This information was considered tax return information and was not readily available to law enforcement.) FinCEN has worked diligently with Treasury to issue these new regulations and on December 20, 2001, an interim rule and a companion notice of proposed rulemaking were issued. As of February 20, FinCEN began receiving the 8300 data from IRS.

Our fiscal year 2003 budget request will allow FinCEN to continue its efforts to support law enforcement investigations to prevent and detect money laundering, terrorist financing, and other financial crimes. We are very appreciative of the Subcommittee's continued support, which has enabled us to construct a cost-effective technological infrastructure. I would like to now discuss in detail our fiscal year 2003 budget request and highlight our accomplishments in fiscal year 2001.

## FISCAL YEAR 2003 BUDGET REQUEST

FinCEN has a unique combination of law enforcement and regulatory responsibilities. As Director, I can assure you that FinCEN will continue to explore creative

ways to effectively leverage its resources. Given the uncertain resource implications of the USA Patriot Act, this approach will be essential to our success.

In fiscal year 2003, FinCEN is requesting \$52,289,000 and 254 full-time equivalents (FTE). This request includes \$1 million and 8 FTE to begin to meet the challenges of the USA Patriot Act. Also included in this request is \$2.1 million to allow FinCEN to continue operations at the current level, and \$400,000 and 8 FTE to provide us with the funding necessary to continue the 17 new positions approved in the Homeland Security Emergency Supplemental. Now I would like to highlight the accomplishments FinCEN has achieved in fiscal year 2001. These milestones would not have been possible without the valuable counsel and funding the Subcommittee has provided to FinCEN over the years.

#### FISCAL YEAR 2001 ACCOMPLISHMENTS

##### SUPPORTING THE FINANCIAL ASPECTS OF INVESTIGATIONS

In fiscal year 2001, Federal, State and local law enforcement officials accessed BSA data directly through FinCEN's popular Gateway and Platform programs to support more than 9,000 investigations. FinCEN analysts used BSA data to support over 4,000 investigations—an increase of 10 percent over fiscal year 2000. I would now like to briefly highlight some of these key programs that serve our principle partners—the law enforcement, regulatory and international communities.

##### *Gateway Program*

One of our flagship programs, the Gateway program, continues to demonstrate its effectiveness in saving investigators time and money because participating agencies can conduct their own research and not rely on the resources of an intermediary agency to obtain financial records. Using the Gateway process, State, local, and, more recently, Federal law enforcement agencies can search records such as Currency Transactions Reports (CTRs), Suspicious Activity Reports (SARs), and Reports of International Transportation of Currency or Monetary Instruments (CMIRs) to aid them in their investigations. Form 8300 is now available to law enforcement through Gateway access.

We are constantly making technological upgrades to Gateway to include enhanced security and monitoring processes. FinCEN audits the Gateway process through both record reviews and on-site visits to ensure that all inquiries are connected to actual or potential criminal violations.

One of the most outstanding and useful features of this system is its “alert” mechanism that automatically alerts FinCEN that two or more agencies have an interest in the same subject. In this way, FinCEN is able to assist Federal, State and local law enforcement agencies in coordinating their investigations among themselves. Last year, there were over 1,500 opportunities for networking investigations that originated from the Gateway inquiries.

Last month, we hosted the Gateway Coordinators Conference to provide an overview of FinCEN and the variety of services available to State and local law enforcement. The conference was attended by 65 coordinators from the U.S. and Puerto Rico, and several gave informative presentations on how Gateway has assisted them in their investigations.

##### *Platform Program*

FinCEN's Platform Program, one of our most valuable law enforcement services, enables Federal agencies to send their representatives to FinCEN to use its databases and receive technical assistance. These individuals know the needs of their organization and can support that need directly through database access. FinCEN pioneered the Platform program in 1994, and it has grown steadily. In fiscal year 1997, Platform had 49 participants. By fiscal year 2001, participation had grown to nearly 80 participants from approximately 40 agencies.

##### *Analytical System for Investigative Support (ASIS)*

Last year we introduced you to ASIS, a case management software system developed by FinCEN that gives Federal, State and local law enforcement officials the ability to make sense of the information they gather through their investigations. FinCEN continues to use ASIS successfully to support major investigations. Immediately after September 11, we used ASIS to check activities surrounding the hijackers, and presented the analytic charts at meetings with the FBI. The ASIS data was a helpful beginning. We have continued to use ASIS to assist the FBI in analyzing the large volumes of data from the National Drug Intelligence Center's Real-Time Analytical Intelligence Database (RAID). Additionally, ASIS has enabled our ana-



lysts to link FinCEN's other databases to RAID data. The linkages reveal connections to other information from financial records such as suspicious activity reports.

#### IDENTIFYING FINANCIAL CRIME TRENDS AND PATTERNS

FinCEN provides a unique capability to identify trends, patterns and national-level security issues, disseminate information on money laundering methodologies, and prepare geographic threat assessments associated with money laundering and other financial crimes.

In fiscal year 2001, FinCEN, in conjunction with the financial, regulatory and law enforcement communities, began publishing a semi-annual report on the use and utility of suspicious activity reporting by financial institutions that includes current money laundering trends and patterns. [The USA Patriot Act, Section 314, mandates FinCEN to report semi-annually on suspicious activity reporting.] FinCEN also disseminated 53 strategic analytical products covering money laundering methodologies, trends and patterns, statistical reports, and geographic threat assessments, including the issuance in June 2001 of the Suspicious Activity Report Bulletin on activity related to phone card businesses. In addition, a Geographic Financial Crimes Threat Assessment Branch was established last year to enhance FinCEN's capability to produce strategic analyses, threat assessments, and financial lead information.

#### ADMINISTERING THE BANK SECRECY ACT

FinCEN's regulatory mission—administering the BSA—serves as the foundation for FinCEN's ability to carry out our primary function of providing support to law enforcement investigations. As such, the strengthening and effectiveness of our regulatory program directly affects the quality and efficiency of FinCEN's efforts to serve its diverse and growing universe of customers. The effective administration of the BSA has been challenging on many fronts—from the development of streamlined internal processes and industry-specific expertise, to the formation of an ever-widening circle of industry, regulatory, and law enforcement partnerships in order to obtain data of immeasurable value to law enforcement. We further challenge ourselves by achieving these goals within the context of two unequivocal standards that influence all that we do at FinCEN—maintaining appropriate privacy safeguards and minimizing burdens on the industry.

Although FinCEN was in the process of expanding certain provisions of the BSA to financial sectors beyond depository institutions, the urgency of this effort has been accelerated by the USA PATRIOT Act, and FinCEN has risen to the challenge. For example, we are working closely with the Securities industry to issue a broker/dealer SAR rule while simultaneously focusing on the MSB program with its extensive outreach component.

In fiscal year 2001, FinCEN continued to work towards expanding its regulatory outreach efforts, responding to over 1,563 telephone inquiries, 129 publication requests, 115 written inquiries, and 91 e-mail inquiries. FinCEN also worked to draft regulations requiring the securities industry to establish programs to detect and report suspicious activity. These draft regulations were issued on December 20, 2001. In addition, FinCEN made tremendous progress in implementing the money services businesses (MSBs) regulations. A short synopsis follows on this progress.

#### *Money Services Businesses (MSBs)*

The term MSBs is used to denote the sub-group of non-bank financial institutions comprised of money transmitters, issuers of traveler's checks or money orders, sellers or redeemers of traveler's checks or money orders, check cashers and currency dealers or exchangers.

As the Subcommittee is aware, FinCEN's regulatory program to register and require MSBs to report SARs has been and continues to be a significant undertaking. The support and funding provided by this Subcommittee has been crucial to the development and implementation of this mandated initiative.

FinCEN, in general, has proceeded very deliberately with its MSB regulatory program. We have taken this approach for a number of reasons: (1) MSBs have not been regulated at the Federal level and therefore it will take time to identify and understand the various MSB sectors and how they operate; (2) many MSBs are small and serve diverse communities making the task of shaping appropriate regulatory programs even more complex; and, finally (3) because of the absence of a Federal regulatory infrastructure, developing a positive working relationship like the one which currently exists between regulators and the depository institutions will take time.

Because the education process is so important, FinCEN had been considering moving the effective dates of the regulations back several months allowing more time to reach out to this community which could number upwards of 200,000 entities versus the smaller universe of approximately 21,000 depository institutions with which we have traditionally worked. Following the attacks of September 11, however, we felt it was imperative that the effective dates remain unchanged. The potential value of the information that MSBs could provide to law enforcement was too significant to delay the implementation of the regulations. As a result, the first regulation requiring the principals of all MSBs to register by December 31, 2001, and the second, requiring money transmitters, issuers and sellers of traveler's checks and money orders and the U.S. Postal Service to report suspicious activity transactions effective January 1, 2002 went into effect on these dates as scheduled.

Fortunately, to ensure that MSBs are familiar with these new requirements and to develop better demographics about who and where many of the smaller, independent MSBs are located, we had already conducted an extensive education program. This effort resulted in an excellent registration response. More than 80 percent of the total known universe of 10,745 MSB principals, required to register, had responded within the first 2 weeks of January and initial SAR filings indicate our efforts are paying off. FinCEN, in conjunction with Burson Marsteller, will continue this outreach effort throughout the coming year.

Finally and importantly, we are working closely with the IRS' Office of Examination to reinforce and build on this effort to alert all MSBs to their registration and reporting obligations. In addition, FinCEN has developed a new dedicated MSB website ([www.msb.gov](http://www.msb.gov)) to provide guidance, forms and other information to assist industry in complying with the rules.

#### FOSTERING INTERNATIONAL COOPERATION

FinCEN's steady, persistent efforts to promote global cooperation are one of this agency's greatest success stories. The financial intelligence unit (FIU) network, which FinCEN has been at the forefront in helping to promote, has grown from a handful in 1995 to the current membership of 58 countries.

In fiscal year 2001, FinCEN coordinated 435 investigative information exchanges with 67 foreign jurisdictions, including support for 114 domestic law enforcement cases. We provided technical assistance to 22 countries to include extensive training courses and review of draft anti-money laundering legislation and hosted visits by law enforcement agencies or diplomatic representatives from over 53 countries. In addition, FinCEN drafted the chapters on the state of anti-money laundering programs in all of the 95 countries included in the State Department's Annual International Narcotics Control Strategy Report. Lastly, FinCEN issued numerous Advisories in conjunction with the Financial Action Task Force (FATF) and the G-7.

#### STRENGTHENING MANAGEMENT SUPPORT

##### *Information Technology*

As the Subcommittee is aware, FinCEN's effectiveness is based upon our emphasis on networking. This "networking" capability is crucial to the fulfillment of our information gathering and sharing mission. The creative use of technology is an essential component to the successful execution of our mission. For example, tools such as the Secure Outreach Network and advances in data mining applications allow FinCEN to strengthen its network capability and produce sophisticated analytical products.

In fiscal year 2001, FinCEN, taking advantage of emerging technologies, significantly expanded the Secure Outreach Network's access capability to BSA data via the Internet. More than 300 Federal, State, and local Gateway customers are now participating in the system that is known as the Secure Outreach Direct-Net. To ensure the widest use of the Secure Outreach Network, FinCEN also has a dial-up capability for those entities without access to the Internet. Over the next year, FinCEN envisions an even greater increase in user participation in this system as we continue to explore and make use of the most efficient technological options.

In our ongoing efforts to explore various data mining techniques, FinCEN recently completed a 90-day pilot program on new, state-of-the-art software for link analysis. We have been extremely encouraged by the results of this pilot and by the end of fiscal year 2003, we plan to incorporate all BSA data into the system.

##### *President's Management Agenda*

FinCEN supports the President's Leadership Initiatives and participates on a number of working groups. As you know, the Treasury Department has outlined

strategies to meet the President's goals for human capital, e-government, competitive sourcing, financial management, and budget/performance integration. FinCEN will perform a self-assessment over the next few months to further refine areas that need improvement. As we move forward to implement the newly acquired administrative authorities granted by bureau status, the strategies mentioned above provide a basis for examining our administrative processes to develop the best mix between in-house services and competitive sourcing with other Federal agencies.

*Lease Renewal*

Lastly, as I discussed with this Subcommittee last year, FinCEN is facing a lease renewal. Our current 10-year lease will end in April 2003 on the space we occupy in Vienna, Virginia. FinCEN has been working over the past year with the General Services Administration (GSA) and they advise us that a competitive solicitation will be issued this spring for a lease renewal, with an award expected in late summer or early fall of this year. In addition to issuing the solicitation, GSA recently completed a security threat assessment of our facility. FinCEN is working with GSA to implement a series of recommendations.

CONCLUSION

On November 7, 2001, FinCEN was greatly honored with a visit by President George W. Bush, Secretary of Treasury Paul O'Neill, Secretary of State Colin Powell, and Attorney General John Ashcroft. The fact that the leaders of our country took time out of their demanding schedules to personally thank the men and women of FinCEN for their contribution to our Nation's war on terrorism was a great tribute to all the hard work of our dedicated employees. In turn, I would like to thank this Subcommittee for its unfailing support of FinCEN over the years. Without such support, FinCEN could not have progressed so far nor been nearly as effective. We respectfully request your continued support as we work with other Federal agencies to fight terrorism, conduct our core business activities, and implement the USA Patriot Act.

Thank you again for this opportunity to appear before this Subcommittee. I would be happy to answer any questions you may have at this time.

## FEDERAL LAW ENFORCEMENT TRAINING CENTER

### STATEMENT OF PAUL HACKENBERRY, ACTING DIRECTOR

Senator DORGAN. Next, we will hear from Mr. Paul Hackenberry, the Acting Director of the Federal Law Enforcement Training Center. Mr. Hackenberry, you may proceed.

Mr. HACKENBERRY. Thank you, Mr. Chairman, Senator Campbell, Senator Reed, members of the subcommittee. I am pleased to be here today to support our appropriations request for fiscal year 2003 and I will keep my remarks brief and submit a longer written statement for the record.

The FLETC has experienced remarkable growth, development, and achievement since it was established in 1970. Over the last 30 years, more than 400,000 law enforcement agents and officers across all branches of Government have now graduated from training conducted at FLETC. I would like to especially thank this committee for their most generous support in funding the consolidated training.

### WORKLOAD INCREASE

The horrific events surrounding the terrorist attacks of last September 11 have brought about the greatest challenge yet for FLETC. During fiscal year 2002, the FLETC is projected to train nearly 50,000 students, resulting in over 200,000 student weeks of training. Those numbers are about double what FLETC had been asked to do previously in any single fiscal year.

The consolidated concept for law enforcement training at FLETC continues to be the most efficient and economical means for delivering this essential service to the law enforcement community and to the Nation. Because of the excellent cooperation with its many partners, we believe FLETC is fully achieving the vision of its founders in this critical undertaking.

### FISCAL YEAR 2003 REQUEST

The Center's fiscal year 2003 request is for a total of \$149,357,000, and with this funding, we anticipate the training objectives of our partner agencies as thus far projected would be met.

### WASHINGTON, D.C. AREA SITE PROGRESS

With regard to the Washington, D.C. site progress, with the funding provided by this committee, excellent progress is being made in the design and development work at the Cheltenham, Maryland, site. A director and core staff to manage the site's conversions have been hired, and in keeping with the direction of Congress, we have placed the highest priority on completion of an in-service academy operation for the U.S. Capitol Police. In February of this year, the Capitol Police began using an interim facility at

Cheltenham and the permanent facility for them is slated for occupancy by September of 2002. We anticipate that the design work will be finished by this summer for all the facilities and construction completed in late 2003.

#### WORKLOAD GROWTH

As a result of September 11, our partner agencies' workload projections have increased significantly, and as previously stated, FLETC is projecting the greatest increase in training requirements in its history. Over the years, the FLETC has experienced a number of periods of sustained growth in the training requests by its partner agencies and we have been able to accommodate most of these increases by being innovative and undertaking extraordinary measures. That is certainly going to be the case in fiscal year 2002 and probably for the foreseeable future.

Even though the training requirements currently scheduled have drastically increased, they may not represent the entire training needs of our partner agencies. Due to facility capacity and agency hiring constraints and issues, the impact of the increased workload will likely be spread over the next several years.

In the emergency supplemental, sufficient funding was provided to allow us to schedule all the projected workload needs identified thus far for fiscal year 2002. The fiscal year 2003 request includes sufficient funding to maintain the same level of training as provided in fiscal year 2002.

#### TRANSPORTATION SECURITY TRAINING

With regard to transportation security training, in October of 2001, the Federal Aviation Administration requested that FLETC undertake training for the newly-expanded Federal Air Marshal program authorized by the administration and Congress. In concert with the FAA, training programs were adapted to provide training for both new hire personnel with previous law enforcement experience and those with no previous law enforcement experience. This training began quickly at the Artesia Center and is expected to continue well into the next fiscal year.

Also, for the last several weeks, FLETC has been engaged in discussions with the Transportation Security Administration officials about other specific training needs. FLETC is helping to design training for airport screeners and train-the-trainer programs for those who will be responsible for delivering this training. FLETC sites would not be the focus of this training because of the heavy requirements for law enforcement training already identified. However, we will continue to consult with TSA and help validate the training given to the screeners.

Finally, with respect to TSA, we are now working closely with them on possible options for training a cadre of law enforcement agents that TSA has under consideration for deployment to the Nation's airports. As this situation becomes clearer and decisions are made, we will keep the committee informed of our role in this development.

## FACILITIES MASTER PLAN STUDY

Mr. Chairman, I would like to comment on the status of the progress that has been made in expanding the FLETC facilities. The funding that this committee has provided over the years in support of our construction plan has positioned FLETC to better meet the surge in training workload requirements experienced after September 11. Prior to the events of that date, the FLETC's plan for construction focused on maximum utilization of the facilities at both Glynco, Georgia, and Artesia, New Mexico.

In the aftermath of the terrorist attacks, the training capacity of FLETC has been pushed to the limit. The development of an updated comprehensive facilities master plan to address the post-September 11 demands is crucial and has been initiated. A contract has been awarded to a private firm experienced in planning activities to complete such a comprehensive study within a year. This study would also include the new site in Cheltenham, Maryland.

## CLOSING REMARKS

Mr. Chairman, FLETC is committed to providing the highest quality law enforcement training at the lowest possible cost. Substantial savings are being realized through the operation of consolidated training sites and we know that the challenge ahead of us may be the most important of all. I look forward to your continued support as FLETC strives to remain a partnership committed to excellence, and I am available to answer any of your questions. Thank you.

## PREPARED STATEMENT

Senator DORGAN. Mr. Hackenberry, thank you very much.  
[The statement follows:]

## PREPARED STATEMENT OF PAUL A. HACKENBERRY

Mr. Chairman, Senator Campbell, and Members of the Subcommittee, I am pleased to be here today to report on the current operations and performance of the Federal Law Enforcement Training Center (FLETC) and to support our appropriations request for fiscal year 2003.

## OPENING REMARKS

The Federal Law Enforcement Training Center (FLETC) has experienced remarkable growth, development and achievement since its establishment in 1970, when a handful of agencies partnered together and created a concept of consolidated training for Federal agencies. Over the years, more than 400,000 law enforcement agents and officers across all branches of Government have now graduated from training conducted at FLETC.

However, the horrific events surrounding the terrorist attacks of last September 11 have brought about the greatest challenge yet for FLETC in its brief 32-year history. During fiscal year 2002, the FLETC is projected to train nearly 50,000 students resulting in over 200,000 student weeks of training. Those numbers are about double what FLETC previously has been asked to do in any single fiscal year.

Mr. Chairman, FLETC will do whatever is required to meet this daunting challenge because we recognize that high quality training is the essential element necessary in preparing law enforcement personnel to assume their enormous responsibilities in these difficult times.

The Department of the Treasury has been the lead agency for the United States Government in providing the administrative oversight and day-to-day direction for the FLETC since its creation. Under the leadership of the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement, the FLETC has received

strong support and active assistance in carrying out its responsibilities. I want to especially thank this Committee for the trust it has continued to place in the FLETC. Throughout our history of service to Federal law enforcement, this Committee has been especially supportive and most generous in its funding of consolidated training. We extend our appreciation and look forward to working with you in the coming years.

The Administration and Congress can be proud of the quality of training being provided at the FLETC and the savings realized through consolidation. The consolidated concept for law enforcement training at the FLETC continues to be the most efficient and economical means for delivering this essential service to the law enforcement community and the Nation. Because of the excellent cooperation of its many partners, we believe the FLETC is fully achieving the vision of its founders in this critical undertaking.

Before I comment on our fiscal year 2003 budget request, I want to acknowledge the leadership of our former Director, W. Ralph Basham. At the end of January 2002, Director Basham left the FLETC to assume a senior position in the newly formed Transportation Security Administration. During Mr. Basham's 4 years at the helm of FLETC, much was achieved. He is a pragmatic and inspiring leader and he gained the respect of all whom came in contact with him. We wish him well in his new endeavors, and believe we will continue to have occasion to work with him on training matters of mutual interest.

#### FISCAL YEAR 2003 REQUEST

Today, I am prepared to discuss the President's fiscal year 2003 budget request. The FLETC's fiscal year 2003 request is for a Salaries & Expenses (S&E) appropriation of \$126,028,000 and 748 FTE, a decrease of \$2,652,000 below the fiscal year 2002 level. Our request for the Acquisition, Construction, Improvements, & Related Expense (ACI&RE) appropriation is for \$23,329,000, a decrease of \$18,605,000 below the fiscal year 2002 appropriation. Most of the decrease in the S&E appropriation is related to one-time, non-recurring, costs such as permanent change of station (PCS) costs for hiring new staff, equipment and furniture costs, and one-time minor construction items funded in the Emergency Supplemental resulting from the September 11 attacks. The decrease in the ACI&RE appropriation is related to construction costs, which do not recur in fiscal year 2003. FLETC supports the President's fiscal year 2003 request, and we anticipate that the training objectives of our partner agencies, as thus far projected, will be met.

Together, the S&E and ACI&RE request totals \$149,357,000 for fiscal year 2003. Coupled with an estimated \$35,000,000 in funds to be reimbursed to the FLETC for training related services by our partner agencies, the total budget for fiscal year 2003 is \$184,357,000.

#### GOVERNMENT PERFORMANCE AND RESULTS ACT (GPRA)

Before providing this Committee with an overview of our operations in more detail, I want to address the progress being made in complying with the requirements of the Government Performance and Results Act (GPRA). As you know, the GPRA requires agencies to publish annual performance plans that are tied to their strategic plans. Performance plans are to include measurable goals which agencies are required to report after a fiscal year is completed. These performance plans are now an integral part of the budget documents sent to the Congress annually.

As noted in the FLETC's testimony last fiscal year, we have revised our performance measures in an effort to more accurately reflect performance indicators and to better align them with the organization's mission. The new measures were baselined in fiscal year 2001 and have now been submitted in this request as our final measures for fiscal year 2002.

There are a total of six proposed performance measures in our budget request for fiscal year 2003. The performance measures proposed for the Law Enforcement Training activity include: (1) results of the student quality of training survey, (2) results of the Partner Organization survey, (3) cost of a student-week of training, and (4) results of the employee satisfaction survey. The performance measures proposed for the Plant Operations activity include: (1) results of the student quality of services survey and (2) the percentage of training classes held within 15 days of the requested start date by the 74 Partner Organizations.

The student quality of services survey and student quality of training survey performance measures are outcome measures. The ratings for student quality of training and student quality of services are based on a percentage of students who answer satisfactory or better to the questions presented in the survey. Both were computed using evaluations completed by students attending FLETC programs.

I am pleased to report that the Center's overall performance against established target goals for fiscal year 2001 was very good. The most critical performance measure in our plan, the student quality of training survey measure, was 99.9 percent. This exceeded the Center's performance plan target goal of 90 percent. The FLETC's training costs were below the cost figure established for the variable unit cost per basic student-week of training. The plan projected a per week cost of \$149 and the actual cost was \$133. The volume of training conducted and the efficient management of facilities scheduling allowed us to realize significant reduction in costs. In the Plant Operations activity, all performance measures were either met or exceeded.

#### FISCAL YEAR 2002 ACHIEVEMENTS

Finally, before I discuss operational areas, I want to report on some of the FLETC's other specific achievements resulting from the appropriations provided by this Committee.

In fiscal year 2002, the FLETC had its second complete audit of its financial records and systems and received another "unqualified opinion" for its operations in fiscal year 2001. We believe this to be significant because FLETC has to interact with so many different agencies on the Federal, State and local and international levels.

At the request of the Department of the Treasury, FLETC has assumed the lead for the establishment of a United States International Law Enforcement Academy (ILEA) operation in Gaborone, Botswana, the first of its kind on the African continent. The academy under the joint direction of the Departments of State, Justice and Treasury, is providing training to law enforcement officers from Nations throughout that region. The in-country program director is a senior FLETC manager, who is overseeing the program management and facility construction, jointly funded by the Government of Botswana and the U.S. State Department.

I want to mention that the FLETC has completed, or will soon complete, the following construction projects in fiscal year 2002. In Artesia, NM, two dormitory buildings, two additional environmentally safe firearms ranges and a classroom building have been completed. An administration building is under construction and will be completed during fiscal year 2003. In Glynco, GA, we will complete renovation of an office building and the auditorium as well as renovation of various smaller facilities, and complete construction of a new anti-terrorism training facility and a new gas training range. This fall, FLETC will open a 600-bed dormitory complex in Glynco that is notable because it is our first build-lease venture with a private corporation in a facility near, but not on, Government property. These new facilities are especially welcome at this time because of the projected huge ramp-up in training requirements for all of our customer agencies.

Finally, I want to note the progress that is being made in the area of accreditation and standardization of Federal law enforcement training. Through seed funding provided by the Department of the Treasury's Asset Forfeiture Fund in fiscal year 2001 and this Committee's appropriation for \$650,000 in fiscal year 2002, a project is fully underway that will improve the training provided all Federal agents and officers. FLETC is working in collaboration with Federal agencies, including the Federal Bureau of Investigation, the Drug Enforcement Administration, the U. S. Postal Inspection Service, private organizations, professional associations, and others, to develop a format to accredit training facilities, instructors and programs and courses provided by every Federal law enforcement organization. When implemented over the next several years, this project may have the most far-reaching impact on the way law enforcement training is conducted at the Federal level since the establishment of consolidated training itself.

#### OVERVIEW OF OPERATIONS

Now Mr. Chairman, I would like to provide the Committee with a brief overview of the operations of the Federal Law Enforcement Training Center.

With few exceptions, the FLETC conducts basic and advanced training for the vast majority of the Federal Government's law enforcement officers. We also provide training for State, local and international law enforcement officers in specialized areas and support the training provided by our partner agencies that is specific to their individual mission needs. In all, there are now more than 200 separate training programs offered through the FLETC and its partners. Twenty-three agencies now maintain training academy operations at Glynco and three are housed at Artesia. These academies provide mission specific training to their agency trainees.

The FLETC provides entry level training programs in basic law enforcement for police officers and criminal investigators, along with advanced training programs in



areas such as marine law enforcement, anti-terrorism, computer forensics, health care fraud, and international banking and money laundering. Training is conducted at the Glynco, Georgia center, the Artesia, New Mexico center, and at a temporary training site in Charleston, South Carolina.

The temporary training site in Charleston was established in fiscal year 1996 to accommodate a large increase in the demand for basic training, particularly, the U.S. Border Patrol (USBP). The training workload increase for the U.S. Border Patrol and other INS training categories is the direct result of prior Administration and Congressional initiatives to control illegal immigration along the United States' borders. That training is expected to reach even higher levels over the next several years.

In addition to the training conducted on-site at the FLETC's residential facilities, some advanced training, particularly that for State, local and international law enforcement, is exported to regional sites to make it more convenient and/or affordable for our customers. At a time when the FLETC residential sites have been stretched to capacity limits to meet increased Federal training requirements, the use of export sites for other types of training has proved highly successful. In utilizing export sites, most of which are local police academies, the FLETC does not incur any capital expenditure obligations.

#### WASHINGTON, DC AREA SITE PROGRESS

Construction activity authorized by Public Law 106-346, enacted by Congress in fiscal year 2001, provided \$30,000,000 for the development of a training site within the Washington, DC area, primarily for short-term requalification training and as a site for in-service U.S. Capitol Police training. Public Law 107-117, enacted by Congress in fiscal year 2002, provided an additional \$8,500,000 toward site development and to accelerate facility construction for the U.S. Capitol Police. The site ultimately selected, following an extensive review of available, surplus Federal sites, was the former naval communications base in Cheltenham, Maryland. Transfer of the 247-acre site by the General Services Administration and the Navy was completed in May 2001 to the FLETC inventory.

Since assuming ownership of the Cheltenham property, excellent progress is being made in design and development work. A site Director and core staff to manage the site conversion work for a law enforcement training center have been hired, an environmental assessment completed, other required studies undertaken and design is now well underway for new and upgraded facilities. Plans call for a completely enclosed and environmentally safe firearms complex, a vehicle training complex for non-emergency, obstacle and pursuit driving and related support facilities. In keeping with the direction of Congress, FLETC has placed the highest priority on completion of an in-service academy operation for the U.S. Capitol Police. In February 2002, the Capitol Police began using an interim facility at Cheltenham that FLETC renovated for them, while a more permanent facility, slated for occupancy by September 2002, is completed. The interim building contains classrooms, offices and support capabilities to train 50-100 officers at any one time. We would like to acknowledge the commitment and assistance the retiring Chief of Police, James Varey, and the Capitol Police Board have rendered in getting this endeavor underway.

We anticipate that design work will be finished by this summer for all facilities and construction completed by late 2003. The District of Columbia Metropolitan Police Department (MPDC) has indicated its intention to transfer funds to FLETC to help defray the cost of the firearms range complex. MPDC is one of the principal agencies specifically incorporated into the legislation as a partner organization at Cheltenham. In total, the FLETC projects more than 50 agencies in the Washington, DC area will receive requalification training at Cheltenham when it is opened.

The Cheltenham project came about as a result of a serious shortfall for over a decade in adequate firearms and driver skills training capabilities in this region, which has one of the highest concentrations of Federal law enforcement officers in the United States. These officers are mandated to receive short-term requalification training on a periodic basis to refresh perishable skills that, left unaddressed, can lead to liability issues.

#### WORKLOAD

During fiscal year 2001, 25,689 students graduated from the Center, representing 106,407 student-weeks of training. This total included 19,435 students who were trained at Glynco, GA; 2,543 students trained at Artesia, NM; 829 students trained at the temporary training site in Charleston, SC; and 2,882 students trained in export programs. There were 10,735 basic students; 11,525 advanced students; 3,151

State and local students, and 278 international students trained providing for an average resident student population (ARSP) of 2,046.

As a result of the September 11th attacks, our partner agencies' workload projections increased significantly. As previously stated, FLETC is projecting the greatest increase in training requirements in its history. In fiscal year 2002, the FLETC will train 49,773 students representing 202,842 student-weeks of training. This total includes 32,377 students to be trained at Glynco; 9,147 students at Artesia; 2,269 students at the temporary site in Charleston; and 5,980 students in export programs. A total of 23,511 basic students; 18,259 advanced students; 6,073 State and local students; and 1,487 international students are projected for a total ARSP of 3,900. Simply stated, this growth is unprecedented.

Over the years, the FLETC has experienced a number of periods of sustained growth in the training requests by its partner agencies and we have been able to accommodate most of these increases by being innovative and undertaking extraordinary measures. That is certainly going to be the case in fiscal year 2002 and probably for the foreseeable future. To meet the training influx, the FLETC has gone to a 6-day workweek at both the Glynco and Artesia centers which provides nearly 36 more training days this fiscal year. By implementing this format, FLETC will be able to accelerate training to get students graduated more quickly and "on the streets." The FLETC realizes that the implementation of the 6-day training week will take a toll on the FLETC and partner agency staff and resources and we will closely monitor and do everything possible to minimize adverse impacts. Even though the training requirements currently scheduled have drastically increased, they may not represent the entire training needs of our partner agencies. Due to facility capacity and agency hiring constraints and issues, the impact of the increased workload will likely be spread over 2 years. In the Emergency Supplemental, Congress has provided sufficient funding to allow the FLETC to schedule all of the projected workload needs identified thus far for fiscal year 2002. The fiscal year 2003 request includes sufficient funding to maintain the same level of training as provided for in fiscal year 2002.

#### TRANSPORTATION SECURITY TRAINING

In October 2001, the Federal Aviation Administration (FAA) requested that FLETC undertake training for the newly expanded Federal Air Marshal (FAM) program authorized by the Administration and Congress. In concert with FAA, training programs were adapted to provide training for both new hire personnel with previous law enforcement experience and those with no previous law enforcement experience. This training started quickly at the Artesia center and is expected to continue into next fiscal year. Over 500 FAMs already are in training, or have graduated from these programs. To supplement FLETC's staff resources, a number of reemployed annuitants are on board to support this training. FAA also has contracted with a private firm to assist in the FAM specialized mission training. Recently, three 727 aircraft were obtained for use in more realistic training scenarios for the FAMs. FAA has agreed to reimburse FLETC for the costs of training tuition, staffing needs, overtime, and special effects equipment.

Also, for the last few weeks FLETC has been engaged in discussions with Transportation Security Administration (TSA) officials about other specific training needs. FLETC is helping to design training for airport screeners and train-the-trainer programs for those who will be responsible for delivering this training. FLETC sites will not be the focus of this training because of the heavy requirements for law enforcement training already identified. However, FLETC will continue to consult with the TSA and to help validate the training given to screeners.

Finally, with respect to TSA, we are now working closely with them on possible options for training a cadre of law enforcement agents that TSA has under consideration for deployment to the Nation's airports. As the situation becomes clearer and decisions are made, we will keep the Committee informed of our role in this development.

#### FACILITIES MASTER PLAN/FIVE YEAR CONSTRUCTION PLAN

Now, Mr. Chairman, I would like to brief you and the Committee on the status of the progress that has been made in expanding the FLETC's facilities. A Master Plan, first presented to Congress in June 1989, was intended to provide for efficient and orderly development of the FLETC's land and facility resources to meet anticipated workload needs through fiscal year 1998. It was a comprehensive blueprint and a guide for expansion of capacities to meet all of the requirements identified at the time to accomplish multi-agency law enforcement training.

Over the years, the original Master Plan was updated to reflect refined cost estimates and to incorporate changes necessary to meet the evolving training needs of our customers.

In fiscal year 1999, due to the U.S. Border Patrol and Immigration and Naturalization Service (INS) projected multi-year hiring and advanced training buildup, the FLETC Master Plan was changed to a 5-year plan to focus exclusively on addressing the FLETC facility capacity constraints. Under this modified plan, \$83,000,000 in new construction at Glynco and Artesia was proposed. Through fiscal year 2002, Congress has appropriated nearly \$53,000,000 for this purpose.

The funding that this Committee has provided over the years in support of our construction plan has positioned the FLETC to better meet the surge in training workload requirements experienced after the September 11 attacks. Prior to the events of that date, the FLETC's plan for construction focused on maximum utilization of facilities at both the Glynco, GA and Artesia, NM sites.

In the aftermath of the terrorist attacks, training capacity at FLETC has been pushed to the limit. The development of an updated, comprehensive, Facilities Master Plan, to address the post-September 11 training demands, is crucial and has been initiated. A contract is being awarded to a private firm, experienced in planning activities, to complete a comprehensive study within about 1 year. This study will also include the new site at Cheltenham, MD.

#### MAINTENANCE AND RENOVATION REQUEST

The FLETC's fiscal year 2003 ACI&RE request of \$23,329,000 will provide funding for all of the cyclical maintenance and up-keep of our permanent sites. The FLETC is not seeking any additional funding for new construction projects this fiscal year, but the funding requested will permit us to continue the renovation of several older facilities in Glynco which need to be brought up to current code and design regulations

#### CLOSING

Mr. Chairman, FLETC is committed to providing the highest quality law enforcement training at the lowest possible cost. Substantial savings are being realized through the operation of consolidated training sites and we know that the challenge ahead of us may be the most important of all. I thank you for your continued support as the FLETC strives to remain a partnership committed to excellence.

I am available to answer any questions you may have concerning this appropriation request.

Senator DORGAN. Senator Campbell?

Senator CAMPBELL. Mr. Chairman, I have got another committee I have got to drop by before we have that briefing at 2:30, so with your permission, I am going to submit questions to several of the gentlemen here at the table and ask for them in writing.

I am particularly interested, Director Buckles, about the expansion of the GREAT program, particularly on Indian reservations, and how you are coordinating with the Bureau. For Director Hackenberry, I am interested in knowing how you are handling that new workload of 5,000 new air marshals that you have to train. But those things, I will submit in writing, and I thank you.

Senator DORGAN. Thank you, Senator Campbell.

Senator REED?

Senator REED. Thank you very much, Mr. Chairman. Again, let me commend all of you for not only your testimony, but for your service to the Nation and also convey that to the men and women who serve with you.

#### EXPLOSIVES PERMITS

Mr. Buckles, given the aftermath of September 11 and the images emanating from the Middle East, we have to be concerned about the use of explosives by terrorists, and your Bureau is on the front lines of this effort to protect Americans from these types of

explosive incidents. In your estimate, how easy would it be today for an individual with violent intentions to obtain commercial or improvised explosives in this country? What kinds of permits are required? Is it difficult?

Mr. BUCKLES. Senator, under current Federal law, it is fairly simple to acquire explosive materials. It requires less of a background check, for example, than is currently required for firearms. Under Federal law, if you have a driver's license, can establish that you have residency in a State, and you complete a form that says you are not a felon and that you are not otherwise disqualified from purchasing explosives, a licensed dealer, at that point, is free to sell you any kind of explosives. Some States have their own laws that require blasters' permits before these can be purchased, but that is not uniform around the country.

Senator REED. I understand that Senators Kohl and Hatch have introduced legislation, the Safe Explosives Act. Are you supportive of that Act and might you elaborate on why you are?

Mr. BUCKLES. Yes, Senator, and we have been working closely with the Administration and the committees to finalize some language on that. Principally, what that statute would do is require that all persons purchasing explosives would have to have a permit. Currently, only purchasers who buy explosives in interstate commerce are required to have a permit. This would require all purchasers to have a permit. To get the permit, there would have to be a background investigation, fingerprints would be submitted, et cetera. Some of the details on how it would work with some limited users and those issues are continuing to be worked out, but we believe that this is important legislation.

Senator REED. Do you have the resources now to actively monitor and implement existing law and the additional law if this Kohl bill is passed?

Mr. BUCKLES. We do not have the resources to enforce the new law, were it to pass, and we have developed some budget projections on that already for people in the Department.

As for today, we currently have about 500 inspectors in the field in ATF, and those inspectors are responsible for the collection of \$14 billion in revenue, monitoring about 100,000 firearms licensees, as well as the current number of Federal explosives licensees and permittees, which is about 9,000. We are very strapped under the current situation to really adequately follow everything we need to be doing in this area.

Senator REED. Thank you, Mr. Buckles.

#### BACKGROUND CHECKS FOR GUN SHOW SALES

Let me turn to another issue, and that is, again, in the wake of September 11 and recent press reports, there have been indications that individuals, some at least allegedly associated with terrorist groups like al Qaeda, like Taliban, like the IRA, have attempted to use gun shows to acquire weapons. In this concept, would you consider a law requiring background checks on all firearms sales at gun shows to be helpful to you in enforcing the laws?

Mr. BUCKLES. Yes, Senator. A couple of years ago, ATF prepared a report on gun shows, in terms of how they operate as part of a larger firearms market in the United States, and we made some

recommendations, at that time, that applying, for example, the background checks that are required of Federal firearms dealers today and requiring those in gun show environments is something that should be done.

Senator REED. Thank you, Mr. Buckles.

#### NATIONAL INSTANT CRIMINAL BACKGROUND CHECK

Let me just ask about one other aspect of this issue. As you indicate, federally licensed firearms dealers must go ahead and institute a background check before a sale is processed. I understand that in your formal testimony, you indicated that the Bureau referred to its field offices over 12,000 "delayed denials" under the National Instant Criminal Background Check system. As I understand it, these delayed denials are situations in which an individual, at least a question comes about their fitness for acquiring the weapon, is that correct?

Mr. BUCKLES. Correct. Under the Brady Law, a decision must be made within 3 days as to whether or not the person is disqualified. If the FBI National Instant Check System does not have final data in 3 days, they continue to search for any information that they come up with. After those 3 days, they will report it to the dealer, and that is what is sometimes called a "delayed denial".

Senator REED. Now, as I understand it, again, from the information I have, of those 12,000 delayed denials, the Bureau has recovered or accounted for about 7,000 firearms. I also understand another 3,000 were found to be ultimately not transferred or the purchase was not prohibited. So this leaves about 2,000 potentially illegal firearms transfers under investigation by the Bureau at this point, is that correct?

Mr. BUCKLES. I believe those are the correct numbers, yes.

Senator REED. And how long do you investigate these delayed denials? I mean, are you working through them or they will be forever in limbo?

Mr. BUCKLES. No, Senator. We give these delayed denials a high priority and continue to work them. As you can see just from the numbers, there are an awful lot of them. The reason they are delayed in finalizing on those is because there are complicated issues about whether or not the person is, in fact, actually convicted and whether or not the firearms have been properly disposed of. But we continue following up on those.

Senator REED. Thank you.

Mr. Chairman, you have been most gracious. Let me turn back my time to you and additional questions, I will direct to the witnesses in writing. But thank you, Mr. Chairman, and thank you, Mr. Buckles, and all of you gentlemen for your efforts. Thank you.

Senator DORGAN. Senator Reed, thank you very much.

Let me begin with you, Mr. Stafford. There has been, I understand, a substantial increase in the number of people in the Federal Government who are provided protection. I know that you will not want to describe the details for me, but can you tell me about the increased workload of the Secret Service for providing protection for those in the executive branch and legislative branch, for that matter?

## INCREASE IN PROTECTIVE DETAILS

Mr. STAFFORD. Yes, I can, Mr. Chairman. Prior to 9/11, we had 17 full-time protectees in addition to a number of foreign heads of state that visit our country.

Senator DORGAN. That 17 is 24 hours a day, 7 days a week protection?

Mr. STAFFORD. That is correct, including the foreign heads of state who visit the country, but these visits are sporadic and normally not for long-term periods of time.

We have gone up to 38 full-time protectees as a result of what happened to us on 9/11. Additionally, as was mentioned earlier, the National Special Security Events have been a drain on our manpower. In January, we had the World Economic Forum in New York with over 40 heads of state visiting our country. It was our responsibility to safeguard their visit. In February, we had the Super Bowl, which was designated a National Special Security Event, and, of course, the Olympics. As I mentioned earlier, the Olympics was enormous with the 900 square miles, 15 venues, and required our presence for over a month. It was very manpower-intensive.

## WORKFORCE RETENTION AND WORKLOAD BALANCING

Senator DORGAN. For the last couple of years, we have provided funding—last year was the third year—in the workforce retention, workload balancing effort that we have had, a 3-year phase-in. We had been seeing a massive quantity of overtime in your agency and so we were trying to phase in something that would remedy that. Does the 2003 budget request provide sufficient funds to fully annualize the new hires that you have received under our initiative?

Mr. STAFFORD. We are in the third phase of that hiring and have been very grateful for the support of this committee. The quality of life issues for the men and women in the Secret Service were very serious 3 years ago. Our people were working, on average, over 80 hours of overtime a month, which was too much.

## OVERTIME

This is the third phase. Prior to 9/11, we saw an improvement in that. We were down to 72 hours. Of course, after 9/11, with the enhancements, we have seen overtime revert to the 80-hour mark. But with the continued hiring, we think we will see that be reduced again. We are going to hire almost 500 people this year, with attrition, and that is a very positive thing for us. The annualization for those people in 2001 and 2002 is not in the 2003 budget, and that is approximately \$27 million.

Senator DORGAN. Mr. Gurulé, can you tell me why that is not in the budget? I think the administration has supported this. The Congress obviously feels strongly about it and has initiated the approach, but why has the administration chosen not to annualize the funding for that?

Mr. GURULÉ. I believe that the funds included in the budget are sufficient to go ahead and cover that particular item. It is something that I would like to talk to Director Stafford about and see if there is something there that can be done to address that. But

it was my understanding that the budget that was submitted was sufficient in that regard, so—

Senator DORGAN. Okay. Well, I will need to understand that at some later date. Either the budget provides sufficient funds to annualize it or it does not.

Mr. GURULÉ. I understand.

Senator DORGAN. That is something we can work on, if our staff can work with your budget folks to understand it. The reason I raise that point is this program was designed for a very specific purpose. We were having trouble with retention, working people to the bone, massive quantities of overtime, and working with Treasury and with Secret Service, we decided to try to do something about it. We put in place a three-phased approach, and if that is going to work, then the cost of that has to be annualized so that we say, yes, now we have phased it in and it is here and here is the funding for it, and the funding is either there or it is not there, and I am not quite sure I understand the answer, but we will work with you to get that answer.

#### NEW YORK FIELD OFFICE RELOCATION

Mr. Stafford, tell us about the relocation of the New York field office at this point. How is that going?

Mr. STAFFORD. It is going slowly. I just came back from New York this morning. I was there all day yesterday visiting with our supervisors in New York and we have moved from Ground Zero. Obviously, we lost our entire office, most of our fleet, and unfortunately, we lost one employee, as you are well aware, and we had a number of injuries.

Some operations moved to Brooklyn. We are finding the commute is becoming a bit cumbersome as well as other difficulties relative to our responsibilities in Manhattan. We are in three different locations now; two temporary locations in Manhattan, the post office in Manhattan, and also at John Jay College. Within the next 3 to 4 months, employees at those two locations will all co-locate at our new office facility in Brooklyn. At that time, I think we will be in much better shape.

Senator DORGAN. Thank you.

#### GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

Mr. Buckles, is the GREAT program funded in this budget?

Mr. BUCKLES. Yes, Senator, it is. There was some question earlier about whether the appropriate language was included in the budget to indicate that. That is the grant authority that would allow us to put out \$13 million in grants. It is my understanding that that issue has been resolved and that the appropriate language is being provided to the committee to ensure that that funding is available.

#### BUSINESS STRATEGY ADJUSTMENT

Senator DORGAN. Mr. Buckles, was the business strategy adjustment your idea?

Mr. BUCKLES. No, Mr. Chairman, it was not.

Senator DORGAN. So what savings do you propose from your budget to cover the \$7.6 million business strategy adjustment?

Mr. BUCKLES. Mr. Chairman, we are going to be looking at an entire range of possibilities in terms of ways to achieve those savings. We do not have the precise plans on what we will do, and one way or another, they will eat into some of our base resources that we are facing. But we are hoping that we can achieve savings in the way in which we are going to go about renting space by trying some innovative ways of housing people. We have a lot of new space issues coming up with the growth we have had over the years, so we are going to try to minimize the cost in that area. We are also looking at other ways in which we can cut down on the expenses without really cutting into the muscle of the agency, but we do not have precise plans on how we are going to meet that entire \$7 million.

#### OFFICE OF HOMELAND SECURITY

Senator DORGAN. Have you placed any reimbursable or non-reimbursable employees within the Office of Homeland Security at this point?

Mr. BUCKLES. No, Chairman, we have not.

Senator DORGAN. Mr. Stafford, have you placed any employees within the Office of Homeland Security?

Mr. STAFFORD. Yes, we have.

Senator DORGAN. Can you tell me how many?

Mr. STAFFORD. Right now, we have two detailees.

Senator DORGAN. Mr. Sloan, have you?

Mr. SLOAN. Mr. Chairman, no, we have not.

Senator DORGAN. Mr. Hackenberry?

Mr. HACKENBERRY. No, sir.

Senator DORGAN. All right. The reason I asked the question is I believe the budget request from the White House for the Office of Homeland Security describes 95 detailees and I am going to try to get a list of where they are coming from, but it sounds like, with the exception of the Secret Service having two, it sounds like they are not coming from this group.

Mr. STAFFORD. Let me correct that. I think we have three.

Senator DORGAN. Three, I am sorry.

So, Mr. Gurulé, this business strategy adjustment, is that yours?

#### BUSINESS STRATEGY ADJUSTMENT

Mr. GURULÉ. No, it is not my idea, but I think it is a good idea, nonetheless, and I think it is based on a very sound principle that attempts to enhance the effective utilization of limited resources. I think that any agency, if it is going to call itself a world class agency, should continue to examine how it does business and pursue ways to enhance the effectiveness of operations and identify programs that are not being effective and are not adding value, and either eliminate those programs or reduce those.

So I think the idea is a sound idea, one that the Bureaus have, I believe, ample time to take; to examine their operations and identify ways, whether through renting space, or whether through looking at travel. I know the Secret Service is looking at ways in which they could reduce travel expenses by making sure that agents are



leaving out of airports in the D.C. area that provide the least cost and housing them together in ways that will reduce cost. So I think we can do it.

Senator DORGAN. Would you recommend that we have the same kind of business strategy adjustment for the Office of Management and Budget?

Mr. GURULÉ. Well, I am not going to speak for OMB. I think it is a sound principle and—

Senator DORGAN. Would it be helpful to them?

Mr. GURULÉ. I think that every agency has an obligation to continue to look for ways in which to conduct their operations in a more effective, the most, maximum effective way.

Senator DORGAN. That is a fair point and I accept it. My only point was that while we do not fund—well, we do fund the Office of Management and Budget and the White House, I noticed that there was no business strategy adjustment for the White House or the Office of Management and Budget. If you make the point that it is an awfully good thing to require everyone to look at how well they are doing and making adjustments, then would you recommend it for the White House and the Office of Management and Budget?

Mr. GURULÉ. I am not going to tell them what to do. The only thing that I would suggest is that with respect to our boss, and I am referring to Secretary O'Neill, he has been a very successful businessman and I think that the principles that have caused him to realize the kind of success that he has realized in the private sector, he is bringing to the Treasury and we welcome those.

Senator DORGAN. That is a fair point. You answered it well. I just would say that if we suggest this for the White House and OMB, I will tell them that you indicated that it was a good thing for them.

Mr. GURULÉ. I was afraid you were going to take my words and—

Senator DORGAN. Let me amend that. I will not say that you said it was a good thing for them, but if we do it to them, I will say that you said it was a good thing.

Senator DORGAN. That, I think, is technically accurate.

Mr. GURULÉ. Why do we not state it this way, that for any organization to achieve world class status as a world class organization, I think this principle should be adopted and incorporated.

Senator DORGAN. Mr. Gurulé, thank you.

Let me ask Mr. Hackenberry a couple of questions, and then, Mr. Sloan, I have a question or two for you.

#### FEDERAL AIR MARSHAL TRAINING

Mr. Hackenberry, let me ask, where are you going to train air marshals and how many do you envision will be trained over the next 2 years, or what do you know about the training of air marshals at this point?

Mr. HACKENBERRY. Actually, several things. The first is that the air marshal training that is being conducted, for the most part, is being conducted at our facility in Artesia, New Mexico. Post 9/11, very shortly after 9/11, we met with officials from the FAA, prior to the creation of TSA, and developed a training program specifi-

cally for air marshals. Prior to that, there were very few air marshals that were trained on a yearly basis and they went through the regular criminal investigative training program at FLETC-Glynco.

In meeting with the FAA and subsequently with TSA representatives, a specific training program for the air marshals was developed and it is being delivered in Artesia, New Mexico. By July, the end of July this year, we will have trained, or we will have in training, the number of students for the air marshal training program that was mentioned earlier by yourself and by Senator Campbell.

The training is in two phases. One is training for people who come in with former law enforcement experience. That training is brief. It is actually only 1 week long, and that has now been moved to, and is being conducted in, Atlantic City in an FAA facility. For the non-law enforcement new hires, who receive a 5-week basic training program and then a 1-week follow on—

#### TRAINING CAPACITY FOR AIR MARSHALS

Senator DORGAN. And what is your capacity to train at this point? How many can you handle, especially in the second case, without law enforcement training?

Mr. HACKENBERRY. We are about at capacity now. We are handling an overlap of, say, 700 per week at Artesia, New Mexico.

#### TRANSPORTATION SCREENER TRAINING

Senator DORGAN. Let me ask you about baggage screeners. Who will be making the decision, in your judgment, about who will undertake that kind of training?

Mr. HACKENBERRY. As far as baggage screeners, in that they are not law enforcement, our involvement on that was simply to meet with the FAA. We brought in experts from the Secret Service, from FLETC training and from the FAA and looked at a program that the FAA had developed to train the screeners. We had what we call a "curriculum review conference" and reviewed the curriculum content and helped FAA develop the curriculum to train-the-trainers for the screeners.

Then we piloted a program in Glynco, and now we have actually piloted a second program in Glynco to train-the-trainers that the Transportation Security Administration has hired. It is my understanding TSA plans to deploy those trainers to do training across the country, in locations such as Oklahoma City and other places, where facilities are available. This training will be conducted by trainers that have been trained at the initial pilot programs in Glynco and then additional trainers will be trained elsewhere, and that is how they plan to accomplish their goal for screener training.

Senator DORGAN. All right. Mr. Sloan, does your 2003 budget request cover the requirements that you have as a result of the USA PATRIOT Act?

#### FISCAL YEAR 2003 AND THE USA PATRIOT ACT

Mr. SLOAN. Mr. Chairman, the quick answer is yes. As I sit here today on April 17, I am comfortable that, for lack of a better term,

we are keeping our head above water. But as I said in my opening statement, I am not going to be shy about coming forward, either, to the committee, to your staff, and to Treasury if we start to see that balance change in a negative way. But based on what we have proposed and based on what I see in my resource allocations, I am comfortable that we can maintain momentum in those requirements.

Senator DORGAN. Can you describe your relationship with the Office of Homeland Security?

#### COOPERATION WITH OTHER FEDERAL AGENCIES

Mr. SLOAN. We do not have—

Senator DORGAN. Have you had a relationship with them?

Mr. SLOAN. Our relationship with the Office of Homeland Security would typically be through the Office of Enforcement at Treasury. Although I think we have had one person go to a meeting. Other than that, it would be through Enforcement.

Senator DORGAN. Let me ask Mr. Gurulé, then. There was a Los Angeles Times article that I noted, who knows the accuracy of these things, but here is what it said. It said the financial war on terrorism has been hamstrung by turf battles between Federal agencies. Allegedly, Treasury and Justice have opened hundreds of independent investigations, independent of each other, and so on.

First of all, respond to that, because that went out in a press story, and then, second, what kind of cooperation exists at this point between, for example, your agency and the FBI?

Mr. GURULÉ. I am very familiar with that L.A. Times story, and in my opinion, it is riddled with a number of inaccuracies. I am very suspicious of articles where the sources are anonymous and even the agencies that they are working for are not disclosed in the article.

But the short answer is that we are cooperating. In fact, the FBI and Treasury Enforcement are cooperating. In fact, when Operation Green Quest was announced publicly, there was a press conference that was held in October at the Customs Service and Assistant Attorney General Michael Chertoff actually participated in that press conference and voiced his support of Operation Green Quest.

Since then, FBI agents have been assigned to work at Green Quest. Most recently, there have been two that were pulled back and now some additional agents are going to be reassigned, so there was a gap period there where, quite candidly, we did not have FBI agents assigned.

But let me add that I had an opportunity on Thursday of last week to meet with FBI Director Mueller and it was in direct response to the L.A. Times article. Commissioner Vaughn was also present at that meeting. Obviously, Director Mueller was very concerned, as was I, because both of us believe strongly that with respect to the challenge at hand, and that is to combat and defeat global terrorism, we cannot have a situation where agencies are not working closely and sharing information, and if that is the case, I am determined to take whatever appropriate action is necessary with respect to the individuals who are not cooperating.

However, at that meeting, I committed, as I have in the past, to Director Mueller that any information, any investigative information that we have developed, they have access to, unfettered access to, and he committed the same to me.

We have also put in place—this has been in operation for some time—a system and method to resolve conflicts. It is certainly possible that there could be some operational conflicts with an investigation that the FBI is involved in, and so we have that in place to resolve conflicts and ensure that cooperation is what it should be.

Senator DORGAN. Mr. Gurulé, one last question about the business strategy adjustment, if I might. What percent was applied to the BSA, business strategy adjustment?

BUSINESS STRATEGY ADJUSTMENT

Mr. GURULÉ. What percentage is—

Senator DORGAN. What percent of the—

Mr. GURULÉ. It is a very small percent. I do not recall the exact number, but I think it is in the maybe 3 percent, 4 percent range, but I do not have that number right in front of me, but it is a very small percent of the overall figure.

Senator DORGAN. Does anybody in your budget office know that?

Mr. GURULÉ. Excuse me, one-half of 1 percent.

Senator DORGAN. One-half-of-one percent?

Mr. GURULÉ. Yes.

Senator DORGAN. Okay. We are doing a lot of things in the area of defense, Defense Department, national security, homeland security. All of it relates to the same meat and muscle that is necessary to protect this country. In my judgment, we are going to take a look at these budgets. I want to make sure that we have annualized what we have tried to do to give the Secret Service what it needs to retain its people. I want to make sure that we have the muscle in these agencies dealing with counterterrorism, with homeland security.

I do not know whether the business strategy adjustment is good or not. It is arbitrary, and it seems to me that every agency ought to take a look at where it is spending money it ought not spend, and if they cannot find it, we will look for it, we will find it, and we ought to dump that out of the budget, number one.

Number two, we ought to fully fund those things that we know we need to do in these agencies, especially in these days when we talk about homeland security. If we are going to put \$49 million more in the Department of Defense, and it is likely Congress will do that, without a business strategy adjustment, then those agencies that are involved in homeland defense need to have the same muscle and the same investment that we do with respect to the Defense Department.

So we are going to take a hard look at all of these things and evaluate what needs to be done to annualize the things that we have tried to do to strengthen all of these agencies. We are not interested in wasting money. We are very interested in investing in this country's strength.

I worry, as I believe does Governor Ridge, the President, and others, that, God forbid, there could be another terrorist act committed

in this country. Terrorists would love to commit a terrorist act in this country again and kill additional Americans. Your agencies are part of the critical agencies that need to work together to make sure that does not happen. We have, knock on wood, been successful since September 11. It is not as if they have not tried, but a number of terrorist threats have been thwarted through the good work of a lot of dedicated Federal agents and law enforcement personnel and others, both Federal, State, and local.

But my point is, this issue of homeland defense is critically important because this war is not just waged on foreign soil. This war exists here, as well, and it is a defensive war, and your agencies, the success of your agencies will depend a lot on whether we see future terrorist acts foiled or whether they actually occur in this country, and so I want the investment to be made to make sure that your agencies can tell me that you have got what you need to do the job and the men and women who work for you in the middle of the day and the middle of the night have what they need to do the job, as well, to defend this country.

#### ADDITIONAL COMMITTEE QUESTIONS

So having said all that, I appreciate your testimony. This subcommittee will meet tomorrow at 2:30 in this same room to discuss the 2003 budget request for the United States Customs Service. Mr. Gurulé, you will be back tomorrow. I will have some additional questions for you then, as well.

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

#### QUESTIONS SUBMITTED TO JAMES GURULÉ

#### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

#### FINANCIAL WAR ON TERRORISM

*Question.* An April 7th LA Times article stated that the financial war on terrorism has been "hamstrung" by turf battles between Federal agencies. In fact, recently we learned that the FBI pulled out of Operation Green Quest. Allegedly Treasury and Justice have opened hundreds of investigations independent of each other. Undersecretary Gurulé was quoted as saying that the groups perform important but separate functions. Mr. Gurulé states that Treasury pursues broader financial investigations while the FBI pursues September 11 activity.

What is the current status of the disparate financial investigations?

*Answer.* The Departments of Justice and Treasury continue to work closely to investigate terrorist financing networks. Since its inception in October 2001, Operation Green Quest has initiated approximately 300 investigations targeting the finances of terrorist organizations and their infrastructure. Many of these investigations have been developed independently by Green Quest or referred by various sources; however, those cases that appear to crossover with FBI investigations are coordinated at either the headquarters or field level. We have established a mechanism at the departmental level to resolve any disputes and coordinate overarching policies and activities. These investigations often complement one another, and there is a need for all agencies with relevant expertise to bring their assets to bear on this campaign against terrorist financing. In addition, the activities of the law enforcement agencies dealing with terrorist financing are coordinated as part of the larger U.S. strategy in the inter-agency context.

*Question.* Are they truly separate, and if so is there any coordination?

*Answer.* There are separate task forces that utilize expertise from various parts of the Government devoted to the task of fighting terrorist financing. As mentioned above, Operation Green Quest has generated and is pursuing a number of investigations that target terrorist financing. These cases, as well as those that crossover

with current FBI investigations are coordinated at the headquarters and field level to ensure case coordination. The FBI-led Financial Review Group (FRG) originally began as an arm of the September 11 investigation but has since expanded its mission to include investigation of terrorist financing cases generally. Treasury Bureaus, including Customs, IRS-CI, ATF, FinCEN, and OFAC have been committed to the FRG since its inception and have provided invaluable resources and expertise to the FRG's efforts. There are currently representatives from all the relevant bureaus at the FRG. In addition, Treasury participates fully in the inter-agency Joint Terrorism Task Forces as well as the various High Intensity Money Laundering and Related Financial Crimes Areas (HIFCAs). The FBI also participates in Operation Green Quest, and the DOJ has committed attorneys to Green Quest's efforts. In general, there is good coordination and cooperation, but we are always striving to improve our overall U.S. Government efforts in this area.

*Question.* Is Treasury denying the FBI access to Treasury's financial information and is the FBI doing the same to Treasury?

*Answer.* The question appears to stem from a false and uninformed allegation in a recent LA Times article. The Treasury does not deny FBI access to any information it obtains. In fact, information sharing in this unprecedented law enforcement and intelligence endeavor, thanks in large part to provisions of the USA PATRIOT Act, has been very good. Operation Green Quest and the FBI are working together on several major investigations. Information, to include financial data, is routinely exchanged in the pursuit of these cases, and information is constantly being shared among the intelligence and law enforcement communities.

The allegation in the article stems from a misunderstanding of how "blocked" documents, those that have been blocked but not seized because of a designation made by the Office of Foreign Assets Control, can be reviewed by the U.S. Government. In cases where documents have been blocked, a search warrant, subpoena, or consent of the owner must be obtained to actually read the contents of the documents. Thus, the alleged "denial" of information set forth in the article was simply a reflection that no agency had access to the documents for purposes of reading or searching them.

#### TREASURY COUNTERTERRORISM FUND

*Question.* The CT Fund was first appropriated in fiscal year 1997 as a central fund to reimburse any Treasury organization for the costs of providing support to counter, investigate, or prosecute terrorism, including payment of rewards in connection with these activities.

The President's fiscal year 2003 Budget proposes to transform the Counterterrorism Fund under the Department of Treasury into a reimbursable account for any agency in the Federal Government for its role in a National Special Security Event (NSSE). Congress has cautioned the Administration on the use of this fund to pay for events such as the Olympics and other NSSEs. Is it your intention that these Treasury funds be used to reimburse any agency for its participation in these events?

*Answer.* The Counterterrorism Fund is available to provide funding for unanticipated costs associated with support to counter, investigate, or prosecute domestic or international terrorism. Also, the Fund can be used to re-establish the operational capability of an office, facility, or other property damaged or destroyed as a consequence of any unexpected domestic or international terrorism act. NSSEs are expensive and unpredictable, and the Counterterrorism Fund has been a ready source of funding that enables us to carry out our mission even in the instances when we need to reimburse other agencies.

*Question.* Aren't you concerned that this fund will be depleted by planned activities that should be budgeted for by the affected agencies, rather than unforeseen events that will require the involvement of agencies within the Department of Treasury?

*Answer.* We are not particularly concerned that this fund will be depleted by planned activities largely due to senior Departmental oversight in the fund's administration.

#### BUSINESS STRATEGY ADJUSTMENT

*Question.* The Secretary of the Treasury mandated that all of its subordinate agencies plan for a "business strategy adjustment." This represents an attempt to force the agencies to realize savings through economies of purchases and contracts, etc. The effect, however, is a cut in Agency budgets in real dollars. For example, U.S. Customs faces an approximate \$18 million dollar adjustment. Similarly, U.S. Secret Service faces a \$6.8 million cut.

How does the Secretary reconcile the very real needs of his law enforcement bureaus with a business model more appropriate to ALCOA than to an agency protecting the American public?

Answer. The Secretary would not view a distinction between a highly productive corporate business model and a Treasury enforcement bureau striving for greater success. While it is true that Treasury has historically been a labor-intensive group of bureaus, the experience of some of them, including IRS and the Bureau of the Public Debt, demonstrates that continued productivity improvements are both possible and necessary.

Treasury's enforcement mission, given even greater urgency within the homeland security context, will need to draw on every facet of American ingenuity and creativity to meet that challenge. This requires constant improvement in labor force productivity, using a combination of technology and better management. An example of this is the Customs Service Container Security Initiative (CSI). The CSI would secure an indispensable, but vulnerable, link in the chain of global trade: the oceangoing sea container. Ensuring the security of the maritime trade system is essential, given that approximately 90 percent of the world's cargo moves by container. This initiative consists of four core elements: (1) establishing criteria to identify high-risk containers; (2) pre-screening those containers identified as high-risk before they leave the port of origin; (3) using technology to quickly pre-screen high-risk containers; and (4) developing and using smart and secure containers. Customs has already rolled this initiative out at three Canadian seaports and they are actively engaging other large overseas seaports, and working with the foreign governments within which those large international ports are located, to cooperatively develop a program to implement the four key elements of the CSI.

Thus, the recurring cost of labor-intensive efforts will be coupled with technology investments and smarter management to increase efficiencies and enhance the level and degree of scrutiny for various ports of entry. Rather than just accepting the conventional wisdom that, without a vast influx of new human resources, there is an unavoidable trade-off between efficiency and security, this new endeavor is an improvement in both. When we are at our best—both in Government and in the private sector—we can accomplish anything we set our mind to. Dramatic increases in labor productivity are responsible for an American economy that is the envy of the world. So also, that same quest for productivity improvement will be critical for Treasury enforcement bureaus to achieve the best outcome at the lowest cost to the American taxpayer.

#### OFFICE OF HOMELAND SECURITY

*Question.* We have been briefed that there was no Treasury Departmental Offices interface with Governor Ridge's staff at the Office of Homeland Security during the fiscal year 2003 budget process. In fact OMB was the liaison on behalf of the Department for resources. Partly as a consequence, Treasury only received a \$518 million pass-back for CT efforts although \$1 Billion was required and requested. On the other hand, the Administration proposes funding DOJ significantly more than that, and in real dollars, (NOT through a proposed user fee/tax). This is has been an annual sore point between the Treasury law enforcement agencies and those at Justice.

Now that Governor Ridge is coordinating between those Departments and agencies involved in Homeland Defense, what efforts are being made to properly advocate Treasury's needs in funding for Homeland Defense?

Answer. I have always considered, and will continue to consider, our Nation's security needs, as a high priority, when determining the allocation of bureau resources for Homeland Defense. I will also continue to serve as an advocate for the bureaus and continue to work closely with the Office of Homeland Security. Furthermore, I will continue to work closely with each of the law enforcement bureaus to achieve and maintain a World Class organization, to ensure the connection between Homeland Defense resources and results.

*Question.* Are your needs being met by the Administration?

Answer. Yes. The Office of Enforcement will continue to work with the Office of Homeland Security during the fiscal year 2004 budget process, to ensure that limited Federal resources are spent wisely, to obtain the best results for the investments made. However, any additional tools that the Treasury Department determines may be needed will be fully considered in coordination with OMB.

#### JOINT BORDER AGENCY

*Question.* There has been considerable discussion within the administration, on Capitol Hill, and in the press about creating some sort of joint border agency. This

could involve combining Customs with some elements of INS, and possibly other agencies (FEMA/Coast Guard).

Do you support such a plan?

Answer. Homeland security is a top priority for the President and the entire Cabinet. The Administration is engaged in a full review of options to ensure that all homeland security resources are deployed in the most effective way possible. The Treasury Department works with the Office of Homeland Security to ensure that the best advice and a full range of options are available to the President. I will encourage the implementation of any plan that best supports strong border enforcement and an efficient flow of cross border commerce.

*Question.* If this were to happen, under which Department do you see this new agency being placed or should it become a new, stand-alone Department?

Answer. As noted in the above question, the Administration is engaged in a full review of options to ensure that all homeland security resources are deployed in the most effective way possible. The Office of Homeland Security has submitted a border security proposal to the President for his consideration. The White House has indicated the President will make his decision after a full review.

*Question.* How would the revenue generating responsibilities of Customs fit in with such a plan?

Answer. A specific border agency configuration has not yet been determined. The issue you raise is under review by the Office of Homeland Security.

#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* Almost immediately following September 11, the Financial Crimes Enforcement Network—FinCEN—went into action to begin to trace the funds utilized by the terrorists who attacked our Nation. Then, the Office of Foreign Assets Control took steps to freeze those assets.

I know that you have a particular interest in this function. I would be interested in learning how that effort is going.

Answer. In keeping with its mission to support law enforcement, FinCEN applies leading edge technologies to analyze Bank Secrecy Act and law enforcement data as well as information from other sources to assist law enforcement in following and identifying the financial aspects of an investigation. Law enforcement agencies use the information that FinCEN provides according to their respective missions. In the case of the Office of Foreign Assets Control (OFAC), the information is used to help OFAC identify and build its asset freezing cases. Post 9/11, FinCEN has been responding on an expedited basis as required to related case requests from OFAC.

The April 7 edition of the Los Angeles Times carried a very disturbing article which began with the following sentence, and I quote: “The U.S. Government’s much-touted financial war on terrorism has been hamstrung by bitter turf battles among Federal agencies, questionable evidence against targeted Middle Eastern groups and a lack of cooperation by foreign allies, senior government officials said.” The article goes on to say that the Departments of the Treasury and Justice have established parallel and oftentimes conflicting programs which has led to confusion among law enforcement and intelligence agencies both here and abroad.

*Question.* I would be interested in knowing your view of this article and, if the allegation of infighting is even a little bit accurate, what actions you have taken to make sure that components of this one Government work together for a common goal.

Answer. The article, named “Crackdown on Terror Funding is Questioned,” contained several inaccuracies about the Administration’s efforts to disrupt terrorist financing worldwide. First, no agency can unilaterally designate an individual or organization as a terrorist financier without the unanimous approval of every participant in the inter-agency task force made up of the Treasury Department, the State Department, the Justice Department, the FBI and the CIA. Treasury and Justice Department lawyers assess the sufficiency of the evidence before we move forward on any name.

Second, the article claims that the U.S. Customs Service with the Treasury Department has removed its two agents who were detailed to the FBI’s Financial Review Group. This is untrue—one agent was recently promoted and another is working off-site as per his duties within the Financial Review Group. Similarly, Operation Green Quest has enjoyed the support of the Justice Department from day one, when Assistant Attorney General Michael Chertoff joined Treasury at a news conference in welcoming its creation.

Finally, the story makes assertions about information sharing that are simply ignorant of the law. The Treasury Department cannot turn over “blocked” documents



to any law enforcement agency, including the FBI, unless the law enforcement agency obtains either consent, a search warrant, or a subpoena to review the contents of the blocked documents. The article failed to recognize the distinction between "blocked" documents and seized documents. Clearly, it is crucial that all our efforts remain well within the law to respect the parameters of the law and to protect the integrity of investigations.

The Department of Treasury and the Department of Justice have worked closely together, with the State Department, the intelligence community and others, to track and block terrorist funding. Specifically, all the entities I've mentioned participate on a weekly if not daily basis in the fight against Terrorist Financing. The financial front on the war on terrorism, while quite different from the military or humanitarian fronts, requires continued cooperation to ensure success. To date, we have received such cooperation and look forward to continued success.

In mid-November of last year the Treasury Inspector General issued a report which outlined the results of their audit of the performance measures for the Treasury law enforcement program. Unfortunately, due to the fact that most of our mail has been significantly delayed due to the bio-terrorism attack on the Hill, we just received that report. I am pleased to note that your Office of Enforcement generally concurred with the findings, and that you planned to take corrective action.

*Question.* Agencies are to include copies of their performance plans with the budget request every year. Were you able to include any of your planned corrective actions in the plans we received in February of this year?

*Answer.* While the IG's report did identify areas for improvement, I believe more importantly it indicated that there are "difficulties inherent in designing a clear and complete set of outcome-related performance measures for Federal law enforcement." The IG agreed that it will take quite some time to develop a good set of performance measures. Still, we are taking action to implement the recommendations included in the report. However, due to the timing of its release (when our bureaus were finalizing their fiscal year 2002 performance plans), along with the inherent challenges involved in developing effective performance measures, the planned corrective actions that we submitted to the IG will be implemented in fiscal year 2003 and fiscal year 2004 performance plans.

Specifically, we are working hard to develop good outcome measures as recommended by the IG. As an example, the Attorney General instructed the Drug Enforcement Administration (DEA) to develop drug flow models for the four major drugs (heroin, cocaine, marijuana, and methamphetamine) by the end of the year. Treasury representatives, along with other Federal law enforcement organizations, recently attended a meeting hosted by DEA to discuss a process to develop drug flow models for the four major drugs.

Also, as recommended by the IG's report, the Office of Enforcement will continue to work closely with the Department of Justice, DEA, the Office of National Drug Control Policy, and the Federal law enforcement community to develop drug flow models and to improve drug interdiction and drug investigation performance measures. An example of this partnership is the fact that Treasury and Justice are in the process of developing an outcome measure for the Organized Crime Drug Enforcement Task Forces that would measure disruption and dismantling of drug trafficking organizations.

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#### QUESTIONS SUBMITTED TO BRIAN L. STAFFORD

##### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

###### WORKFORCE RETENTION—ANNUALIZATION OF NEW HIRES

*Question.* In fiscal year 2002, we provided funding for the 3rd year of a workforce retention/workload balancing initiative. The events of September 11, however, have further strained your already overworked agents.

Does the fiscal year 2003 budget request provide sufficient funds to fully annualize the new hires?

*Answer.* Although the funding to fully cover the annualized cost of this new hiring is not included as an increase in the Secret Service's fiscal year 2003 budget request, the Service is reviewing its options for covering this cost within its base budget.

*Question.* Are you concerned that the Service may again start falling into an overtime-retention cycle?

*Answer.* There should be an improvement in overtime levels when the full complement of agents hired under the re-balancing initiative for fiscal year 2002 (204

agents) are hired, trained and assigned to the field. At the present time the Service is not concerned that we will again fall into an overtime-retention cycle.

#### BUSINESS STRATEGY ADJUSTMENT

*Question.* Secretary O'Neill is requiring that all agencies incur a Business Strategy Adjustment. He feels that every agency can find savings, but all those we asked were absent any ideas that wouldn't affect mission-related activities. He proposed something similar in fiscal year 2002, but this Subcommittee restored the funds for law enforcement agencies. In fiscal year 2003, the BSA for Secret Service totals \$6.824 million.

How do you plan to meet these targets? Hasn't the Secret Service already proved itself to be fairly efficient in achieving savings in areas such as the purchase of airline tickets?

*Answer.* The Service is developing action plans and strategies to set a course for improved management, and to monitor the progress made in improving performance. These efforts extend to improved uses of human capital, better financial management, expanded use of technology, and competitive sourcing of appropriate business lines.

The improvement of current business processes has been made a priority in the Secret Service, as evidenced by the creation of the Logistics Resource Center (LRC). The LRC is just one example of the Service's recent efforts and commitment to promoting fiscal responsibility, and complying with the spirit of implementing new business strategies.

The Secret Service spends millions every year on Government travel-related expenses. The LRC was created last year to review our travel procedures and implement cost effective measures, while enhancing our ability to meet operational needs. The goal of the LRC is to institutionalize a formal structure within the Service that provides for a more efficient operation in the utilization of human resources, scheduling, and travel logistics. The LRC complements the existing joint structure of the Investigations/Protective Operations Manpower section by: implementing a systematic process to produce more informed decision-making; providing a central point to address travel related issues and policy; and most importantly, promoting overall fiscal responsibility and sound financial management practices within the Secret Service, while balancing cost considerations with operational needs.

Ultimately, our success in achieving the savings to offset the \$6.8M business strategy adjustment will depend on our ability to manage current resources efficiently.

#### ELECTRONIC CRIMES TASK FORCE

*Question.* The Secret Service has been involved for some time in the area of investigating computer-related crimes. The USA Patriot Act authorized the establishment of additional task forces.

Are funds included in the President's budget for this purpose? If not, how much additional funding is required to meet the authorized targets?

*Answer.* The Secret Service plans to spend \$21.8 million in fiscal year 2003 to fully implement what is authorized in the USA Patriot Act. Of this total, \$17.2 million will be used to develop a national network of electronic crimes task forces.

*Question.* Also, why is this important to the Secret Service and Homeland Security?

*Answer.* Since the Secret Service was given primary jurisdiction for investigating the counterfeiting of identification documents, and access device fraud, and concurrent jurisdiction for investigating computer fraud, the nature of these financial crimes has expanded to new areas, both geographic and technological. This has resulted from the effects of globalization combined with the information technology revolution. Computers and the Internet are an integral part of an ever-increasing amount of the criminal activity investigated by the Secret Service, either as targets of the criminal activity, tools used in the commission of the crime, or a repository of evidence.

#### PROTECTION OF THE U.S. CURRENCY

*Question.* The Secret Service was initially established by President Abraham Lincoln to protect the Federal currency. When we met last week you discussed your concerns about the use of the dollar as the currency of choice by many other countries.

Please describe your concerns about this and how the creation of overseas Secret Service offices can help protect the dollar.

Answer. When Guatemala's Congress voted on legislation that would pave the way for the dollarization of their economy, that decision made it the third South or Latin American country to do so in less than a year.

When El Salvador announced that it would fix the colon—the local currency—to the U.S. dollar, initial contact by agents in the Miami Field Office with banking and law enforcement officials in El Salvador indicated that most people in El Salvador would not be able to distinguish between a genuine and counterfeit Federal Reserve Note. The Miami Field Office has continued to receive urgent requests from banking and law enforcement contacts to provide assistance with the training of cash handling personnel and forensic specialists.

Ecuador's recent conversion to the U.S. dollar as its base unit of currency has made it vulnerable to the exportation of criminal activity from Colombian organized crime. The Secret Service has seen a sharp increase in the importation, distribution and passing of Colombian-generated counterfeit U.S. dollars since Ecuador formally converted to the U.S. dollar. Ongoing investigations in Colombia reveal that organized criminal groups are operating multiple schemes within their criminal enterprises, and are using the same courier network for both counterfeit and narcotics trafficking.

Currently, there are fifteen (15)<sup>1</sup> other countries and/or territories that have formally adopted the U.S. dollar as their official "coin of the realm." Many other countries have tied the rate of exchange for their internal currencies with the U.S. dollar and are "de facto" dollarized economies, e.g. Argentina. Economists have speculated that all of South and Central America will be dollarized within the next 10 years, with the possible exception of Brazil. It is anticipated that this process will be further expedited by the development and implementation of cash disbursement/payment systems, e.g. ATMs. On the other hand, it is also important to note that the rapid increase of ATMs and electronic transfers may ameliorate this labor-intensive effort.

#### NATIONAL SPECIAL SECURITY EVENTS

*Question.* Your agency has already accomplished the design of and conducted two National Security Special Events (NSSEs) this year—the Winter Olympics in Salt Lake City and the Super Bowl in New Orleans. These events place an additional strain on your personnel.

Has any thought been given to reducing the number of NSSEs each year or to limiting the amount of Secret Service resources going into these events?

Answer. The Secret Service does not designate events as National Special Security Events. The designation process is coordinated by the Office of Homeland Security, with the final determination regarding designation being made by the Secretary of the Treasury and the Attorney General. For an event to be designated as an NSSE, there must be unanimous agreement from the director of Homeland Security, and from the Attorney General and Treasury Secretary.

Since 1998, fourteen events have received designation as National Special Security Events. The number of NSSE's by year is as follows: 1998–1; 1999–2; 2000–4; 2001–4; 2002–3. It is important to note that one event that did receive designation as an NSSE—the IMF/World Bank Fall Meetings scheduled to be held in late September 2001—was canceled as a result of the September 11, 2001 attacks on America.

Each NSSE is unique. The specific resource requirements for events vary due to a number of factors, such as the size and significance of the event, number of attendees, location of the event, and vulnerabilities. After preparing for 14 NSSE's, the Secret Service has developed a cost efficient and effective approach to managing security for major events. However, the events of September 11, 2001 have caused the Service to plan for new and emerging threats. As a result, the resource requirements for NSSE's will continue to be significant for the foreseeable future.

#### NEW YORK FIELD OFFICE RELOCATION

*Question.* The September 11 terrorist attacks destroyed the Secret Service's New York Field Office—including the loss of vehicles and, tragically, one of your men.

How are the efforts progressing to establish a new office and relocate the personnel?

Answer. The General Services Administration (GSA) has acquired office space for the New York Field Office at 335 Adams Street, Brooklyn, N.Y. Currently, per-

<sup>1</sup>El Salvador, Ecuador, Panama, Guam, Marshall Islands, Micronesia, Northern Mariana Islands, Palau, Pitcairn Island, Turks and Caicos Islands, British Virgin Islands, East Timor, Puerto Rico, U.S. Virgin Islands, and American Samoa.

sonnel occupy one of the three floors. This floor requires minimal renovation. The remaining personnel are currently utilizing two temporary office locations in Manhattan.

The GSA is working on finalizing an agreement for obtaining the services of an architect who will begin designing the space relative to the remaining two floors, after which renovation of the space will commence. We anticipate all personnel will be in our new Brooklyn office by the end of December 2002.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* I noted that in fiscal year 2003 the Secret Service will begin gearing up for the 2004 Presidential campaign. You have requested \$1.16 million to lease 120 vehicles late in the fiscal year so that you have enough time to install the necessary communications and emergency equipment. Then, after the election, you will need to remove the equipment and return the vehicles to the rental company.

Why don't you simply purchase the vehicles as part of your normal vehicle-purchase cycle, permanently install the equipment, and continue to use them as part of the Service's fleet after the election?

*Answer.* Historically, the Service has leased vehicles to increase the size of the fleet due to the spike in workload during campaign years. Once the campaign is over these vehicles are returned to the rental company reducing the fleet back to its normal size.

However, following the 2000 campaign the Service purchased 55 of the leased all-terrain vehicles that had been used during the campaign, because they were fully equipped and the Service needed to replace older all-terrain vehicles within its fleet. Had this been done up-front the Service would have realized a savings. As a result, the service has reconsidered the lease vs. purchase issue in regard to campaign vehicles.

Some of your employees have been enticed to join former Secret Service Director John Magaw at the Transportation Security Administration. From what I understand, this is particularly true of the Uniformed Division. When you combine these departures with the number of agents and officers who will be eligible to retire this year and next year, you're looking at a huge number of potential vacancies.

*Question.* What steps are you taking now to try to retain your workforce, and recruit new agents and Uniformed Division Officers? How does the Secret Service go about recruiting agents? How does the Service recruit for the Uniformed Division?

*Answer.* The Secret Service recognizes that retention concerns are closely associated with quality of life issues. Through aggressive recruitment, and the subsequent hiring of additional agents and officers, the Secret Service is achieving increased staffing levels. By increasing the number of agents assigned to Secret Service field offices, the amount of time spent on protection assignments away from home, will ultimately be reduced for each agent. Additionally, the amount of required overtime for agents and officers will be reduced, as the number of assignments is dispersed among a larger work force.

The Secret Service is also deeply concerned that our employees are being lured away by other agencies that offer both better salaries, and other compensations. This situation is particularly acute in our Uniformed Division (UD).

We are currently exploring options within the Department (e.g., "pay banding," recruitment bonuses, and other financial incentives).

The President's budget request for the Secret Service contains new language which would allow training of other Federal law enforcement officers at the James J. Rowley Training Center in Beltsville, Maryland, as well as training of State and local law enforcement and even private sector security officials but on a space-available basis.

*Question.* What is the purpose of this language? Is the Training Center currently under-utilized? Have you had requests from other Federal or State or local law enforcement entities for training at your facility?

*Answer.* The purpose of the proposed language is to allow the Director the discretion to request, not require, reimbursement from other Federal, State and local law enforcement, and from private or foreign entities, for training provided by the Secret Service at the James J. Rowley Training Center. The Secret Service receives numerous requests each year from outside sources for protective and investigative training. These requests are not to be confused with the invitational training sponsored and hosted by the Secret Service during our Dignitary Protection Seminars.

The JJRTC is currently operating at or near full capacity to provide core mission training for our Uniformed Officer and Special Agent basic training classes, and for in-service training provided for current employees. This is the highest priority and

primary mission of the JJRTC. The Secret Service rarely has the opportunity to entertain or satisfy any training requests originating from other agencies. Any opportunity to train or actual training for other agencies would never be done at the expense of our core mission requirements.

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QUESTIONS SUBMITTED TO BRADLEY BUCKLES

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

SHORTFALLS TO THE BUDGET

*Question.* ATF began their budget process with a \$3.6 million shortfall to their MCL's (Maintain Current Levels). OMB provided direction that the \$13 million GREAT Grant Program would no longer be funded out of their base because they deemed it the responsibility of State and local Governments. Therefore, ATF felt they had the necessary flexibility in their budget to cover the \$3.6 million shortfall and the proposed Business Strategy Adjustment (see #2). When asked about GREAT at our ATF budget briefing on their fiscal year 2003 budget, they informed us of the Administration's position on the Program. Knowing that the Senate would reinstate the program, OMB came back and said "no, we never said that and of course the \$13 million is in their base". Now ATF is left with a \$3.6 million shortfall to start off the budget process, which will only be aggravated by the BSA and pay parity.

What savings do you recommend to cover the proposed \$7.6 million business strategy adjustment?

*Answer.* ATF is committed to the Administration's goal of improving business practices and seeking programmatic efficiencies. ATF is currently reviewing how to achieve the savings required by the \$7.6 million business strategy adjustment. ATF will be considering a broad range of possible ways to achieve the required savings, including the re-evaluation of on-going programs to determine whether there may be more efficient and cost effective ways of doing business.

For example, ATF invests a significant amount of resources in the area of space rental. The Bureau is considering some innovative ways of saving or avoiding costs in this area so we can decrease the amount of space required, while still supplying employees with the physical space they need to accomplish their jobs.

Current practice dictates a dedicated office workstation for each employee. As new personnel are added, the standard process calls for either expanding the amount of office space and parking or relocating the entire office to accommodate the increased personnel. It is estimated that increased space and parking requirements resulting from recent increases in Bureau staffing will cost the Bureau approximately \$9 million per year. We are considering an alternative approach utilizing one or more of the following processes:

*Hoteling.*—An individual would not be assigned a specific workstation, but rather would be expected to work the majority of their duty hours (80 percent or more) outside the office. On the occasions where a need exists to come into the office (approximately 20 percent), the individual would call into the office and reserve one of the shared workstations. Upon arrival, the person would move their personal files to the assigned station and work for the required period of time. On their departure the desk would be emptied, files returned to their storage place and the workstation ready to be reassigned the next day. It is anticipated that four workstations could accommodate 10–12 personnel.

*Flexi-place.*—The normal duty station of an individual would be located in their personal residence. The individual would not normally be expected to appear in the office except in infrequent instances for required meetings or individual conversations with management (or other such activities). There would be no dedicated workstation for this individual at the office site. There is no theoretical maximum to the number of persons who could be assigned to a flexi-place arrangement.

*Alternative Worksites.*—In this scenario, an individual would not have an assigned, ATF-controlled office space. If there were a need to occupy a workspace, the person would report to one of the satellite office locations maintained by the General Services Administration (GSA). The individual would report to ATF-controlled office sites only in such instances when their physical presence was required, but would not occupy office space during the visit. It should be noted that there are some limits to the availability of satellite office locations.

*Question.* What would the affect be on your agency if forced to absorb the business strategy adjustment and a 1.5 percent pay raise?

Answer. The estimated cost to fund a 1.5 percent pay raise increment would be \$5.323 million. This would equate to roughly 53 full-time equivalent employees (FTE) if one estimates using a \$100,000 average annual salary. It should be noted that this pay raise estimate has been coordinated with the Department and refined since original draft estimates were provided to the Subcommittee staff.

ATF is committed to the Administration's goal of improving business practices and seeking programmatic efficiencies. However, ATF does not yet have specific plans for how to achieve the savings that would be required by the \$7.6 million business strategy adjustment and an additional \$5.3 million increment in the pay raise. The Bureau will be considering a broad range of possible ways to achieve the required savings, including the re-evaluation of on-going programs to determine whether there may be more efficient and cost effective ways of doing business. ATF would be reluctant to impact staffing levels.

As stated in the response above, ATF invests a significant amount of resources in the area of space rental. We are considering some innovative ways of saving or avoiding costs in this area so we can decrease the amount of space required, while still supplying employees with the physical space they need to accomplish their jobs. We are considering an alternative approach utilizing the concepts of "hoteling," "flexi-place," and alternative worksites.

#### SUPPLEMENTAL FUNDING

*Question.* It is my understanding that your agency has proposed a number of explosives related initiatives to further our efforts in homeland security. I also understand that these proposals were met with resistance by the Administration and were never requested through the fiscal year 2003 budget submission or the recent fiscal year 2002 supplemental request.

Please describe any initiatives that ATF has proposed, the costs associated with these projects, how they will further our efforts in homeland security, and where they stand in the Administration.

Answer. The canine and Joint Terrorism Task Force initiatives were funded through the fiscal year 2002 supplemental request and annualized in the fiscal year 2003 President's Budget request.

#### G.R.E.A.T. GRANT PROGRAM

*Question.* Please describe the status of the grant program in relation to expanding into Native American communities and any involvement in North Dakota.

Answer. There have been 177 Bureau of Indian Affairs (BIA) Officers trained to teach G.R.E.A.T. to the 27,893 Native American students in the program.

In fiscal year 2002 the inter-agency agreement with BIA in support of Native American law enforcement for G.R.E.A.T. is \$200,000. In addition to the inter-agency agreement with BIA, ATF funded Lummi Nation Law & Order in Bellingham, Washington (\$6,900), and Menominee Tribal Police Department in Keshena, Wisconsin (\$25,000), and provided \$25,000 to Grand Forks Police Department, North Dakota. We were able to satisfy all funding requests from law enforcement agencies that applied in fiscal year 2002.

In October of 2001, ATF was a co-sponsor of the National Native American Law Enforcement Association's annual conference that was held in Albuquerque, New Mexico. ATF presented three workshops, which covered information on the new G.R.E.A.T. Curriculum Firearms Tracing and Identification, and Less Than Lethal Use of Force.

In mid April, ATF provided an 80-hour G.R.E.A.T. Officer Training specifically for BIA in Rapid City, South Dakota to train 28 students. This session included four students from New Town, North Dakota and two students from Belcourt, North Dakota.

ATF is working through a collaborative effort with BIA and the Boys and Girls Clubs of America to develop pilot sites for G.R.E.A.T. Officers to teach the G.R.E.A.T. Curriculum in Boys and Girls Clubs in Native American communities.

There is a G.R.E.A.T. National Conference in Keystone, Colorado, from August 28-August 30, 2002. One thousand people are expected to attend.

#### NATIONAL SPECIAL SECURITY EVENTS

*Question.* More and more communities are requesting NSSE designation for certain events. The Administration proposes in the fiscal year 2003 budget that the Treasury Counterterrorism Fund be used to reimburse ANY Federal agency for expenditures from NSSE's.

What resources did ATF use during the Olympics and the Superbowl, how did it affect your overall mission responsibilities, and how were your expenses covered?

Answer. ATF received Olympics funding through the Department of the Treasury from the Supplemental Appropriations Act, 2001, Public Law 107-20. Costs incurred by ATF in support of the 2002 Winter Olympic Games in Salt Lake City are being reimbursed by the Treasury Department pursuant to an interagency agreement on Olympics funding. Expenses related to preparation and planning for the Winter Olympics, which occurred prior to October 1, 2001, were covered under ATF's salaries and expenses and through utilization of the Treasury Counter Terrorism Fund.

ATF provided 300 personnel to assist in the overall security mission during the 2002 Winter Olympics. These personnel included 75 Special Agent Certified Explosive Specialists, 20 Explosive Enforcement Officers, 27 National Response Team members, 10 explosive detection canine teams, 100 special agents for standing post, 17 intelligence officers and research specialists, and additional agents, supervisors and support staff to work in the various command posts and assist the Joint Terrorism Task Force in Salt Lake City, UT. ATF also supported the mission with two state-of-the-art fire and explosive response vehicles, a mobile laboratory and bomb technician vehicles and equipment.

Prior to the games ATF sent a cadre of experienced inspectors into Utah to inspect the Federal explosive and firearms licensees to ensure compliance with proper storage and distance regulations and to provide security awareness. ATF's costs associated with protection activities at the Super Bowl in New Orleans were minimal, and were absorbed within the Bureau's salaries and expense accounts.

ATF supported the security efforts at the Super Bowl with two Explosive Enforcement Officers, one explosive detection canine team, and local agents from the New Orleans Field Division. ATF worked closely with the other Federal, State and local law enforcement agencies in planning and determining the appropriate level of resources for these events.

OFFICE OF HOMELAND SECURITY (OHS)

*Question.* Have you placed any reimbursable or non-reimbursable employees within OHS?

Answer. No.

*Question.* Please describe your agency's relationship with OHS?

Answer. ATF Intelligence Division personnel established an initial relationship with the OHS during the fall of 2001 to provide background on the core mission responsibilities of ATF and our strong fundamental working relationships with State and local law enforcement agencies.

The Bureau's involvement with the Law Enforcement Working Group (LEWG) was briefed as a process by which the Intelligence Community and law enforcement could work more closely together.

ATF currently participates in the Law Enforcement/Investigations Policy and Coordination Group and the Detection, Surveillance and Intelligence Policy and Coordination Group of OHS.

*Question.* Has your agency been intimately involved in any homeland security decisions made by OHS that are directly related to your mission?

Answer. No

STAFFING

*Question.* The fiscal year 2002 Treasury Appropriations Bill and the fiscal year 2002 Supplemental provided an additional 73 positions.

Please detail your progress on hiring these positions.

Answer. The following table shows current projected hiring for canine handlers, canine trainers and JTTF positions.

Fiscal year	Quarter	Positions
2002 .....	2nd	9
2002 .....	3rd	22
2002 .....	4th	38
Subtotal .....	.....	69
2003 .....	1st	4
Total .....	.....	73

## QUESTIONS SUBMITTED BY SENATOR JACK REED

*Question.* The General Accounting Office recently released a preliminary report that found that the Justice Department's proposal to destroy NICS audit log records of approved gun sales within 24 hours would allow hundreds of disqualified buyers, including felons and domestic abusers, to purchase guns each year. The GAO review found that between July and October of last year, there were 100 cases in which authorities used data that is currently kept for 90 days to go back to try to retrieve guns from people who were not authorized to buy them.

As the head of the agency that is responsible for illegal firearm retrievals, were you consulted in connection with this investigation?

*Answer.* ATF responded to questions from GAO regarding ATF's activities and processes involving NICS referrals from the FBI.

*Question.* What is your view of the Justice Department's proposal to destroy records of NICS approvals within 24 hours? Were you consulted during development of the proposal, and were your recommendations included in the proposed rule?

*Answer.* ATF was consulted during the development of DOJ's proposal and ATF provided input on how we would change our existing procedures to deal with the proposed change. The Department of the Treasury did not formally comment to DOJ's Notice of Proposed Rulemaking.

*Question.* My understanding is that the Justice Department let the 90-day rule for retaining NICS records go into effect while the new rule is pending. Has ATF been able to use the information in the audit log in connection with dealer inspections? If so, how has the information been used?

*Answer.* ATF inspectors provide information obtained from the records of Federal firearms licensees (FFLs) to the FBI to be compared against the NICS audit log as a deterrent against misuse. The FBI notes any discrepancies and refers this information back to ATF for further investigation as needed. To date, the use of this information has not produced significant results beyond the deterrent value.

*Question.* In defense of its proposed rule, the Justice Department maintains that it can perform "real-time" audits? What role would ATF play in this real-time audits? And can you explain how these audits would work?

*Answer.* ATF would play no role in the FBI's "real-time" audits.

*Question.* In the aftermath of the September 11 attacks, your Bureau asked the FBI to check the names of 186 individuals against the NICS audit log. How do audit log records help you to streamline your investigations with the limited resources you have available? (For example, in the absence of a NICS audit log record, if you receive information—perhaps an anonymous tip—that indicates a potential terrorist may have inappropriately obtained a gun, how would you go about identifying the dealer, the point of sale, and the firearm? How would the process differ if you had access to a NICS audit log record?)

*Answer.* As a point of clarification, ATF made the request mentioned above to the FBI in response to a request for information from the Joint Terrorism Task Force (JTTF). ATF only uses NICS audit log "proceed" information during compliance inspections of FFLs. It is the Attorney General's opinion that NICS audit log "proceed" information may not be used a general law enforcement tool. The Treasury Department defers to the Attorney General and his Office of Legal Counsel as the interpreter of Federal statutes.

*Question.* Could you explain step-by-step the mechanics of a firearm retrieval operation?

*Answer.* Initially the FBI refers information to ATF's Brady Operations Branch in Martinsburg, West Virginia regarding alleged prohibited individuals who purchased (or received) a firearm and all persons who were denied after a NICS background check. All referrals involving possible receipt of a firearm by a prohibited person are sent to the appropriate ATF field office for further investigation.

*Question.* Would you please provide a break-down of the prohibited categories into which the individuals fall from whom firearms have been retrieved?

*Answer.* Breakdown of prohibited categories include:

- Possession of firearm by previously convicted felon;
- Possession of firearm by fugitive from justice;
- Possession of firearm by illegal narcotic user;
- Possession of firearm by illegal alien;
- Possession of firearm by person dishonorably discharged from armed forces;
- Possession of firearm while under restraining order;
- Possession of firearm by person having misdemeanor conviction of crime of domestic violence;
- Persons who have renounced citizenship; and
- Persons adjudicated mental defectives.



*Question.* What types of firearms are typically retrieved?

Answer. Handguns are the type of firearm typically retrieved from Brady/NICS referrals.

*Question.* In the last 10 years, how many firearms that fall within the definition of "semi-automatic assault weapon" pursuant to 18 USC §921(a)(30) have been retrieved?"

Answer. 315 semi-automatic assault weapons have been retrieved from individuals in the various categories of prohibited persons since 1993.

(It is noted that statistical information in the National Field Office Case Information System (NFOCIS) contains data since 1993, which was migrated into automated investigative case reporting system (N-FORCE) sometime in 1998. It is further noted that the responses to next three questions are also from data compiled since 1993.)

*Question.* For the same period of time, how many retrieved firearms are handguns?

Answer. 8,386 handguns

*Question.* How many are sporting rifle or shotguns?

Answer. 7,587 shotguns/rifles

*Question.* Were any of the firearms machine guns?

Answer. Two machineguns.

*Question.* How many firearms are retrieved in the typical retrieval operation? Is it ever the case that agents find more than one firearm in the possession of the individual from whom firearms are being retrieved?

Answer. One firearm is usually retrieved in a typical case although there are instances where more than one firearm is retrieved from violators.

*Question.* If the answer to the previous question is yes, have trafficking or other criminal charges been initiated following the execution of a retrieval?

Answer. Yes, the United States Attorney, depending on prohibited category of suspect and prosecutorial guidelines of that office, files criminal charges.

I note from your testimony that out of about 276,000 FBI referrals of denied firearms purchases since 1998, only 2,737 have been forwarded to U.S. Attorney's offices for prosecution. That's about 1 percent. I'm sure you're aware that the previous Administration received an enormous amount of criticism for not prosecuting more of these illegal purchase attempts under the Brady Law.

*Question.* Why haven't more of the FBI's referrals of NICS violations been sent to U.S. Attorneys?

Answer. We believe there are several contributing factors:

—Standard Denial cases reviewed/filtered by Brady Operations Branch personnel that do not meet United States Attorneys' prosecutorial guidelines are not referred.

—It may be revealed after cases (Standard & Delayed Denial) are referred to the field for follow-up investigation that the suspect was not prohibited and no violation occurred.

—ATF and United States Attorneys' Offices around the country have a coordinated approach to NICS referrals and have established criteria for these cases. Not all referrals are presented for prosecution as a result of mutual agreement between ATF and the local United States Attorney.

—Standard Denial cases are usually prioritized for those involving the most violent offenders who meet prosecutive guidelines of the respective United States Attorney's Office.

—All Delayed Denial cases are referred to the field for immediate follow-up investigation and are reported on with a disposition.

[CLERK'S NOTE.—A Statement received from the Institute of Makers of Explosives, is going to be inserted in the record.]

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#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* As you know, I have long been a supporter of the "G.R.E.A.T." program so I was pleased to see the budget amendment which clarifies the Administration's intention to continue that program at the current level of funding.

I do have a question about the use of the "G.R.E.A.T." program curriculum on Indian reservations. I recognize that ATF must coordinate those efforts with the Bureau of Indian Affairs. I'd appreciate it if you could describe for me exactly how that is working out.

Answer. In addition to the inter-agency agreement with the Bureau of Indian Affairs (BIA), ATF funded Lummi Nation Law and Order in Bellingham, Washington

(\$6,900); and Menominee Tribal Police Department in Keshena, Wisconsin (\$25,000).

In October of 2001, ATF was a co-sponsor of the National Native American Law Enforcement Association's annual conference that was held in Albuquerque, New Mexico. Through the inter-agency agreement with BIA, law enforcement officers from BIA and Tribal law enforcement agencies attend this conference. ATF presented three workshops, which covered information on the new G.R.E.A.T. Curriculum, Firearms Tracing and Identification, and Less Lethal Use of Force.

In mid-April, ATF provided an 80-hour G.R.E.A.T. training session for 28 Native American law enforcement officers in Rapid City, South Dakota.

ATF is presently working through a collaborative effort with BIA and the Boys and Girls Clubs of America to develop pilot sites for G.R.E.A.T. Officers to teach the G.R.E.A.T. Curriculum in Boys and Girls Clubs in Native American communities.

In the wake of September 11, there was an emphasis on making sure that firearms are not brought into this country by non-citizens. I understand that on February 5, ATF issued a temporary rule regarding import permits required for non-immigrant aliens who wish to bring firearms and ammunition into the country for perfectly legitimate things like shooting competitions or hunting trips. While I applaud you for taking action to further protect our citizens, I also noted that this temporary rule went into effect very quickly—before the permit application could even be printed or distributed.

*Question.* I am interested in knowing how this transition worked out. Were there any incidences where foreign visitors were not aware of this change in policy? If so, what happened when they reached our shores?

*Answer.* On February 19, 2002, a temporary rule affecting nonimmigrant aliens entering the United States for legitimate hunting or lawful sporting purposes took effect. Prior to February 19, nonimmigrant aliens did not need to file an Application for the Importation of Firearms, Ammunition and Implements of War, an ATF Form 6, to enable them to bring firearms and ammunition into the United States. ATF coordinated this transition with our colleagues at the U.S. Customs Service, the Department of State and the Immigration and Naturalization Service. Months prior to enactment of the temporary rule, meetings and teleconferences were held with these agencies to elicit cooperation and understanding for the express purpose of facilitating nonimmigrant aliens coming to the United States to participate in competitive shooting events or engage in hunting activities.

ATF proactively sought to inform the international hunting and shooting community. ATF sent letters to the Fish and Game commissioners for each of the 50 States, asking them to inform nonimmigrant aliens seeking to obtain a hunting license of the new ATF F6 requirement. We contacted the international travel agency association and asked them to make their overseas members aware of the new requirement. Further, we contacted the international airline association, seeking their assistance in informing their potential passengers of the need to submit this form. Press releases went out over the wire services both domestically and internationally. In addition, several months before enactment, through ATF's attach in Ottawa, we established a solid working relationship with our Canadian counterparts and enlisted their support and aid in widely publicizing this new requirement to Canadians. The ATF website prominently displayed the new requirements, and provided a thorough Q&A section, in addition to links to the form itself and other information. The ATF F6 was available immediately on the effective date. The form could be downloaded from our website, Imports Branch employees were faxing the form upon request, and also accepting completed faxed forms.

Let me give you one example of what happened when some travelers did arrive at a port of entry without the ATF F6 properly completed. A large group of competitive shooters arrived at a port of entry to participate in a competitive shooting event in a southern State. They were not in possession of the required ATF F6. Because of the extensive communication between Customs and us, the Customs Inspectors were well aware of the new requirements. The inspectors called our Imports Branch personnel, and through the mutual dedication of these employees, the nonimmigrant aliens filled out the forms at the port of entry, forms were faxed to ATF, they were reviewed for completeness, accuracy and to ensure the firearms were not prohibited and the travelers were not from a prohibited country. The approved forms were then returned to Customs officials at the port of entry. The nonimmigrant aliens experienced some minor delays, but arrived at their competitive shoot in more than enough time to participate, and were extremely appreciative of the assistance they received.

Up until late 1999, two Federal agencies were providing competing ballistics imaging technology to State and local law enforcement agencies. ATF had the "CEASEFIRE" technology and the FBI had the "DRUGFIRE" system, and each had

its own supporters. Unfortunately, one system couldn't share information with the other. In December of 1999, the FBI and ATF agreed that ATF would provide the hardware—the "CEASEFIRE" system—and that the FBI would provide the communications network to tie the machines together. ATF has been hard at work to replace the "DRUGFIRE" systems with funding provided by this Subcommittee. Now, I understand that the FBI has reneged on their part of that written agreement.

*Question.* What does this mean for ATF? Do you have sufficient funds to take over this responsibility as well? What about the one area where the FBI Communications Network is already in place?

*Answer.* ATF has accepted sole agency responsibility for management and administration of the NIBIN network, and is confident that single agency management will maximize the efficient operation of the program.

In order to create and maintain the communications network for NIBIN, ATF will incur some costs. These include the following:

- One-time charges for network encryption equipment purchase and installation of encryptor and router;
- Recurring costs for ongoing network circuit and maintenance charges for network equipment;
- Special labor costs for project engineering and onsite technician labor;
- Recurring telecommunications costs; and
- ATF contractor support costs for site installation and travel and network design support.

As the question notes, one of the sixteen regions (Florida) is currently operating on a communications network operated by the FBI. This region will be transferred to the ATF-owned frame relay network, enabling nationwide connectivity.

Funds for these requirements are included in the fiscal year 2002 appropriation level and in the fiscal year 2003 President's Budget request.

#### QUESTIONS SUBMITTED TO JAMES SLOAN

#### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

##### TERRORIST FUNDING

*Question.* Prior to September 11, FinCEN's Intelligence Liaison Office had been analyzing Bank Secrecy Act (BSA) information in support of law enforcement investigations into terrorist financing. Immediately after the terrorist attacks, FinCEN was able to immediately implement several new initiatives and enhance core programs to assist in this investigation. In addition, the USA Patriot Act expeditiously made additional tools available to law enforcement to fight money laundering and terrorist financing. FinCEN is responsible for implementing 23 of the 44 provisions contained in Title III of that Act and also has a key role in many of the working groups established by Treasury to address the other provisions.

Do we anticipate any criminal cases resulting from the millions in terrorist assets frozen through FinCEN investigations?

*Answer.* Most criminal cases in the terrorist area utilizing FinCEN investigations are brought by Operation Green Quest at the Customs Service or the Financial Review Group at the FBI. FinCEN analysis is also used in research and actions conducted by the Office of Foreign Assets Control (OFAC). For example, the Office of Foreign Assets Control used information derived from FinCEN investigations in partial support of its blocking of Al Barakaat, the Somali money remitter. In general, we anticipate that FinCEN resources will prove important to all the U.S. Government's efforts to combat terrorist financing.

*Question.* Does your fiscal year 2003 budget request cover your requirements as a result of the USA Patriot Act?

*Answer.* FinCEN and Treasury are analyzing what additional resources may be needed for hiring both personnel and contractual support in order to fully implement all of the mandates of the USA PATRIOT Act. Until the regulations or programs are finalized, and we review funding options with OMB, it would be premature to accurately predict the overall resource implications that will be needed to implement these mandates.

*Question.* Are you working on the necessary funding adjustments in fiscal year 2004 to make these pilot projects permanent as a result of the Patriot Act? How much would that cost?

*Answer.* FinCEN is beginning the fiscal year 2004 planning process in preparation for the next President's Budget submission. During this process, FinCEN will work with the Department and OMB to consider ways to make the pilot projects perma-

ment to meet the new mandates in the Patriot Act. It would be premature to accurately predict the level of resources needed to fully meet the requirements of the Patriot Act.

*Question.* How have your increased activities under the Patriot Act affected your initial mission?

*Answer.* FinCEN is responsible for implementing 23 of the 44 provisions contained in Title III and also has a key role in many of the working groups established by Treasury to address the other provisions all of which have due dates over the next 9 months. The Patriot Act also accelerated the implementation of many of the goals articulated in the 2002 National Money Laundering Strategy. Currently, FinCEN is making good strides in implementing the numerous provisions of the Act, however, the workload increase is significant. For example, in the regulatory area, the accelerated deadlines for expanding certain Bank Secrecy Act (BSA) requirements to additional financial services providers have placed a substantial burden on resources in terms of consulting with industry, drafting and issuing regulations, and managing the resulting comment periods. These mandated requirements are occurring at a time when a major new regulatory program, money service businesses (MSBs), was already being implemented. Additionally, management of technology-driven projects such as the Patriot Act Communications System (PACS) under the tightened deadlines is also requiring human and monetary resources.

#### FISCAL YEAR 2003 BUDGET

*Question.* Secretary O'Neill is requiring that all agencies incur a Business Strategy Adjustment. He feels that every agency can find savings, but all those we asked were absent any ideas that wouldn't affect mission-related activities. He proposed something similar in fiscal year 2002, but this Subcommittee restored the funds for law enforcement agencies. In fiscal year 2003, the BSA for FinCEN totals \$481,000.

What savings do you recommend to cover the proposed \$481,000 business strategy adjustment?

*Answer.* FinCEN continually reviews its business processes and technologies to ensure that best business practices are in place and that new technologies are explored that will enhance services or provide efficiencies. For fiscal year 2003, we are reviewing ongoing programs with the goal of identifying any cost savings from current business practices. While some programs are being enhanced through the use of technology, the results will be qualitative, in terms of enhanced analysis and services. Examples of the type of efforts previously identified include the Gateway and the Platform programs which allow customers to do their own research using our technology tools and other resources.

*Question.* What would the affect be on your agency if forced to absorb the business strategy adjustment and a 1.5 percent pay raise?

*Answer.* At this time, FinCEN would review on-going programs and staffing levels to absorb the 1.5 percent pay raise and extend out several of the information technology or law enforcement support initiatives to meet the business strategy adjustment. We would look for program efficiencies to reduce the impact of the reduction in future years.

#### OFFICE OF HOMELAND SECURITY (OHS)

*Question.* Have you placed any reimbursable or non-reimbursable employees within OHS?

*Answer.* No, FinCEN has not been requested to place any employees within OHS.

*Question.* Please describe your agency's relationship with OHS?

*Answer.* FinCEN does not have a direct relationship with OHS. These issues are addressed through Treasury's Office of Enforcement.

*Question.* Has your agency been intimately involved in any homeland security decisions made by OHS that are directly related to your mission?

*Answer.* No. As mentioned in the previous response, any involvement with OHS is coordinated through Treasury's Office of Enforcement.

#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* I understand that the lease on your current location will expire in April of next year, and that you are searching for new space.

What is wrong with the existing location? Are you being forced to leave? Is FinCEN the only Federal tenant in that building? How much would it cost to move to a different location?

Answer. The current location is included in the geographic area selected as part of the competitive solicitation. The lease renewal follows standard acquisition process including a competitive solicitation. Therefore, the ultimate selection of the lease location could be other than the current lease. At this time, it is premature to comment on a forced move from the current location or the costs associated with a different facility.

Currently, FinCEN is the only Federal tenant in the building. However, it is our understanding that another Federal agency is in negotiations with the building concerning a possible lease.

*Question.* The USA Patriot Act of 2001 established the Financial Crimes Enforcement Network as a separate Treasury bureau, much like ATF or Customs or the Secret Service. Other than the prestige of this change, what has been the effect of becoming a separate bureau?

Answer. In many respects, FinCEN has been treated as a bureau—having its own appropriation, participating with other bureau heads at Treasury meetings, and producing many of the same products required by larger bureaus. However, the bureau status does provide a number of basic administrative authorities to perform numerous activities and functions. Examples of these administrative functions include debt collection, records management, mail distribution, personnel security, physical security, procurement, personnel, travel cards, and other areas or programs.

FinCEN has been examining its administrative processes to develop the best mix between in-house services and competitive sourcing with other agencies. In many instances, FinCEN has an adequate structure in place so the impact may just be a new or enhanced reporting responsibility. For example, FinCEN now has its own Records Group Number from National Archives and Records Administration. Also, FinCEN has begun to streamline its personnel processes to include taking responsibility for final classification of positions and partial recruitment activities while continuing to use a service provider for systems related processing. These streamlined activities have realized a combined savings of 90–180 days in the time needed to fill vacant positions.

Immediately following September 11, FinCEN moved into high speed to trace the funding of terrorist groups. This was followed by various news reports which only touched on the efforts of your agency.

*Question.* I would appreciate it if you could explain, in layman's terms, how FinCEN goes about tracing the money. How do you receive the raw data used to follow the financial trail?

Answer. Since its inception, part of FinCEN's anti-money laundering mission has been to identify illegal financial activity, regardless of the specified unlawful activity. Over the years, advances in technology, analytical training, and liaisons with other agencies have enhanced FinCEN's financial tracking techniques.

A requisite to tracing funds is the requirement of some "tidbit" of terrorist-related information—a starting point. It may be information related to an account, an address, a business, or individual, etc. that serves as the basis for tracing funds. The process may start: with a "tip" from our newly established Hotline; or be discovered through proactive efforts; or result from some type of information from law enforcement; or may be derived from sensitive information. Regardless of its origin, once the information is determined to be reliable, the tracing process begins.

As an example, using just an account number, the first step would be to identify whether the account is in any way connected to Bank Secrecy Act (BSA) reports, such as (Currency Transaction Reports [CTRs], Currency Transaction Reports by Casinos [CTRCs], Suspicious Activity Reports [SARs], Currency or Monetary Instrument Reports [CMIRs], Foreign Bank and Financial Accounts Reports [FBARs]). If the account is found as part of a BSA report, it provides additional information that can be used to broaden the field used for tracing, i.e., an address, additional persons associated with the account, biographic data relative to account owner or party. From that point, consideration is given to transaction amounts, number and frequency of transactions, whether monetary instruments or money transfers are prevalent. If a SAR has been filed, the narrative can enhance the tracing process even more by providing additional data such as associates, bank accounts, financial institutions, beneficiary names, and locations.

Through thorough research, FinCEN analysts exploit every bit of information that surfaces during the research phase, and then develop what FinCEN refers to as "multi-generation link analysis." Analytical techniques used by FinCEN analysts incorporate link analysis and timelines that aid in the tracking and overall flow of funds. Such analysis considerably expands the overall scope of a financial investigation. In tracking terrorist funds, FinCEN has realized particular value through proactive initiatives. In the absence of a "tip," FinCEN analysts routinely conduct proactive queries of SARs to identify possible indicators of terrorist financing.

Proactive cases normally originate from SARs, and are then augmented by law enforcement, commercial, and additional financial information. When proactive cases are fully developed, they are referred to law enforcement as lead information.

FinCEN's counter-terrorism efforts are far reaching and utilize diverse sources of information to include designated foreign terrorist organizations and nationals, the Department of Commerce's Denied Persons List, and information from the law enforcement and intelligence communities.

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QUESTIONS SUBMITTED TO PAUL HACKENBERRY

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

FACILITIES CONSTRUCTION MASTER PLAN

*Question.* In your statement, you discuss the need to update the 5-year FLETC facilities construction master plan to respond to the increased demand for training. This makes a great deal of sense. However, you only plan to review the facility needs at Glynco, GA, Artesia, NM and Cheltenham, MD.

You already have a significant and potentially growing presence in Charleston, SC. Given the increased demand for training, as well as some potential expansion limitations at the other FLETC facilities, why not take another look at Charleston?

*Answer.* Unlike the Glynco, Artesia and Cheltenham sites, which are owned and operated by FLETC for multiple agencies, Charleston is leased by the Department of Justice and is used exclusively for entry level U.S. Border Patrol training. FLETC helped the INS/U.S. Border Patrol to set up operations in the mid-1990's and we have supported their training with instructional, contract and technical assistance. FLETC has developed a business case study that advocates the consolidation of all Border Patrol training in Artesia at a significant cost savings to the government. Discussions are underway with Justice and INS on the issue. The facilities master plan now under development by an experienced site planning firm, Clark Nexsen, Inc. of Norfolk, VA, will include consideration of U.S. Border Patrol training needs, but the indications are that they still can be accommodated by FLETC without recourse to yet another permanent training site.

*Question.* Also, how does the new Customs Service facility being constructed in Harpers Ferry, WV fit into your plan?

*Answer.* Congress provided funding directly to the U.S. Customs Service in fiscal year 2000 for the development of a requalification firearms training site at Harpers Ferry, WV. The appropriation language in the bill stated this site was for a specific, limited purpose and was not to duplicate training conducted at FLETC sites. FLETC, U.S. Customs Service and the Office of Enforcement in the Department of Treasury signed a Memorandum of Understanding for operations of the Harpers Ferry location consistent with Congressional intent. U.S. Customs Service continues to be a major partner in FLETC training, and all FLETC sites, including the newest location in Cheltenham, MD, are available to the U.S. Customs.

TRANSPORTATION SECURITY AGENCY

*Question.* In your statement, you note that the FAA requested that you undertake training for the newly expanded Federal Air Marshall program. There also appears to be discussion about who will train the new Federal baggage screeners. The uncertainty about who will be providing the training in the long run makes it difficult to budget effectively.

Where are you training the air marshals? How many do you envision will be trained in over the next 2 years?

*Answer.* In agreement with the Department of Transportation, FLETC began training of Federal Air Marshals (FAA) at our Artesia, NM center in October 2001. A number of steps have been taken to ensure that air marshals are accorded the training needed for their important assignments, including the use of three 727 aircraft fuselages for practical training at the site. Artesia will continue as a major source of air marshal training for the foreseeable future, but FAA's Atlantic City site is also being used for certain types of training conducted by FAA. The precise number of air marshals to be trained is still being determined by the Transportation Security Administration.

*Question.* As for the baggage screeners, who will be making the decision about who will undertake this training? If it is decided that FLETC will conduct the training, where do you envision this training will occur? Would a new site be required? Also, are funds for this new mission included in your fiscal year 2003 budget request? If not, how much would be required and when?

Answer. FLETC's involvement in the training of baggage screeners at U.S. airports has been limited. FLETC's chief responsibility is to conduct and support training for Federal law enforcement personnel. Baggage screeners will not have law enforcement powers. Thus, FLETC's involvement has been as a consultant on curriculum development and on formulation of a train-the-trainer program for would-be trainers of baggage screeners. FLETC conducted two pilot programs in February and March 2002 to prepare trainers, but no further training of this nature is expected at FLETC. It is our understanding the Transportation Security Administration intends to offer this training through a contractor and at locations across the country. FLETC may continue to provide training validation assistance for these programs.

#### BORDER AGENCY CONSOLIDATION

*Question.* There is a recommendation pending to fold the Customs Service into the Justice Department via the INS. There is also discussion and legislation to create a new border agency or department comprising a number of agencies.

Should any of these recommendations occur, how will they require you to modify your current training regime? Would you also consolidate training at a given location or make some other arrangement or maintain current practices—at least for the time being?

Answer. Both the U.S. Customs Service and the Immigration Naturalization Service are member agencies in FLETC; thus we have had significant experience with the type of training they receive and the facility requirements for conducting that training. Should any consolidation of these two agencies or others occur under a Congressional mandate, FLETC is prepared to help redesign curricula and realign training to meet new objectives, including cross designation training. If a new border security agency is formed in the future, FLETC will work with the affected agencies to determine the duration, special requirements and location to best conduct this training.

#### CHELTENHAM FACILITY

*Question.* You are in the process of modifying the Cheltenham, MD facility for use by Washington, DC-area law enforcement personnel.

Who will be trained at this facility? Do you envision it being used by other Federal law enforcement personnel who need to qualify as weapons carriers?

Answer. The Cheltenham facility will serve two major needs: an in-service academy operation for the U.S. Capitol Police and an interagency requalification site for firearms and law enforcement vehicle skills training. The U.S. Capitol Police already have begun training in interim quarters at Cheltenham, and their permanent facility is expected to be ready in September 2002. The firearms and vehicle facilities are under design and expect to be opened to use by late fiscal year 2003 and early fiscal year 2004. The legislation establishing the Cheltenham site in fiscal year 2000 specifically identified the Treasury law enforcement bureaus, U.S. Capitol Police and the Washington, DC Metropolitan Police Department. The legislation also makes this site available to all Federal agencies with law enforcement personnel assigned to the Washington, DC area who need requalification training of a short duration. FLETC calculates that over fifty Federal agencies will participate at Cheltenham, but the precise number of personnel is still being determined. Training provided at this location will be conducted on a reimbursable basis similar to the way advanced training is done in Glynco and Artesia for partner agencies.

#### RURAL LAW ENFORCEMENT PROJECT

*Question.* For the past few years, this Subcommittee has added a limited amount of funds to your budget to assist in the development of a rural law enforcement training curricula. That work has been performed primarily by the Rural Law Enforcement Education Project at Minot State University in Minot, ND. I understand that FLETC finds the work product delivered by MSU to be valuable and that there is interest in expanding the program.

Please describe your impression of the current program and the interest level in expanding the program. Also, if additional funds are needed to accomplish this expansion, how much additional funding would be required and for what purposes?

Answer. Minot State University (MSU) has provided a number of excellent work products in connection with the Rural Law Enforcement Education Project, which was first initiated in 2000 under the National Center for State and Local Law Enforcement. "The Training Needs Assessment for the Northern Plains States" research surveyed rural agencies as to the types of crimes impacting rural law enforcement agencies. Minot State University has contracted with the National Center

to provide longitudinal studies on the effectiveness of the law enforcement training offered to agencies as determined in the Northern Plains States. Longitudinal studies are continuing for ongoing training. MSU has created a clearinghouse as specified in the contract, and they are serving as a resource center for rural law enforcement agencies seeking training, research, and grant availability and writing assistance. MSU is sending two representatives to the National Center for an 8-week period to work with these projects. MSU has conducted post training surveys on the National Center's train-the-trainer programs to validate and strengthen much needed specialized training for rural law Enforcement agencies. As a result of their research, they have recommended that a Rural Policing Institute (RPI) be created to link the work of MSU and the National Center, which will strengthen the programs provided by the National Centers' Small Town And Rural (STAR) Project and reach additional rural agencies. The mission of the RPI would be to develop and deliver specialized and advanced training, based upon sound research, for small town and rural law enforcement officers, supervisors, and managers. The training would be held at the FLETC facilities, MSU, and throughout the U.S. We are studying their proposal and can make recommendations once this assessment is complete.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHORSE CAMPBELL

*Question.* The biggest question on all of our minds with regard to the Federal Law Enforcement Training Center concerns the training needs of the new Transportation Security Administration. We know that 5,000 new Federal Air Marshals need to be trained this year, and that there will be at least 4,000 more next year—not to mention the continuing need to train replacements.

I'd appreciate it if you would give us an update on the role of FLETC in this regard. And, secondly, does FLETC have sufficient resources for this effort?

*Answer.* FLETC began training for increased numbers of Federal Air Marshals in October 2001 at the request of the Federal Aviation Administration (FAA). Program agreement has been reached between the FAA and the FLETC on the training format to be used. Adjustments will continue to be made as more information becomes available as to the long-term mission goals of the TSA. FLETC is now conducting intensive training at its Artesia, New Mexico site on a 6-day workweek for new Federal Air Marshals. The increased training requirements of the FAA were not fully known when the fiscal year 2003 President's budget was submitted; however, the FAA has provided a reimbursable agreement to pay for the cost of providing this training for fiscal year 2002.

Funding was provided by this Committee in late 2000 to develop a D.C. metropolitan area law enforcement training center at Cheltenham, Maryland. This site was primarily envisioned as a location for firearms and vehicle operation requalifications, as well as providing training space for the Capitol Hill Police.

*Question.* Please give us an update on what progress has been made, and when this facility is expected to be open for business.

*Answer.* The Cheltenham, MD site was transferred to FLETC's inventory in May 2001 from the U.S. Navy. Significant progress has been achieved thus far, and the timelines for design and construction are on track. An environmental study was completed, with a finding of no significant impact issue. Other studies such as noise levels and traffic patterns also have been concluded, and local meetings within the private communities near Cheltenham have been successfully undertaken. An interim building for U.S. Capitol Police training was opened in February 2002. Their permanent academy site is expected to be ready by September 2002. Design is complete, or nearly so, on several projects, including the firearms range complex and vehicle training range. Construction will begin in May and throughout the summer of 2002 on these buildings and related facilities, such as office space, security and registration, a haz-mat storage facility and other permanent structures. Much of the \$33.5 million appropriated for Cheltenham will be obligated in fiscal year 2002. The anticipated opening for most facilities at Cheltenham is early fiscal year 2004. More than 50 Federal agencies and the District of Columbia Metropolitan Police Department are projected to train in excess of 8,000 law officers in the first year or two of operation.

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PREPARED STATEMENT OF THE INSTITUTE OF MAKERS OF EXPLOSIVES

On behalf of the Institute of Makers of Explosives (IME), I am submitting a statement for inclusion in the Subcommittee's hearing record regarding the proposed fiscal year 2003 budget for the Bureau of Alcohol, Tobacco & Firearms (BATF).



## INTEREST OF THE IME

The IME is the safety association of the commercial explosives industry. Our mission is to promote safety and the protection of employees, users, the public and the environment; and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use and disposal of explosive materials used in blasting and other essential operations.

Commercial explosives are key to our way of life. Without them, materials used in nearly every item in our society would be practically impossible to remove from the earth. Effective recovery of energy resources, such as coal and oil, cannot be accomplished without explosives. Our transportation system, which underpins our economy, is built on minerals and aggregates mined with explosives. Specialty applications for fire and avalanche control or demolition and construction rely on commercial explosives. Last year, 2.7 million metric tons of explosives were consumed in the United States of which IME member companies produced over 95 percent. These products are used in every state in the Union and are distributed worldwide.

The production, distribution, storage and use of explosives are highly regulated. BATF is one of the agencies that plays a primary role in assuring that explosives are identified, tracked, and stored only to and by authorized persons. The ability to manufacture, distribute and use these products safely and securely is critical to this industry. With this perspective, we have carefully reviewed the Administration's fiscal year 2003 budget request and have the following comments.

## BUDGET RESOURCES ARE INADEQUATE FOR RESPONSIBILITIES

Our industry relies on BATF to efficiently and effectively perform a number of functions to ensure that the legitimate commerce of explosives can go forward safely and unimpeded. Additionally, when explosives are stolen, lost, or used for illegal purposes, we rely on the BATF to recover products and investigate incidents as necessary. In this regard, we support all necessary resources for these essential services. However, the BATF budget request does not adequately support these essential services.

BATF claims in its budget justification "to provide a comprehensive proactive and reactive force in the fight to protect the American public against the criminal use of explosives [and] to have the potential to thwart terrorist activity at every level of the execution process, i.e., from the theft or purchase of explosives to the deployment of those explosives for terrorist purposes at public events."<sup>1</sup> The commercial explosives industry and the public are served best by the prevention portion of this mandate. However, the budget clearly points to gaps in BATF's ability to perform assigned functions.

BATF has admitted in the past that its explosives program is not adequately covered. While BATF has stated that it is making efforts to better balance its responsibilities, this budget request would suggest otherwise. In the wake of the events of September 11, BATF set out to inspect all licensees/permittees, currently a class of about 9,400, of which IME represents about 3.4 percent. These were not all full inspections. The task would be too daunting. Despite BATF's efforts, the Bureau came 2,000 licensees/permittees short of its inspection goal. As a result of the inspections it did perform, BATF found about 2,000 violations, about 10 percent being referred for enforcement.<sup>2</sup> Although less than 2.7 percent of licensees/permittees were the source of these violations, BATF still must follow-up to ensure that corrective actions have been taken. At the time the Bureau's budget document was prepared, BATF estimated that its corrective action workload would be about 850 in fiscal year 2003.<sup>3</sup> The violations data from the post-September 11 inspection drive as well as that from fiscal year 2001, indicate that 850 corrective actions is less than half the current workload.<sup>4</sup> In the meantime, no matter how serious the number of violations discovered may seem to be, it appears that BATF has issued only one notice of license revocation.<sup>5</sup> Yet, BATF's fiscal year 2003 budget request asks for no additional FTE under the budget function that includes these and other inspection activities of the Bureau's regulated commodities, holding at 529 FTE.<sup>6</sup> With this resource commitment, BATF states that it will only be able to inspect 50 per-

<sup>1</sup> Fiscal year 2003 BATF Budget Justification, Volume 1, pages 2-3.

<sup>2</sup> Statement of Bradley A. Buckles, Director, BATF, Subcommittee on Treasury, Postal Service and General Government, House Appropriations Committee, February 28, 2002, page 3.

<sup>3</sup> Fiscal year 2003 BATF Budget Justification, Volume 2, page 20.

<sup>4</sup> *Op. Cit.*, Statement of Bradley A. Buckles, February 28 2002, page 17. Fiscal year 2001—1,813 violations; 1st quarter fiscal year 2002—1,763 violations.)

<sup>5</sup> *Ibid.*

<sup>6</sup> Fiscal year 2003 BATF Budget Justification, Volume 1, page 13.

cent of the explosives industry and that it will “strive” to investigate 100 percent of reported explosives thefts and losses.<sup>7</sup>

The Subcommittee should also be aware that, in the aftermath of September 11, legislation has been introduced with Administration and industry support to close loopholes in Federal explosives permitting law.<sup>8</sup> Currently, all manufacturers, importers, and distributors of commercial explosives are required to obtain Federal licenses. However, only interstate, but not intrastate, users of explosives, with one minor exception, are required to obtain Federal permits to purchase commercial explosives. This legislation would close the intrastate loophole. It would also significantly broaden the base of those employees of licensees/permittees that are required to obtain background checks and broaden the scope of the background check before such employees can “possess” or otherwise “direct” the management or policies of businesses engaged in the manufacture, importation, distribution, purchase, receipt or use of explosives. While IME is extremely supportive of these legislative efforts, we are concerned that BATF have in place the systems and resources necessary to implement these additional requirements in a timely manner. Regrettably, BATF lacks the data to estimate what the additional workload will be.<sup>9</sup>

There is a price to safety and security. Industry and the public trust that BATF has the resources to fulfill its regulatory responsibilities. It is up to Congress and, in particular, this Subcommittee, to ensure that BATF has the resources it needs.

#### STRATEGIC GOALS

A key to rebalancing the Bureau’s statutory responsibilities is the identification of performance standards that can measure BATF’s progress or areas needing attention. In fact, such performance measures are demanded by the Government Results and Performance Act. Currently, BATF has identified six customer service standards to measure its delivery of services to its regulated community.<sup>10</sup> None of these standards address the needs or concerns of the explosives industry. Nearly 2 years ago, we approached BATF with suggestions of measures appropriate for our industry.<sup>11</sup> While the Bureau has discussed our suggestions, no final decisions have been made as to whether our suggestions are appropriate, could be modified, or if other standards would better measure service to the explosives industry. In the meantime, measurable indices remain unavailable to assess Bureau’s service to the explosives industry.

#### RULEMAKING CONCERNS—CLOSING THE IMPORT MARKING LOOPHOLE

Currently, BATF regulations require domestic manufacturers to mark all explosive materials they manufacture for sale or distribution.<sup>12</sup> These marks consist of the manufacturer identity and the location, date, and shift of manufacture, commonly referred to in the industry as the “date-plant-shift code.” These marks are necessary for reasons of security and safety. The BATF has emphasized that the failure to apply these markings inhibits law enforcement from tracking explosives to the source, and proving criminal activity. The date-plant-shift code enhances safety because some explosives deteriorate over time and the code allows users to keep inventory fresh. Additionally, the date-plant-shift code is one of industry’s “QA/QC” tool, allowing the manufacturer the ability to trace product quality problems back to the point of manufacture and distribution.

These marking rules, however, do not apply to foreign manufacturers. During the last 3 years, we became aware of heretofore unprecedented large imports of unmarked explosives being shipped to the United States from China.<sup>13</sup> This develop-

<sup>7</sup> Fiscal year 2003 BATF Budget Justification, Volume 2, page 20. (The Budget Justification does not disclose data to evaluate whether or not the Bureau has met its goal to investigate 100 percent of reported explosives thefts and losses.)

<sup>8</sup> S. 1956. We also understand that similar legislation is being developed by the House Judiciary Committee.

<sup>9</sup> BATF did estimate that the number of additional background checks for those that “direct” would be in the neighborhood of 80,000 checks per year. This figure does not capture the number required for those that “possess” explosives, nor the workload to process the intrastate purchase permits.

<sup>10</sup> Fiscal year 2003 BATF Budget Justification, Volume 2, page 24.

<sup>11</sup> Letter to Wayne Miller, BATF, from Cynthia Hilton, IME, July 19, 2000.

<sup>12</sup> 27 CFR 55.109(a).

<sup>13</sup> Regrettably, not all countries that manufacture explosives maintain the same high standards for stewardship and security that underpin the BATF’s marking requirements for domestic manufacturers. This disparate regulation gives rise to concerns about trade practices. In terms of high explosives, the United States has already lost its ability to domestically manufacture TNT, and only one company still makes dynamite. We do not think it is in the national interest

ment prompted IME to petition BATF for a rulemaking to close this loophole as it applies to high explosives and blasting agents. Our petition would make it unlawful for any licensee to import such explosive materials without legibly identifying by marking all explosives materials in the same manner prescribed by the BATF for domestic manufacturers.

While stating general agreement with our concern, BATF expressed doubt that they could go forward with our proposal without more information about the economic consequences to the explosives industry irrespective of whether or not the product was a “high” or “low” explosive. Nevertheless, to the Bureau’s credit, an advanced notice of proposed rulemaking (ANPRM) was issued.<sup>14</sup> Although all comments to the ANPRM supported the need to close this loophole, the Bureau remains reluctant to go forward with a rulemaking because it did not receive a greater number of comments. It is unclear to us what additional “me to” comments would substantively add to the Bureau’s understanding of this issue as it relates to the problem at hand, namely unmarked imports of high explosives and blasting agents. In the meantime, we have seen at least one State unilaterally act to preclude the introduction in commerce of unmarked imported explosives in that State in the face of BATF delay.<sup>15</sup> While we understand and applaud this State’s initiative, we are concerned that over time other states will feel compelled to act independently and possibly inconsistently to address this issue. The lack of urgency given this rulemaking, especially in light of the priority given to strengthening homeland security, is without justification. We ask that you join with us in asking the Bureau to close this security and safety loophole.

#### RESEARCH

As manufacturers of explosive materials, we have a special interest in doing everything possible to prevent the misuse of our products. We are interested in the development of new technologies to safeguard the public, and support efforts to develop detection and prevention technologies that will enhance our national security. Nevertheless, from time to time efforts are made to mandate technologies that are unproven or unsupported by sound science and cost-benefit analyses. Efforts to mandate identification taggants in explosives are a case in point. In 1996, Congress refused to bend to such demands and enacted, with IME support, anti-terrorism legislation that instead directed BATF to study the feasibility of placing identification taggants in explosives.<sup>16</sup>

BATF initially planned to submit the report to Congress by the end of fiscal year 2001. IME had worked with BATF to ensure that they have the industry data that they require. Throughout the process BATF made efforts to keep us informed of the work on the study and preliminary findings. As late as August 2001, we were lead to believe that BATF’s research had concluded, as did contemporary assessments by the National Academy of Sciences, that identification taggants cannot be supported with current technology. However, following the events of September 11, BATF informed us that the report had been pulled back and its conclusions are being reassessed. As tragic and sobering as the events of September 11 are, it does not alter the fact that current technology does not support identification taggants. In the Subcommittee’s oversight capacity, BATF should be asked about the release date of the 1996-mandated report and, after 5 years of study, what if any of the reports recommendations have been changed due to the events of September 11.

#### NEED FOR FEDERAL AGENCY COORDINATION

Events in the last 12 months have prompted concerns about BATF intrusion into the jurisdiction of another Federal agency. A critical shipment of explosives to a mine in northern Alaska was frustrated, for a number of weeks last summer, in large part because a BATF agent sent to a local Chief of Police a letter the agent wrote to the area Captain of the Port questioning the U.S. Department of Transportation’s (DOT) authority to regulate the shipment and disputing its advisability because of the devastating consequences that would occur if the shipment detonated.<sup>17</sup> Throughout the incident, DOT vigorously defended its jurisdiction over and the safety of this movement. Before the resolution of this matter, Senator Stevens was

to lose more of our high explosive domestic manufacturing capability to unfair trade requirements.

<sup>14</sup> 65 FR 67669 (November 13, 2000).

<sup>15</sup> CO 9–6–105, (2001).

<sup>16</sup> Public Law 104–132, Section 732.

<sup>17</sup> Letter to Captain James Spitzer, USCG, from Gary Bangs, BATE, copy to Chief Lane Wintermute, Astoria, OR, May 10, 2001.

prompted to include a provision in law to ensure that a port would always be available to the shipment of this critical supply.<sup>18</sup> More recently, BATF has described the scope of its proposals to broaden the applicability of Bureau background check requirements to include truck “drivers” and presumably other employees who may “possess” explosives in the course of transportation. We are concerned about these statements inasmuch as current Federal explosives law does not apply to any aspect of the transportation of explosives regulated by DOT.<sup>19</sup> Regulatory overlap leads to confusion and non-compliance. To reduce such overlaps particularly with DOT where the interface should be seamless, BATE should work with DOT to establish a general protocol to minimize regulatory overlaps. We believe Congress should insist that these agencies show progress in clarifying and respecting each other’s jurisdictional authority.

#### CONCLUSION

The manufacture and distribution of explosives is accomplished with a remarkable degree of safety. We recognize the important role played by BATF in helping our industry achieve and maintain safe and secure workplaces. We, therefore, strongly recommend full funding for BATF.

Thank you for your attention to these issues.

#### SUBCOMMITTEE RECESS

Senator DORGAN. This concludes today’s hearing. Thank you for being here.

[Whereupon, at 2:40 p.m., Wednesday, April 17, the subcommittee was recessed, to reconvene at Thursday, April 18.]

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<sup>18</sup> Public Law 107–107, Section 1046.

<sup>19</sup> 18 U.S.C. 845(a)(1).

**TREASURY AND GENERAL GOVERNMENT  
APPROPRIATIONS FOR FISCAL YEAR 2003**

**THURSDAY, APRIL 18, 2002**

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

The subcommittee met at 2:33 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan, Reed, and Campbell.

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

**STATEMENTS OF:**

**JAMES GURULÉ, UNDER SECRETARY FOR ENFORCEMENT  
ROBERT BONNER, COMMISSIONER, U.S. CUSTOMS SERVICE**

OPENING REMARKS

Senator DORGAN. I will call the subcommittee to order.

This is a hearing of the Subcommittee on Treasury and General Government, a hearing on the United States Customs Service fiscal year 2003 budget.

Yesterday we had a hearing on the budget for a number of law enforcement agencies within the Department of the Treasury that was exclusive of the Customs Service. Today we will receive testimony from the largest and the oldest law enforcement agency within the Treasury Department, the U.S. Customs Service.

Aside from the IRS, which dwarfs all Treasury agencies in the size of its budget, Customs is the largest agency within Treasury, both in terms of the size of its budget as well as the number of people it employs. Its budget passed the \$3 billion mark this current year with an FTE level of 18,595 employees. While the budget decreases in real terms next year, the number of FTEs would be increased by 1,024.

The events of September 11 serve to reinforce the critical role of the Customs Service and the role it plays, particularly in protecting our country. To the long list of prohibited items your agents and inspectors attempt to apprehend before they cross into this country from cocaine to ecstasy to Iranian pistachios and counterfeit Chinese copies of Hollywood movies and Silicon Valley computer software, we must now add weapons of mass destruction, as well as

persons attempting to enter this country by enclosing themselves in shipping containers.

It started a few years back when an alert Customs inspector in Washington State, at Port Angeles, not an orange rubber cone but actually a live human inspector at a small port of entry, apprehended Ahmad Ressam, the so-called Millennium Bomber. Now Customs officials are at a Level 1 alert and every port of entry into this country is staffed 24/7 by at least two Federal officials. This is what we must expect to be the normal operating environment for the near future as we fight a war on terrorism.

Mr. Commissioner, I am pleased that the effort begun by this subcommittee a couple of years ago to refocus attention on the northern border and its chronic lack of resources and personnel has been embraced by the Customs Service under your leadership. Customs is creatively attempting to address this new environment by looking at how resources, both people and technology, can be effectively used to provide homeland security.

I also applaud your container security initiative, Commissioner. This was a topic of considerable debate during the last week's full committee hearings and I look forward to discussing this concept today with you.

It is no secret that the discussion of modifying Customs operations, folding Customs into the INS, for example, at the Justice Department or creating a new border security agency is a prospect that troubles me greatly. In my judgment, the Customs Service works. The Customs Service is unique. Not only does Customs protect our borders, it also keeps our economy moving by facilitating legitimate trade. Also, it is the second largest revenue raiser for the Federal Government, after the Internal Revenue Service.

During your brief tenure, Mr. Bonner, the Customs Service has moved out aggressively to address the needs at our land borders and at our seaports. I do not want to see all of this good effort and momentum lost as the boxes on organizational charts are moved. I do not happen to think you solve organizational issues by creating larger organizations or greater bureaucracy. The Customs Service should not be visited by the problems of the Immigration Service, in my judgment.

Mr. Commissioner you, of course, are restricted and restrained to support whatever the Administration says it intends to do, and I understand that. But I want you to understand, and those in the Administration who are discussing this, that there are those of us in Congress who believe the Customs Service does a fine job, has a unique role, and we would not look favorably upon visiting upon the Customs Service some problems that other agencies have.

Let me call on the ranking member, Senator Campbell.

Senator CAMPBELL. Thank, Mr. Chairman, just a brief comment.

I also believe the Customs Service is doing a fine job. Certainly the additional role that they have taken on since the 9/11 tragedy cannot be overstated. Certainly, there is more to the Customs Service than just the vital security of the physical borders.

The Customs Service works with the trade industry to make sure that the legitimate goods can come into our country on a timely basis, and that counterfeit goods cannot. Both have a major impact on the economic well-being of our Nation.

Customs is also involved in reducing the flow of illegal drugs into our country. I noted with interest the part of Commissioner Bonner's prepared remarks which showed that the Level 1 security at the border has had the added benefit of much higher than normal drug seizures. Customs is also involved in disrupting money laundering efforts by implementing parts of the National Money Laundering Strategy, and that too protects our economy while at the same time combating terrorism.

So I look forward to the testimony, Mr. Chairman. Thank you. Senator DORGAN. Let me call on my colleague, Senator Reed.

Senator REED. Mr. Chairman, I have no formal statement. I just want to welcome the witnesses and proceed to the questioning. Thank you, Mr. Chairman.

Senator DORGAN. Commissioner Bonner, I know you are accompanied by Under Secretary Gurulé today. He was with us yesterday. Let me ask you to proceed any way that you choose to proceed. Did you want to proceed first, Mr. Secretary?

#### OPENING REMARKS FROM UNDER SECRETARY OF JIMMY GURULÉ

Mr. GURULÉ. Yes, Mr. Chairman. Let me just begin with a very brief opening statement.

Chairman Dorgan, Ranking Member Campbell, and Senator Reed, I am privileged to return to be with you here today to support the President's 2003 budget request for the Department of the Treasury's Office of Enforcement and the U.S. Customs Service in particular.

In the interest of time, I refer the subcommittee to my statement in yesterday's record for an overview of the President's fiscal year 2003 budget request for the Treasury Department's Office of Enforcement and its law enforcement bureaus.

Today I am pleased to join Robert C. Bonner, the Commissioner of the United States Customs Service, who will testify regarding that bureau's programs and initiatives. I have had the privilege to work with Commissioner Bonner in various capacities over many years, and it is indeed a pleasure to work with him again in this capacity. He brings a wealth of experience and leadership ability to his position and already has launched a number of new Customs initiatives to make our nation more secure.

Yesterday, during my testimony, I discussed three priority areas of the Office of Enforcement and the law enforcement bureaus: terrorist financing, security for the Winter Olympics, and border security. The Office of Enforcement and the Customs Service have worked closely in each of these areas, and I would like to highlight briefly for the Subcommittee some of those initiatives.

With respect to terrorist financing, last October Treasury created Operation Green Quest, which is a multi-agency financial enforcement investigative initiative designed to augment existing counterterrorist efforts by bringing the full scope of the Government's financial expertise to bear against systems, individuals, and organizations that serve as sources of terrorist financing. The work of this task force that is headed by the U.S. Customs Service already has led to 12 arrests, six indictments, and the seizure of nearly \$4 million and bulk cash seizures, cash smuggling of over \$11 million.

Green Quest agents, along with those from the FBI and other Government agencies, including the IRS-CI, have traveled abroad to follow leads, exploit documents recovered, and provide assistance to foreign governments. The work of these financial experts is just starting, as they have opened well over 300 terrorist financial investigations.

International cooperation is an important part of our strategy in the war against terrorist financing. Today, all but a handful of countries have expressed their support for the international fight against terrorism. The Office of Enforcement, in conjunction with the Customs Service and other Federal agencies is providing technical assistance to countries to strengthen their capacity to freeze terrorist funds and are working with foreign financial officials on new cooperative actions against terrorist activities and financing.

The Office of Enforcement has helped coordinate the deployment of financial jump teams consisting of experienced accountants, bank examiners, and other financial experts from the Customs Service, OFAC, IRS-CI, FinCEN, the FBI, and other agencies. These experts review bank records and possible links to money associated with bin Laden's al Qaeda network.

With respect to Olympic security, yesterday I testified before this subcommittee about the excellent coordination among Treasury law enforcement bureaus in providing security support for the 2002 Winter Olympic games in Salt Lake City. With Commissioner Bonner here today, I take this opportunity to commend him and the dedicated men and women of the United States Customs Service for the key security role they played for these Olympic games. I personally visited a number of the Olympic venues and met with many of the men and women of the Treasury enforcement bureaus who were involved in providing security for the Olympic games.

I personally toured the U.S. Customs Service command and coordination center in which Customs was monitoring the general aviation of flights that were flying into Salt Lake City, into the restricted fly zone during the Winter Olympics. The Customs Service provided critical air surveillance in restricted air space, ground support to the Secret Service, increased presence at the northern border, and screening of general aviation aircraft and their passengers and crew. At least 500 Customs officers were committed to the day-to-day oversight of the Winter Olympic games.

The total success of this coordinated enforcement effort in a heightened security environment is a tribute to the dedicated men and women who serve in the Customs Service and in the other Treasury enforcement bureaus.

Last, border security. One key component of defending our homeland is protecting our Nation's borders while facilitating the flow of travelers and cargo. Last November, Secretary O'Neill, Commissioner Bonner and I met with our Canadian counterparts during the G-20 meeting in Ottawa to discuss cooperative efforts to strengthen security along our shared border while expediting the flow of trade.

Commissioner Bonner and I are also working with the Office of Homeland Security to help implement the 30-point action plan announced in December by Governor Ridge and then Foreign Minister, now Deputy Prime Minister, John Manley. A similar smart



border accord is now in place for the United States-Mexico border. On March 22 of this year, President Bush and President Fox announced in Monterrey, Mexico a 22-point agreement to build a Smart Border for the 21st century between our two countries.

I can assure the subcommittee today that the coordination and cooperation not only among Federal border agencies, but also with their Canadian and Mexican counterparts, has never been stronger.

Finally, on Tuesday of this week, Secretary O'Neill, Commissioner Bonner, Governor Ridge, and Governor Engler visited the port of entry at the Ambassador Bridge, in Detroit, to announce C-TPAT. Under this program, major companies work with the Customs Service to implement security procedures throughout the supply chain. In exchange, the Customs Service expedites the processing of these companies' products when entering the country.

Commissioner Bonner will discuss this initiative in greater detail, but this stands as a model for ways in which the Government and the private sector can work together to ensure enhanced security at our Nation's borders.

In conclusion, I want to thank you for the opportunity to testify today in support of the President's fiscal year 2003 budget, and I want to thank you sincerely for the support that you have provided to the Treasury Department, to Treasury enforcement, and specifically to the Customs Service. I look forward to answering any questions that you may have.

Senator DORGAN. Secretary Gurulé, thank you very much.

Next we will hear from Commissioner Bonner, the Commissioner of the Customs Service. Mr. Commissioner, I understand you have a short video presentation, but we will be happy to include your entire statement as a part of the record, and you may summarize and proceed as you will.

OPENING REMARKS FROM CUSTOMS COMMISSIONER ROBERT C.  
BONNER

Mr. BONNER. I appreciate that, Mr. Chairman. I want to make a few remarks before I show the video.

I want to thank you, Senator Campbell, and Senator Reed. I am very pleased to be able to appear before the subcommittee this afternoon with Under Secretary Gurulé in connection with the fiscal year 2003 budget request for the U.S. Customs Service.

I know, from conversations I have had with the Chairman, that everybody recognizes that the mission of the U.S. Customs Service, actually in the history of our country, has always been very important. But since September 11, that mission has never been more important. From that day forward, since September 11, the number one priority of the U.S. Customs Service has been protecting and defending our country against a real and a continuing terrorist threat.

The fiscal year 2003 budget request reflects this priority. It reflects it, number one, at our borders, where U.S. Customs inspectors and canine enforcement officers defend our country day in and day out, at our land port of entries, at our airports, and our seaports. Customs role certainly is, in addition to all of the other things that the chairman indicated at the outset of the hearing, in addition to interdicting drugs and other contraband, it is a mission

to detect and prevent terrorists and terrorist weapons from entering our country. We need the resources to strengthen border security. But at the same time, we also need these resources so we can do so without choking off the flow of trade that is so important to our country's economy.

But we are not just playing defense. We also, as Under Secretary Gurulé has indicated, have gone on the offense with our Customs agents who are, and have been, investigating and disrupting terrorist financing through Operation Green Quest which is, as Mr. Gurulé indicated, a multi-agency task force led by the U.S. Customs Service.

And our Customs Agents, through Project Shield America, are also protecting against international terrorist organizations and rogue nations that support the acquiring of strategic weapons, components, technology and equipment by illegally exporting those kinds of materials.

This priority, in fact all of the counterterrorism initiatives of the Customs Service, have been supported by Congress in the fiscal year 2002 supplemental and they are supported by the Administration in its 2003 budget request in the form of program increases and annualizations.

I want to thank you particularly, Mr. Chairman, and members of this subcommittee for the support that you have given to the U.S. Customs Service in the 2002 appropriation and the 2002 supplemental, and for your continuing support of the U.S. Customs Service and its mission.

Regarding border security, I believe that we can dramatically improve security of our country against the terrorist threat and keep commerce flowing if Customs has the right strategy, if it has the right tools and technology, and if it has sufficient staffing. That strategy is, and should be in my view, two fold. First, it involves applying risk management principles to sort out the high risk from the low risk cargo, vehicles and people, so that we can concentrate our efforts and our inspections on those goods and those cargo containers and those vehicles and people that pose a potential risk. And secondly, I believe we need to push our security out. And that is, working with industry and working with other nations, we need to do far more to increase security along the entire supply chain and we need to start pre-screening cargo containers before they arrive in the United States.

As part of our efforts to push the security of our country outward, Customs has established—in fact, Customs has been working very hard with industry, with U.S. importers and others, to establish a partnership to dramatically increase security along the entire supply chain of goods into the United States. This is the Customs Trade Partnership Against Terrorism.

Last Tuesday, Secretary O'Neill, Governor Ridge, and I announced the Customs Trade Partnership Against Terrorism at the Ambassador Bridge in Detroit. I proposed this partnership to the trade last November at the Customs trade symposium that was held here in Washington in November. I am pleased to report that, as a result of, let me say, a lot of dialogue with the trade, a lot of listening on the part of the Customs Service, and a whole lot of hard work on the part of Customs Service working with the trade,

we have developed a program, a partnership to prevent legitimate commercial cargo from being used by terrorists. That is to say, we have developed a program to increase the supply chain security literally from the foreign loading docks to our land borders and our seaports.

The companies that have joined with Customs in the Partnership Against Terrorism include General Motors, Ford, Daimler-Chrysler, Motorola, Sara Lee, Target Stores, and BP-Amoco. Those were the charter partners in the Partnership Against Terrorism. Since that time, we have added 74 companies who have committed, who have signed an agreement with Customs, to implement tighter security guidelines to significantly increase supply chain security, and also to use their leverage as importers with their foreign suppliers to increase security.

Customs has also developed the Container Security Initiative which, if implemented, will extend our zone of security to foreign seaports and also protect an indispensable means of global trade, which is containerized shipping. Under the Container Security Strategy, in cooperation and in partnership with other nations, we will target and pre-screen high risk containers before they depart foreign ports headed for the United States.

I want to tell this committee that the Container Security Initiative is not just some theoretical program. It is not an academic pilot project. We have already implemented the Container Security Strategy with Canada. Last month, we stationed U.S. Customs Officers in the ports of Vancouver, Halifax, and Montreal to target high-risk containers off-loaded at those Canadian ports that are in transit to the United States.

And by the way, there are about 500,000 sea containers that arrive at those three ports in Canada annually, which are the major Canadian ports, that are not going to Canada. They are coming to the United States, either by truck or rail. So we are targeting and pre-screening those containers there.

We are also participating with the Canadian Customs Service to screen these high risk containers before they are shipped to the United States. The strategy is to expand the Container Security Initiative to the major ports in Europe and Asia, starting with the largest 20 container ports.

Mr. Chairman, there are about 5.7 million sea containers that arrive in the United States annually, let us say almost 6 million, at our various seaports around the country. Of those, nearly two-thirds either originate from or transit through 20 foreign container ports. So you can see that these are choke points. If we could have a screening and security system at just these 20 ports, you would cover something along the lines of two-thirds of all of the sea containers that are being shipped and imported into the U.S.

We are actively discussing the expansion of the Container Security Initiative with several nations in both Europe and Asia. The prospects look good for rapid expansion of this important security initiative because these nations understand that world trade would be severely disrupted if international terrorist organizations used a container to conceal or detonate a weapon of mass destruction.

With your permission, Mr. Chairman, I would like to conclude my remarks by showing what is about a three minute video tape

of several of our northern border ports of entry and the men and women of the Customs Service who staff them. If I could roll that now.

Senator DORGAN. Please proceed.

Mr. BONNER. Thank you.

As that is indicating up there, Mr. Chairman, I think it is very important to note that there are 659 new positions in the U.S. Customs Service that were given to the Customs Service under the 2002 appropriation and the 2002 supplemental combined. 659 positions that are for the northern border. 591 of those are Customs officers, Customs inspectors, and canine enforcement officers; and 69 are Customs agents.

Most importantly, not only are many of these personnel already hired by the Customs Service, but I can report to this committee that we will have hired all 659 before the end of this fiscal year, by September 30 of this year.

Secondly, let me just also say that if you looked at the total number of new positions for the U.S. Customs Service under the 2002 appropriation and the 2002 supplemental, the total number of new positions for the Customs Service is 1,300. That is about 919 inspector positions and 381 agent positions. This is including the northern border positions. All of those positions, Mr. Chairman, will be hired and on board before the end of fiscal year 2002.

#### PREPARED STATEMENT

Because of attrition, when you add the attrition and the new hires, we will actually hire, train and bring on board to the U.S. Customs Service this year, 2002, 1,975 new inspectors and new agents to the Customs Service. We have already hired 1,037 of those, which is over half. And we will have all of them hired and on board by the end of this fiscal year.

I would be happy to answer any questions that you or other members of the committee might have.

[The statement follows:]

#### PREPARED STATEMENT OF ROBERT C. BONNER

##### INTRODUCTION AND OVERVIEW

Chairman Dorgan, Senator Campbell, and members of the Subcommittee, it is a privilege to appear before you today to discuss U.S. Customs 2003 budget request. As you know, this is my first appearance before the Subcommittee and I welcome this unique and very important opportunity to discuss U.S. Customs' priorities at this challenging time for our agency and for our Nation.

I want to begin by expressing my thanks to the Subcommittee for its continuing support of U.S. Customs and its mission. You have played an invaluable role in assisting Customs with the guidance and the resources it needs to defend America's borders and to protect and promote America's economy.

The Customs Service has stood as a pillar of American stability and strength for over 200 years, by defending our country's borders and by facilitating international trade and travel. That is why it is such an honor for me to serve as Customs Commissioner, and to have been chosen by President Bush to lead an organization whose origins stretch back the very founding of our Republic.

At the direction of the President, the battle against international terrorism is now the number one priority of the United States Customs Service. Over the past several months, I have visited Customs employees in locations throughout the U.S., and I can assure you that they are working extremely hard to protect our Nation. Their dedication and commitment are truly inspiring.

Their efforts have been supported greatly by the Congress and the Administration in Public Law 107-117, the 2002 Terrorism Supplemental, which provided approxi-

mately \$465 million in additional counter-terrorism funding for our agency, and in the additional \$365 million in program increases and annualizations provided in our fiscal year 2003 budget request.

The funding provided in the 2002 supplemental and in our 2003 budget will enable Customs to meet the full range of its mission-critical responsibilities. First among these, as I mentioned, is the battle against terrorism. As Commissioner, I will also devote needed resources to strengthen Customs' drug fighting capabilities, improve the management and overall operations of the agency, enhance Customs' relationship and partnership with the trade community, and build a new system of trade automation to strengthen our national security and improve the flow of commerce across our borders.

Mr. Chairman, I want to touch briefly on each of these priority areas in my statement, and outline the actions the Customs Service has taken or is planning to take in each. And I want to begin with our overarching concern, which is the critical role of Customs in our Nation's homeland security.

#### U.S. CUSTOMS' TOP PRIORITY: COUNTER-TERRORISM

##### *The Immediate Response*

Immediately following the terrorist attacks on September 11, at 10:05 a.m. on September 11, Customs went to a Level 1 alert across the country at all official border entry points—land border ports of entry (POEs), seaports, and international airports. Level 1 requires sustained, enhanced scrutiny and questioning of those entering the U.S., and includes increased inspections of travelers and goods at every port of entry. Because of the continued terrorist threat, we remain at the Level 1 alert today.

As part of our response, we also implemented round-the-clock coverage by at least two officers at every authorized, public land border crossing, even at low volume crossings along our northern border. To do this on a 24 by 7 basis, and to keep trade moving at our high volume ports—in Detroit, Buffalo, and elsewhere—we temporarily detailed about 100 Customs inspectors to the Northern Border. To this day, Customs inspectors are, in many places, working 12 to 16 hours a day, 6 and 7 days a week. At some ports, the National Guard has been augmenting our officers, providing some much-needed relief.

Despite the demands of extended shifts and a vastly increased workload, these employees have carried out their duties with quiet determination. Many even volunteered to go to remote border locations to serve and protect their country.

As U.S. Customs shifted into its highest security posture after September 11, we experienced extraordinarily lengthy delays at the northern border, especially at Detroit, Port Huron and Buffalo. The wait times at these ports of entry quickly swelled to 10 to 12 hours. I am pleased to report that, in response, Customs and the trade community immediately worked together to reduce those delays to pre-September 11 levels, without compromising our Level One security.

These initiatives included assigning additional Customs inspectors to these entry points and opening more lanes for longer hours, and with the assistance of Governor Engler of Michigan, detailing national guardsmen to assist Customs in prescreening passengers and cargo and conducting secondary inspections. We also posted—for the first time—wait times at the border on our Customs website, to assist importers and carriers with logistics. And we still do, for ports of entry on the Canadian and Mexican borders.

In the days immediately following September 11, Customs was also quick to join the investigative front in the war on terrorism. We assigned many of our special agents to Joint Terrorism Task Forces across the country, and at the SIOC at FBI Headquarters. At one point, almost a third of our investigative workforce, over 1000 agents, were engaged in investigations related to the terrorist attacks. That proportion has gradually declined since last October. Customs has also contributed approximately 110 agents to the Federal sky marshal program. In addition, we have assumed a leading role in the Treasury Department's efforts to disrupt and dismantle terrorist financing networks, through our longstanding expertise in anti-money laundering operations.

##### *The Response in New York City*

Mr. Chairman, as you also know, the Customs Service was struck directly by the attacks of September 11. Our building at 6 World Trade Center, which served as Customs' Headquarters for much of our most important northeast operations, was completely destroyed by falling debris from the twin towers.

I toured that area during my first visit to the field as Customs Commissioner, the day after I was sworn in. I will never forget that trip, nor the images of destruction

I witnessed. During that time, I also met with Customs employees from our World Trade Center site, all eight hundred of whom escaped unharmed. Ultimately, the loss of our building was nothing in comparison to the thousands of innocent people murdered on that day.

Nonetheless, the sudden disruption to such a large and important area of Customs' operations threatened to compromise the immediate security of area ports and the integrity of ongoing Customs investigations and trade and enforcement activities. But Customs' New York employees responded heroically to the challenge, setting up a temporary operations center within hours at nearby JFK airport. And within just 3 weeks of the attacks, they succeeded in permanently relocating our New York Customs Office into new office space in Manhattan. I believe that is a remarkable achievement by any standard.

In fact, we recently concluded a highly successful drug money laundering investigation in New York known as Operation Wire Cutter. Much of the evidence and case history for Wire Cutter was buried along with other files in the 6 World Trade Center rubble. After the attacks, our agents had to go back into the piles of debris, hoisted up in cranes, to salvage evidence for the case. Undeterred, they recovered crucial files that allowed them to continue their investigation and, just last month, bring down a notorious ring of Colombian money brokers involved in laundering illicit proceeds for the drug cartels.

#### *Support of the Congress*

The support of the Congress in providing immediate assistance to Customs was critical, and we are very grateful for that help. The approximately \$36 million in up-front reconstruction funding enabled Customs to reestablish operations in New York and begin replacing badly needed equipment in a very short period of time.

I also want to acknowledge the immediate Congressional support for overtime funding for Customs inspectors and agents assigned to the battle against terrorism, and the support given to our Air and Marine units to patrol our airspace and our coastal waters. This prompt congressional response allowed Customs to secure our borders quickly in the face of an immediate threat.

#### *Looking ahead: Three Core Areas of Counter-Terrorist Response*

Since the implementation of the Level 1 alert and the emergence of a clear new mission priority, we have identified three primary areas of focus in our efforts to protect America from international terrorism. They are: (1) border security; (2) the disruption and dismantling of terrorist financing networks; and (3) the monitoring of strategic exports. Customs is actively engaged and is playing a leading role in each of these areas of our national counter-terrorist response.

#### BORDER SECURITY

First and foremost is the critical job of border security, and our mission to prevent individuals and items that may pose a threat to the United States from crossing our borders. This includes stopping and seizing terrorists, terrorist weapons and weapons of mass destruction that could be used in an attack on American soil. The actions we have taken to date—our Level 1 alert, the mobilization of inspectors to the northern border, and the deployment of additional inspection technology to our borders since September 11—have all been directed at this goal.

At the same time, our ports of entry are the vehicles by which lawful international trade and travel enters the U.S. Accordingly, we must ensure that our anti-terrorism efforts do not slow legitimate international commerce and travel, for the health of the U.S. economy depends on the timely movement of goods and people into the U.S.

Customs is focusing on several initiatives because there is no single, key component of a strategy designed to increase security and facilitate trade. Instead, such a strategy involves a combination of factors: (A) expanding advance information on people and goods and improving targeting systems; (B) fostering initiatives that "push the border outwards" and extend our security perimeter; (C) developing industry partnerships to protect trade; (D) strengthening northern border security through our partnership with Canada; (E) enhancing information-sharing and cooperation with Mexico on our southern border; (F) protecting ocean-going sea containers, a vital artery of global trade; (G) deploying state-of-the-art inspection technology; and (H) increasing staff positions for border security.

As a first, fundamental step in coordinating these various initiatives, I established a new Office of Anti-Terrorism within the agency. I appointed an experienced security expert and senior military leader to head that office, who reports directly to me.

The Director of the Office of Anti-Terrorism is also helping to coordinate Customs' role within our national security architecture, with the Office of Homeland Security,

our fellow border inspection agencies such as the Immigration and Naturalization Service and the U.S. Coast Guard, and other government entities. This cooperation is essential to ensure that we are effectively responding to the threat of terrorism and to our other mission priorities. In addition, effective coordination by all the government partners involved in counter-terrorism will help to relieve the strain that each of our agencies, individually, may face.

*The Key Role of Advance Information and Targeting*

Better targeting will be achieved not only through new equipment but also by improving the quality and the quantity of advance information we receive from airlines, shippers, and businesses. Having such information allows us to do a much more effective job of sifting out the potential threats from the vast flow of legitimate international trade and travel that Customs processes every day. Indeed, good information is the crux of effective targeting, and we have already taken steps to ensure that Customs receives more of it.

As part of our immediate response to September 11, we moved quickly to make available more information on arriving air passengers into the United States. We promptly sought, and the Congress promptly enacted, legislation that made the submission of data on incoming passengers to Customs' Advanced Passenger Information System, or "APIS," mandatory for all airlines. That law was passed last November as part of the Aviation Security Bill. Let me take this opportunity to thank the members here for their support of that bill. I told those airlines that initially balked at submitting APIS data to comply with the new regulations, which took effect in December, or face 100 percent questioning and inspection of all people and luggage disembarking from their flights. Not surprisingly, nearly all the airlines came around quickly and began supplying Customs with the needed information, even before the law took effect.

On February 18, 2002, Under Title 19, section 1436 of the United States Code, a civil monetary penalty was put into place against the pilot of any commercial passenger aircraft that fails to transmit APIS data. The penalties range from \$5,000—\$10,000 for each violation. For habitual violators, Customs has the authority to revoke landing rights, and we will for any airlines that seek to defy the new law. In all cases, we are committed to working with our partners in the airline industry toward achieving the mutual benefits of timely APIS reporting.

In allocating funds from the fiscal year 2002 Supplemental and fiscal year 2003 budget, Customs has dedicated more than \$49 million to upgrade and expand the Advance Passenger Information System (APIS). With this funding, the APIS will be able to collect and process advance information on all commercial passengers entering and exiting the United States. In addition, the APIS will be transformed into a real-time system that will run advance passenger information against law enforcement databases on a passenger-by-passenger basis and will issue board/no board recommendations to international carriers.

Securing the legislative mandate for APIS data represented a strong start in Customs' efforts to improve targeting with more advance information. However, we would also like to expand that mandate to cover shipments of goods entering the U.S. Currently, the submission of advance information on most trade entering the country is done on a voluntary basis. This information is not always complete or accurate. And it is not necessarily provided before cargo departs from the foreign port for the U.S.

Customs already collects a large amount of advance information on incoming shipments. In fact, we receive this information on 98 percent of the containers that land on our shores, thanks to a system known as the Automated Manifest System, or AMS. Customs has developed an extensive database of information on the shipping industry, its patterns, and all who participate in it through the manifests that every shipper is required to submit.

Using a targeting program known as the Automated Targeting System, we can sort through the vast AMS database and pick up anomalies and "red flags." Whatever deviates from the norm or is otherwise viewed as "high-risk" is scrutinized at the port of entry. This system has functioned as Customs' main method of picking the needles out of the haystacks, and it has served us well.

But this system could be improved. We need mandatory and accurate data in a form we prescribe. But even with those enhancements, if we select a container for inspection by x-ray technology at the port of entry on the suspicion that it contains a weapon of mass destruction, by that time it could be too late. And that is why we also need shippers and importers to provide more complete information up-front in the import process, before those goods leave their last foreign port.

S. 1214, which has passed the Senate, would make the filing of electronic transmission cargo manifest information in advance of port entry or clearance mandatory.

For Customs, this would increase the amount and timeliness of information we can input into our targeting systems, thereby enhancing our ability to spot the red flags. We will continue to work with the Congress to secure much broader manifest advance information, not only for inbound cargo but for outbound trade, for outbound air passengers, and for inbound and outbound land and sea passengers.

Finally, to enhance our information-gathering abilities in our targeting of goods and people, I established the Office of Border Security at Customs to develop more sophisticated anti-terrorism targeting techniques. I have allocated almost \$10 million over the next 2 years to provide the necessary computer equipment and permanent staffing for the office.

*“Pushing Security Beyond Our Physical Borders”*

In approaching our primary mission of border security, I believe that Customs must also do everything possible to “push security beyond our physical borders”—that is, to expand our perimeter of security away from our national boundaries and towards foreign points of departure. In other words, we can no longer afford to think of “the border” merely as a physical line separating one nation from another. We must also now think of it in terms of the actions we can undertake with our foreign partners and with industry to pre-screen people and goods before they reach the U.S.

The concept of “pushing security beyond our physical borders” focuses on building and reinforcing security layers against the terrorist threat, beginning with our immediate borders. The ultimate aims of this concept are to allow U.S. Customs more time to react to potential threats—to stop threats before they reach us—and to expedite the flow of low-risk commerce across our borders.

*The Critical Role of the Trade Community*

Any effort to “pushing security beyond our physical borders” must include the direct involvement of the trade community. In November, I proposed a new Customs Trade Partnership Against Terrorism to the trade community at a Customs-Trade Symposium I hosted. I am pleased to tell you that we are entering into partnership with some of the biggest U.S. importers. This Customs-Trade partnership will vastly improve security along the entire supply chain, from the factory floor, to foreign vendors, to our land borders and seaports. “C-TPAT,” as its acronym is known, builds on past, successful security models between Customs and the trade that were designed to prevent commercial shipments from being used to smuggle illegal drugs. The good news is that we already have much of the security template in place to protect trade from being exploited by terrorists. Our challenge now is to apply that to as broad a range of the trade community as possible.

In working with importers in the battle against terrorism, we are looking at such criteria as where their goods originated; the physical security and integrity of their overseas plants and those of their foreign suppliers; the background of their personnel; the means by which they transport goods; and those whom they have chosen to transport their goods into our country. We are examining the security practices of their freight transporters, and the routes their shipments travel. We are also reaffirming to importers the importance of “know your customer,” and we are assessing the overall “air-tightness” of their supply chains. Every single link in that chain will be made more secure against the terrorist threat.

At the same time, Customs will provide incentives to companies who partner with us to improve our national security against the terrorist threat. Those companies that adopt or have a program that meets security standards will be given the “fast lane” through border crossings, and through seaports and other ports of entry. We are working on initiatives now to make that happen.

The benefits of the C-TPAT are threefold. First, the security of the U.S. against the terrorist threat will be increased with respect to shipments made by trade partners. Second, the volume of commerce that will need to be targeted and examined by the Customs Service will be reduced, thereby allowing us to concentrate our resources on high-risk shipments. Third, the U.S. economy will benefit because trade partners will be able to move goods into the U.S. more expeditiously and with less cost. Accordingly, I have allocated more than \$11 million in combined fiscal year 2002 and fiscal year 2003 funding for the technology and staffing necessary to begin implementing this critical initiative.

The C-TPAT is also key part of our efforts to better secure our northern border with Canada. U.S. Customs and the Canadian Customs and Revenue Agency are working closely together to implement systems and programs that will both enhance security and at the same time allow for the free flow of commerce between our two countries. The C-TPAT is a core plank in the 30-point Secure and Smart Border Action Plan, which was part of the Smart Border Declaration signed in December



2001 by Homeland Security Director Tom Ridge and Deputy Prime Minister John Manley.

Under the Ridge/Manley plan, the United States and Canada are attempting to harmonize commercial processing between the two countries. The Canadian and U.S. Governments have been working independently on systems designed to increase security of cargo and help sort low risk shipments from high risk ones. The U.S. Customs program, C-TPAT, and the Canadian Customs program, the Customs self-assessment program (CSA), are both designed to achieve the dual objectives of greater security and faster processing for low risk shipments. Some questions remain, however, as to the extent of security that should be required for shipments to qualify for low risk status. Discussions are ongoing between the two Governments to resolve the few remaining security-related questions. The U.S. Customs Service is optimistic that the remaining issues will be quickly settled.

*Strengthening our Northern Border and our Partnership with Canada*

Recently, I met with the Commissioner of Canada Customs, the Commissioner of the U.S. Immigration and Naturalization Service, and the Deputy Minister for Citizenship and Immigration Canada to continue implementing the Ridge/Manley plan. We agreed on many action items and made substantial progress on others. This was the seventh meeting in 5 months between myself and Canada Customs Commissioner Rob Wright. I will continue this ongoing and productive dialog next month when I meet again with Commissioner Wright.

In addition to harmonizing the standards of our respective industry partnerships, our talks are aimed broadly at expanding our security perimeter outward from our national borders. We are focusing on initiatives to improve information exchange and adopt benchmarked security measures. This will help us to expand our mutual border and reduce the terrorist threat to the North American continent, and it will expedite the flow of trade.

The Smart Border Declaration focuses on four primary areas: the secure flow of people; the secure flow of goods; investments in common technology and infrastructure to expedite trade and minimize threats; and coordination and information sharing to defend our mutual border. An action plan put together to advance the Smart Border Declaration includes initiatives that will allow us to do more prescreening of people and goods entering the U.S. from Canada, and vice-versa, far in advance of their arrival at the border.

Part of that plan includes placing U.S. Customs and Canadian Customs personnel in each other's ports to help in the targeting and pre-screening of cargo that arrives in one country and is headed to the other. To implement this initiative, I have directed that U.S. Customs inspectors be stationed in the ports of Vancouver, Halifax, and Montreal to assist in the targeting and pre-screening of cargo that arrives there and is destined for the U.S. That is happening as we speak. Likewise, Canada Customs will soon be stationing inspectors at U.S. ports such as Seattle and Newark. I have set aside approximately \$2.4 million in fiscal year 2002 and 2003 funding to place Customs inspectors in Canada to enhance our targeting abilities.

Using funding from fiscal year 2003, I have allocated almost \$6 million to expand a NEXUS-like program to high-volume ports of entry along the Northern Border. The NEXUS program, which is being piloted in Port Huron, allows low-risk Canadian and U.S. residents to travel across the border with minimal customs or immigration processing by either country. Like the growth of the C-TPAT, the expansion of a NEXUS-like program will improve security by identifying low risk travelers and by allowing the Customs Service to focus its targeting and inspection resources on people about whom it knows relatively little.

Even with the implementation of these types of initiatives, the lack of certain infrastructure at the Northern Border would still be a significant impediment to enhancing security. As you know, before September 11, many of the low-volume POEs were closed for a portion of each day with nothing more than an orange cone to prevent someone from making an unauthorized crossing into the U.S. Since September 11, these low-volume POEs have been staffed 24x7 with two inspectors per shift to prevent such unauthorized crossings.

Over the longer term, the Customs Service could provide a comparable level of security for less cost by permanently "hardening" these low-volume POEs. Such hardening would include installing physical barriers, sensors, and monitoring devices at the low-volume POEs to prevent and detect unauthorized crossings. Accordingly, I have allocated \$41 million to harden the low-volume POEs during fiscal year 2002 and fiscal year 2003.

Providing comparable security at the low-volume POEs would also include developing a mobile response capability to respond to unauthorized crossings. Indeed, such a capability could and should also respond to unauthorized crossings between

the POEs. The principal benefit of developing such a combined response capability would be that it would allow agencies to pool existing resources and air assets, including helicopters. The Customs Service and the INS have agreed to launch the combined mobile response concept by establishing two teams at locations along the Northern Border. I have allocated approximately \$10 million to fund the Customs Service's contribution to these two pilot projects during the remainder of fiscal year 2002 and in fiscal year 2003.

U.S. and Canada Customs will also integrate our systems for intelligence and information gathering to improve our mutual targeting abilities. We will engage in a broad range of information exchange, including APIS and trade data.

#### *Mexico*

We are also engaged in implementing the U.S.-Mexico Border Partnership Action Plan. This 22-point plan was signed by Secretary of State Colin Powell during President Bush's 21–22 March trip to Monterrey, Mexico. The action plan outlines specific measures that will be taken to ensure a modern border that assures the secure flow of people and goods. Customs is the lead agency for eight of the 22 action items. Specifically, we are focusing on information sharing about goods and people, provision of Mexican APIS information; a possible joint system for processing rail shipments; shared border technology; and the assembly of a joint investigative task force to deter trade fraud.

#### *The Container Security Initiative*

In addition to meeting part of the goals of the Ridge/Manley declaration, the placement of Customs inspectors in Canada is a first step in another core area of our efforts to "push the border outwards," and that is implementation of the Container Security Initiative, or CSI. I proposed the CSI this January to address the vulnerability of cargo containers to the smuggling of terrorists and terrorist weapons.

Ocean-going sea containers represent a vital artery of global commerce. Over 200 million containers move between the world's major seaports each year. Forty-six percent of the total value of all imports received into the United States annually arrives by sea container. That percentage is higher for other countries that are even more dependent upon the use of seaports for international trade.

The sheer volume of sea container traffic and the multitude of opportunities it presents for use by terrorists are alarming. And the threat is by no means far-fetched. Some of you may recall that last October, Italian authorities found a suspected Al Qaeda operative locked inside a shipping container bound for Canada. Inside the container were a bed and bathroom for the journey to Halifax, as well as airport maps, airport security passes and an airplane mechanic's certificate.

Of ever-greater concern are the possibilities that international terrorists such as Al Qaeda could smuggle a crude nuclear device in one of the more than fifty thousand containers that arrive in the U.S. each day. One can only imagine the devastation of a small nuclear explosion at one of our seaports.

Such an event would have a massive impact upon global trade and the global economy. Even a 2-week shutdown of global sea container traffic would be devastating, costing billions. But the shutdown would, in all likelihood, be much longer, as Governments struggled to figure out how to build a security system that could find the other deadly needles in the massive haystack of global trade.

Obviously, such a shutdown would also greatly impact the American economy, sending the prices of major imported products spiraling upwards. Cities and seaports dependent upon sea container trade would be crippled, as business would dry up—resulting in massive layoffs.

We must do everything possible to prevent this scenario from happening. For that reason, I have proposed a "Container Security Strategy" to protect the use of ocean-going sea containers in international trade. The core elements of that strategy are the following:

- Establish criteria for identifying high-risk containers;
- Pre-screen containers before they are shipped to the U.S.;
- Use technology to pre-screen high risk containers; and
- Develop and use smart and secure containers.

The initial phase of the Container Security Strategy would focus on the top ten largest foreign seaports or "mega-ports" that are responsible for shipping the greatest number of sea containers to the U.S. We have identified these ten ports, which combined account for nearly half (49 percent) of all oceangoing sea containers arriving in the U.S. each year.

Working with these ten ports, I want to build a common security regime for the processing of sea containers. I want to see more pre-screening of cargo that is bound

for the United States done overseas, at the port of origin or the port of transshipment, rather than at the port of entry in the U.S. For example, we should know all there is to know about a container that arrives in Rotterdam and is destined for the U.S. before that container even departs from the country of origin for the Netherlands. And if an anomaly appears, we should inspect it at that port, the out-bound port—the port of origin, not the port of destination.

Again, I would stress the importance of advance information to achieve this level of pre-screening. The sooner in the importation process we can get that information from the shipper or carrier, the better. Ideally, we would like to have complete manifest information in electronic form the moment cargo leaves the factory, warehouse, or loading dock abroad en route to its final destination.

#### *The Importance of Technology*

Outbound inspections of containers at the mega-ports will also be enhanced by making the latest x-ray inspection machines and radiation detectors available to or required by all who participate in the Container Security Strategy. The use of inspection technology is a major asset in our current efforts to inspect cargo coming inbound to our ports of entry, both in terms of our ability to expedite trade and to detect security breaches in containerized cargo. I am referring to devices such as mobile, truck and seaport container x-ray systems that obviate the need for costly, time-consuming physical inspection of containers and provide us a picture of what is inside the container.

Thanks to the 2002 Terrorism Supplemental, Customs has been able to acquire more non-intrusive technology to protect America. With this funding, we will deploy 16 Mobile VACIS systems, 64 Handheld Acoustic Inspection Systems, 172 Portal Radiation Detectors, 8 Tool Trucks, and 128 Isotope Identifiers to the Northern Border with Canada. We will also deploy 20 Mobile VACIS, provide 4 VACIS upgrades, and supply 10 Tool Trucks to enhance security at our seaports. The use of this technology will greatly enhance security as well as our capacity to speed the flow of commerce through our ports.

Other technology we are exploring includes a crane-mounted radiation detection system to detect radiological materials in containers. This system would supplement the four thousand radiation pagers currently in use by Customs officers. We're also moving ahead on the development of electronic seals that would alert us to cargo tampering while in transit.

#### *Staffing*

As important as our efforts to build international partnerships and acquire technology are in thwarting international terrorism, I must also stress the essential human element involved in a sound border security strategy. The most important component of Customs success in protecting American lives and the American economy lies in the men and women who work directly on our Nation's frontlines. I am referring specifically to the requirement for an adequate number of Customs inspectors, and canine enforcement officers at the border to meet our security and trade facilitation mission.

One need only recall that it was a Customs inspector, Diana Dean, who in December 1999 stopped an Algerian terrorist bomber from crossing into the United States from Canada with a trunk load of powerful explosives in his car. His mission, as we now know, was to blow up Los Angeles International Airport.

Inspector Dean relied on nothing but her Customs training to pick up on Ahmed Ressam's nervous behavior, his unusual travel itinerary, and his evasive responses to her questions. And thanks to her skill and professionalism, and the skill and professionalism of her fellow inspectors at Port Angeles, Ressam was arrested and a deadly terrorist conspiracy to do great harm to American lives was foiled.

In the near term, a substantial increase in inspectors is necessary to maintain our level one alert status while decreasing the extraordinary amounts of overtime being worked by Customs inspectors. It is also critical in ensuring the two inspectors per shift requirement for officer safety and for phasing-out increased levels of National Guard support. To actually increase security beyond that provided in our Level 1 alert status and facilitate trade, additional inspectors are required to conduct targeting analyses, operate additional non-intrusive inspection equipment, staff all available lanes, question more people, and perform additional physical inspections while quickly processing an increasing volume of commercial and passenger traffic.

Thanks to funding from the fiscal year 2002 Terrorism Supplemental, immediate help is on the way. Over the remainder of fiscal year 2002, Customs will be bringing on 543 new inspectors to support northern border security and to enhance maritime security at the nation's seaports. And with funding in our fiscal year 2003 budget,

Customs is hoping to hire an additional 472 inspectors to bolster these areas over the course of the next fiscal year.

#### ANTI-TERRORIST MONEY LAUNDERING

Staffing is also critical for Customs on the investigative front in the war on terrorism. To bolster our immediate investigative efforts with respect to anti-terrorist money laundering, northern border security, maritime security at our ports, the investigation of strategic exports, I have allocated funding from the fiscal year 2002 supplemental to hire 363 special agents and 80 additional investigative support personnel. Agents will be assigned as needed to these priority areas. In addition, I have designated funding from our 2003 budget for the hiring of fifty more special agents to assist with these activities.

##### *Operation Green Quest*

In accordance with the President's mandate to identify, disrupt and dismantle terrorist financing networks, the Secretary of the Treasury established Operation Green Quest, a joint investigative team led by U.S. Customs and supported by the IRS, Secret Service, Treasury's Office of Foreign Asset Control (OFAC) and other Treasury Department bureaus, as well as the FBI and the Department of Justice.

Operation Green Quest is based in Washington at Customs Headquarters and is led by a Senior Customs Supervisory Special Agent. The Green Quest team also includes a dedicated staff of field agents based in New York. These agents are highly trained and experienced in anti-money laundering techniques, the result of their extensive work in Operation El Dorado, a longstanding, Customs-led investigation into the laundering of illicit drug proceeds by major narcotics-smuggling organizations. Now, they are turning that expertise to the war on terrorism.

I am pleased to report that so far, actions involving Operation Green Quest have led to the seizure of approximately \$4.3 million in suspected terrorist assets and 12 arrests. Included in this was the disruption of a major middle-eastern money transfer network known as Al-Barrakaat, which had been tied to terrorist groups. But we are by no means resting on these successes. Work to trace sources of terrorist financing is ongoing under Operation Green Quest, and it will continue until, working with our law enforcement colleagues from the Treasury Department, the IRS, and the Department of Justice, we have starved terrorist groups of the funding they need to survive.

##### *Operation Oasis*

In addition, Customs began Operation Oasis, a terrorist-related outbound currency initiative, on October 10, 2001. This national operation is directed at identifying, detecting, and halting the illegal exportation of unreported currency to terrorist entities. As of March 1, 2002, Operation Oasis has resulted in 253 currency seizures, totaling nearly \$9.4 million, and 6 arrests related to violations of currency reporting requirements. Most importantly, these seizures have generated dozens of leads that have been passed on to Operation Green Quest agents. Operation Green Quest staff, in turn, have shared investigative leads with frontline inspectors monitoring movements of illegal outbound cash.

#### MONITORING OF STRATEGIC EXPORTS

We must work diligently to close the avenues for terrorist funding, and we must also deprive terrorist groups of the weapons and strategic materials they need to carry out their activities. The third major area in which we will focus our counter-terrorist efforts is strategic export control. We are working to prevent international terrorist groups from obtaining sensitive U.S. technology, weapons and equipment that could be used in a terrorist attack on America and its people.

##### *Operation Shield America*

The capstone of this effort is Operation Shield America, a Customs-led initiative that also involves the Department of Commerce in working directly with American companies to prevent these types of strategic items from getting out of our country and into the wrong hands.

Since the inception of Operation Shield America, Customs agents have visited approximately 1,000 companies in the United States. These companies were selected for visits because they manufacture or sell items that may be sought by terrorists or State sponsors of terrorism. During these visits, Customs agents have shared information about specific products that these firms manufacture or sell that may be sought by terrorists. Customs agents have also passed out information about Operation Shield America and encouraged these companies to report attempts to illegally acquire or export such materials. In many areas, Customs agents have coordinated

with local FBI, Commerce Department, and Defense Department officials prior to their visits. Commerce Department officials have also accompanied Customs agents on many of their visits to U.S. companies. Operating abroad, several Customs Attaché Offices have begun reaching out to foreign law enforcement counterparts to help raise awareness among businesses in their nations.

#### SAFEGUARDING THE ECONOMY; IMPROVING THE FLOW OF TRADE

##### *Building a Better System of Trade*

While Customs is providing security at our borders, we do not want to choke off the flow of commerce to achieve security. We must be careful not to sacrifice our openness as a society. America's strength as a nation derives from its open society and its open economy. And these should not be allowed to fall victim to terrorism.

I believe that with the right level of industry partnership and the right combination of resources, we can succeed not only in protecting legitimate trade from being used by terrorists, we can actually build a better, faster, more productive system of trade facilitation for the U.S. economy. And I believe this is an important and worthy goal to strive for—if, from the devastation of “9–11,” we can succeed in constructing a system that thwarts the terrorists, and at the same time facilitates and improves the movement of legitimate business and trade, faster and more efficiently than before September 11.

One of my goals when President Bush selected me last May to be Commissioner was to build a strong U.S. Customs Service that listens to the trade community, an agency that considers the needs of business as part of deciding how we do business. And this remains my goal. But this objective must now be viewed against the backdrop of the terrorist threat to our nation. And that threat is continuing and it is real. It is a threat not just to harm and kill American citizens; it is a threat to harm the American economy. Al Qaeda and its associated terrorist organizations are on the run but they are intent on striking back, and on damaging our economy. For that reason, we must not let down our guard.

##### *The Office of Trade Relations*

I have been very impressed with the level of communication between Customs and the trade community on these and other major issues. There are very few other Federal agencies in which this level of communication exists between government and industry. I want to promote that communication, especially now during these challenging times. That is the main reason I revamped the Office of the Trade Ombudsman at Customs and renamed it the Office of Trade Relations. I wanted there to be a central point through which the trade community could convey issues to me, especially the broad issues of how we do business together, and how we improve the security of our country against the terrorist threat.

That involves more than just the specific complaints of a particular member of the trade community, complaints that the Office of Trade Relations will continue to address. It must also focus on the proposals and solutions to issues impacting the long-term relationship between Customs and the trade, and the security challenges we both face. I also wanted the office to communicate Customs' issues and concerns to the trade community. In short, I wanted and I continue to want more dialogue.

##### *Trade and Security Benefits of the C-TPAT*

One of the top priorities of the Office of Trade Relations is to continue developing and adding companies to the Customs Trade Partnership Against Terrorism. The promotion of trade and the protection of our country should go hand-in-hand. Customs cannot succeed in protecting our country without the help and the participation of the business community—without partnering with the trade.

Our goal under the C-TPAT is nothing less than to work with importers, transporters, brokers and others in the trade community to protect every aspect of the supply chain against the terrorist threat—from the foreign loading dock, to transportation of goods, to the port of entry in the U.S. No one knows those systems better than the companies that oversee them, and what it will take to safeguard those systems against potential terrorist use—against the concealment of terrorist weapon of mass destruction at some point along the supply chain.

Through the C-TPAT, through our efforts to build a common security framework with our NAFTA partners Canada and Mexico, and through initiatives such as the Container Security Strategy, I believe we can make vast strides not only towards ensuring our defenses against a terrorist threat coming via commercial trade—we can actually build a better system for the processing of international trade. We have an opportunity not only to protect America through these initiatives, but to build a better system for trade facilitation.

*Improving Internal Processes*

Internally, I have also issued several challenges to Customs departments that play a key role in our relations with the trade community. I have asked these departments to focus on, streamline and improve various processes.

First and foremost, these include our Office of Regulations and Rulings (OR&R), and specifically the time it takes for Customs to issue commercial rulings. I believe the current delays are unacceptable. I want to dramatically shorten the time it takes for Customs to issue commercial rulings, to no more than 90 days. I outlined this as a top priority to OR&R and I expect to see progress very shortly.

I have also challenged our Office of Strategic Trade and our Regulatory Audit Division to move forward with the focused assessment process, which will enhance trade security and compliance. And, I have challenged our Office of Field Operations to dramatically improve uniformity in trade processing. I want to eliminate disparate treatment of goods between different ports of entry in the U.S.

## THE AUTOMATED COMMERCIAL ENVIRONMENT (ACE)

*Importance of ACE to trade facilitation and Counter-terrorism*

Still, Mr. Chairman, no discussion of a successful strategy to protect America and its economy in the 21st century would be complete without consideration of the central importance of new automation to the mission of the U.S. Customs Service.

That system, the Automated Commercial Environment (ACE), is an important project for Customs and an important project for the business community. It is an important project for our country and for the future of global trade. It should, if done properly, reform the way Customs does business with the trade community. It should also greatly assist Customs in the advance collection of information for the targeting of high-risk cargo to better address the terrorist threat. And in doing so, it will help us to expedite the vast majority of low-risk trade.

The successful and timely design, implementation and funding of ACE is a priority of the U.S. Customs Service. It is one of my top priorities as Commissioner. I believe that ACE is so important to our country's security and the future of trade facilitation that I have set a goal that the system be completed within 4 years, and I have instructed our Office of Information Technology to plan for such a schedule.

Increasing Administration and congressional support for ACE in Customs' recent budget requests has been essential to the development of the new system. As you know, Customs received \$130 million for ACE in fiscal year 2001 and \$300 million in fiscal year 2002. That funding has allowed us to establish the fundamental design framework for ACE and to begin developing user requirements for the new system, in concert with our prime contractor, the e-Customs partnership led by IBM.

*Update on ACE*

Since April 2001, Customs, the e-Customs Partnership, the international trade community, and other Federal agencies whose regulations are enforced by Customs have worked to develop requirements for the ACE system. This collaborative effort has:

- Defined the enterprise architecture to support and enhance trade compliance, and set the framework for future integration of Customs enforcement and administrative mission areas.
- Defined "Desired Business Results" and their linkages to Customs Strategic Intent. These set the baseline for development and measurement of the system's performance.
- Provided the foundation for full import-export views of trade flows and web-enabled exchange of commercial data.
- Validated the business benefits of ACE and estimated their value.
- Established a robust technical architecture that will enable Customs to take advantage of new technology, including commercially available software components, in modernizing the commercial, enforcement, and business systems.

As I stated earlier, ACE will not only replace our existing automated system and functionality—it will transform the way Customs does business. ACE will enable Customs to process and monitor import and export shipments and related trade activity more efficiently through account versus individual transactions. It will enable Customs to release cargo more efficiently by integrating international law enforcement intelligence, commercial intelligence, and data mining results to focus our efforts on high-risk importers and accounts.

In developing ACE requirements and plans, Customs continues to review system requirements, concepts, and technology to take advantage of global customs "best practices," advances in web development, wireless computing, and supply chain technology. Moreover, as the nation reviews its homeland security priorities, Cus-

toms will continue to research and analyze emerging national security requirements as they develop for possible integration with ACE.

I want to thank the Congress, and in particular the members of this Subcommittee, for their past support of ACE, and acknowledge the Administration for providing the \$313 million contained in Customs' fiscal year 2003 budget request. This level of funding will allow us to keep pace with our 4-year time frame for completion and, most importantly, begin to deliver on the first installment of ACE benefits to the trade community.

#### *Sustaining ACS*

As Commissioner, I will continue to focus on the sound management and implementation of ACE. However, at the same time, Customs must also take care to maintain its existing system of automation, the Automated Commercial System (ACS), until ACE is fully brought "on-line." Critical ACS "life support" funds from our fiscal year 2002 budget and fiscal year 2003 request have been and will continue to be invested in infrastructure upgrades to improve ACS performance, reliability and availability to both the trade and Customs field users.

As you know, Customs was provided \$122 million for ACS "life support" in fiscal years 2001 and 2002. This funding is being used systematically to address the major structural weaknesses in the information technology infrastructure that supports ACS. As a result of this investment, there are no longer ACS brownouts occurring in the data center, user response time has improved, and ACS availability has been expanded. In addition, Customs 15-year-old communications network has been substantially replaced with a modern system.

Customs fiscal year 2003 budget request again includes \$122 million in ACS life support. That funding will be used to continue upgrades on data center processing capabilities, network capacity, and the support structure to enable ACS to process increased trade volumes. It will also go towards enhancing an information technology security program that will enhance the system's response to a higher threat level.

#### OTHER CORE MISSION RESPONSIBILITIES

##### *Drug Interdiction*

In accordance with the President's direction, since September 11 the U.S. Customs Service has made the defense against terrorism our highest priority. At the same time, we remain firmly committed to our other, core law enforcement responsibilities, first and foremost the protection of our nation from illegal drugs.

I believe that our counter-terrorism and counter-narcotics missions are not mutually exclusive. One does not necessarily come at the expense of the other. There is an undeniable nexus between drug trafficking and terrorism. We have seen that in Colombia, where the FARC has channeled funds from its protection of illegal drug manufacturing into its terrorist campaign to disrupt and destabilize Colombia's legitimate government. We have seen it in Afghanistan, where the Taliban harbored the terrorist murderers of September 11 and their leadership, supporting their activities and their own repressive regime through the heroin trade. And, there are indications that Middle Eastern terrorist organizations are engaged in drug trafficking and other crimes in the U.S. to support terrorist activities.

The models and lessons U.S. Customs has developed in our battle against international drug trafficking organizations can and will help us in the fight against international terrorist organizations. This has been evidenced so far in the results achieved by the highly capable field agents of Operation Green Quest, our lead anti-terrorist money laundering investigation. These agents, who are on detail from Operation El Dorado, an extremely successful, Customs-led drug money laundering investigation, have applied their knowledge and experience of drug money laundering techniques effectively in the effort to deny terrorists the financing they need to conduct their operations.

In this and many other respects, Customs' new mission focus to prevent terrorists or the implements of terror from crossing our borders is a natural outgrowth of our interdiction role. The two functions are interrelated, and increased attention to the terrorist threat will likely enhance our drug-fighting capabilities. As we add staffing on our borders, acquire more inspection technology, conduct more questioning of travelers, and carry out more inspections of passengers and goods in response to the terrorist threat, it should come as no surprise that drug seizures will increase as well.

Indeed, it is thanks to its interdiction success that the Customs Service has the knowledge, the experience, and the tools to serve as a critical deterrent to terrorists who would attempt to target America. But it would be a grave mistake for the drug

traffickers and other criminals to misinterpret our focus on terrorism as a weakening of resolve on other fronts. If anything, we will make life even more miserable for drug smugglers as we intensify our overall presence along America's borders. Our heightened state of security along America's borders will strengthen, not weaken, our counter-drug mission. So far, the evidence we have seen confirms this.

Soon after implementation of our Level 1 alert, Customs witnessed a dramatic decline in drug seizures. We believe that drug traffickers reacted to the heightened level of security along our land borders by withholding shipments until the Level 1 alert subsided.

That alert did not subside. But the pressure on the smugglers to bring their illicit goods to market became too great to bear. Not only did our drug seizures begin to rise once again a few weeks after September 11—they started to increase dramatically from the same period a year earlier. In fact, the overall amount of narcotics seized by Customs in October, the month immediately following the terrorist attacks, was up about 30 percent from the same month in previous year. Even more impressive, the total quantity of drug seizures for the first quarter of fiscal year 2002 were up dramatically in all major categories compared to the first quarter of fiscal year 2001: marijuana, up 19 percent; cocaine, up 60 percent; and heroin, up over 135 percent. Meanwhile, the total number of drug seizures climbed 17 percent.

Efforts to strengthen our borders through the deployment of additional manpower and non-intrusive technology equipment are expected to further enhance Customs counterdrug successes. In addition, Customs continues to play a significant role in counterdrug programs such as the Organized Crime Drug Enforcement Task Forces, High Intensity Drug Trafficking Area enforcement teams, and the Special Operations Division of the U.S. Department of Justice.

Furthermore, although intelligence resources and assets have been redirected to border security and counter-terrorist missions, Customs retains a highly active Counterdrug Intelligence Program. The agency's Tactical Intelligence Center is focused entirely on drug intelligence priorities and the processing of national level intelligence. It is also continuing to monitor and report on Eastern Pacific and Caribbean drug transportation movements.

Examples of successes against drug smuggling since September 11, 2001 include:

- September 26, Palm Beach, Florida: As part of an ongoing joint operation, and with the assistance of Customs' air unit, Customs Special Agents and local law enforcement intercepted a suspicious vessel coming from Grand Bahamas and seized 2,210 pounds of marijuana.
- October 23 and 24, Falcon Heights, Texas: Customs Special Agents, working together with the Customs air branch and the Border Patrol, seized 2,644 pounds of marijuana in a 24-hour period as a result of investigative leads regarding smuggling activity along the banks of the Rio Grande.
- November 21, Puerto Rico: Customs air and marine officers, with the assistance of other law enforcement entities, intercepted a 33-foot speed boat several miles offshore that was transporting about 2,000 pounds of cocaine.
- November 28, Nogales, Arizona: Customs agents seized 956 pounds of cocaine after developing information about a home that was being used to facilitate a drug smuggling enterprise.
- October-December 2001, El Paso, West Texas and New Mexico: During the first quarter of fiscal year 2002, Customs Inspectors, Special Agents and Canine Enforcement Officers performing antiterrorism operations seized 86,603 pounds of marijuana, cocaine, and heroin, compared to 47,910 during the same period last year.
- January 2002, New York: Operation Wire Cutter, a major 2½ year drug money laundering investigation, was conducted with the assistance of the Drug Enforcement Administration and Colombian law enforcement. As I noted earlier in my statement, Customs agents based at the World Trade Center in New York continued to pursue this case despite the destruction of their offices in the September 11 terrorist attack. Their efforts resulted in the dismantling of a ring of Colombian money brokers responsible in recent years for laundering an estimated hundreds of millions of dollars in illicit drug proceeds. This investigation was groundbreaking in that, for the first time, Customs and Colombian law enforcement collaborated to trace the entire cycle of the conversion of narcotics proceeds, from cash pick-ups in the U.S. to the laundering of those funds in Colombia.

Despite the dedication of investigative resources to the fight against terrorism, there has been no substantial reduction in the time our special agents have devoted to drug investigations. Before September 11, Customs had 1,475 agents cross-designated by the DEA to conduct narcotics investigations under our Title 21 authority. I have no intention of reducing that number. We will continue to work effectively



with the DEA to investigate drug traffickers and we will continue our strong drug interdiction efforts.

Clearly, our Level 1 alert is having the collateral effect of increasing our drug seizures. It is also likely to effect drug smuggling trends in other ways. We are anticipating those trends, and we will react to them quickly. That includes deploying an active Air and Marine presence in the Eastern Pacific and the Caribbean, routes the drug smugglers will turn to as we choke off their access to land border crossings. Although we have redirected our P-3 Advanced Early Warning (AEW) aircraft to homeland security, we continue to fly air assets in support of counterdrug operations in the transit and arrival zones.

As you also know, before September 11 our AEWs flew a substantial portion of their missions in the Source Zone for narcotics. It was because of the tragic shoot-down over Peru of a missionary flight by host country forces last April 20, not September 11, that those flights and all others conducted by U.S. agencies in the Source Zone were suspended. Thus, the events of September 11 have not diverted our AEW assets as much as might otherwise be the case. In addition, we anticipate that the deployment of new P-3 AEWs and crews since the shoot-down incident will help us to balance future demands for our air assets in the source as well as the transit and arrival zones.

Air and Marine Interdiction efforts continue to result in interdiction of drug smugglers in the Bahamas and Northern Mexico, where smuggling activity remains robust. In Mexico, Customs continues to cooperate with the Government of Mexico under Operation Halcon. Operation Halcon is a cooperative initiative that teams Customs and Mexican enforcement personnel aboard Customs aircraft based in Mexico. Since September 11, Operation Halcon has resulted in the seizure of approximately 11,000 kilograms of marijuana and close to 900 kilograms of cocaine.

In order for Customs' Air and Marine Interdiction Division (AMID) to continue to play a strong and effective role in the national counterdrug effort, I believe that modernization of existing assets is essential. In addition, as Commissioner, one of my priorities is to ensure that AMID's mission goals are reviewed and reassessed with frequency and consistency to maximize results.

We are also actively engaged on the personnel front, particularly with respect to retaining a skilled and talented pilot workforce. During the past 2 years, a 10 percent retention bonus has been in effect for Customs pilots, and a streamlined pilot recruitment and selection process was put in place. Customs also increased the P-3 pilot career ladder to GS-14, and identified non-P-3 Customs pilots eligible to be trained to fly P-3s. We will continue retention pay at the rate of 10 percent for all pilots through fiscal year 2002, and maintain our efforts to streamline the recruitment, selection, and background investigation clearance processes.

In addition, the Customs Service has made substantial progress in modernizing its marine program. Marine program staffing has increased from 65 Marine Enforcement Officers (MEOs) in November 1999 to 77 MEOs in February 2002. An additional 22 officers who have accepted positions will soon join the agency.

Replacement of aging "open ocean interceptors" is the number one equipment procurement priority of the Marine program and is proceeding well. Eight interceptors have been obtained through the sale and/or exchange of excess vessels. Fiscal year 2002 appropriations of \$9.3 million will allow for the replacement of the remaining interceptors in the current inventory (with \$6.4 million coming from the \$35 million allocated for the Western Hemisphere Drug Elimination Act funds, as outlined in the fiscal year 2002 budget). Funds from the sale and exchange of aging "open ocean interceptors" will be used to replace aging utility vessels.

As directed by Congress, the Customs Service continues to consider a wide range of options for basing and deploying its interceptor vessels in the most effective and economical way. In June 2001, the Air and Marine Interdiction Division conducted a performance-based assessment of the Air and Marine program and then developed a redeployment strategy in response to those findings. Approximately 90-percent of the redeployment is complete. Customs is currently exploring the option of using mobile support vessels to provide for on-station mission support, supplies, maintenance, and personnel needs in support of long-term offshore drug interdiction efforts.

#### *Other Enforcement Priorities*

Mr. Chairman, as you know the enforcement mission of the U.S. Customs Service extends well beyond drug interdiction to include: Internet child pornography and cybercrime; forced child and prison labor; violations of Intellectual Property Rights; illegal textile transshipment; tobacco smuggling; international auto theft; and other criminal activities related to our border mission. Customs will continue to actively pursue and fund priorities in each of these areas in fiscal year 2003.

In fact, one of our most well-publicized cases in 2001 involved the dismantling of a despicable ring of child pornographers operating over the Internet from Russia. Under Operation Blue Orchid, Customs agents from our CyberCrimes Center in Fairfax, Virginia and our Moscow attaché office worked closely with Russian authorities to identify and arrest both the proprietors of the pornographic site and their customers, many of whom were located in the U.S. That Operation also resulted in the identification of the young victims of the ring and their subsequent rescue from further abuse.

Despite our focus on counter-terrorism, Customs has achieved noteworthy successes in other, critical areas of our enforcement work. To mention just a few, since September 11, Customs has also managed to shut down a major stolen luxury car smuggling ring operating out of New York; dismantle a highly sophisticated internet piracy network known as "Warez" that was stealing and distributing billions of dollars worth of software; and secure the largest seizure ever of pirated computer software, over \$100 million worth of fraudulent merchandise.

These successes testify to the diversity of threats Customs must contend with and the skill of our people in protecting America, on all fronts. I realize that with the added strain of September 11, balancing our traditional enforcement priorities with counter-terrorism is a difficult challenge. Yet it is one our employees have proven this agency can meet. Protecting our citizens and our communities from illegal drugs and other criminal threats was a core responsibility of the U.S. Customs Service before September 11. And it remains at the heart of our mission after September 11 as well.

#### CLOSING

Mr. Chairman, members of the Subcommittee, I have outlined a broad array of initiatives today that, with your assistance, will help the U.S. Customs Service to protect America from a terrorist threat while fulfilling our traditional trade and enforcement mission. Make no mistake, Customs faces some very great challenges in balancing its established mission priorities with the war on terrorism—perhaps the greatest challenges in its long history of service to the American people. But I am fully confident that, with the continued support of the President, the Treasury Department, and the Congress, Customs will succeed in meeting the great demands placed upon it, as it has done throughout two centuries of change and challenge in our Nation.

Doing so will require a highly coordinated and concerted effort to integrate Customs' strengths within the national strategy for Homeland Security. That effort is well underway and is producing marked results, as I have testified today. The funding provided to Customs by the Administration and the Congress in the fiscal year 2002 Terrorism Supplemental has enabled our agency to begin a profound and unprecedented transformation to become a leading force against international terrorism, while at the same time allowing us to protect and promote the vital flow of commerce and our system of international trade. It is a role that, as the guardian of our Nation's borders, we are called upon by tradition and by modern-day responsibilities to play. With your support for Customs' 2003 budget request, we will be able to build upon these successes, and continue our efforts to defend America's health, liberty and prosperity at this momentous time for our Nation.

Thank you again for this opportunity to testify. I would be happy to answer any questions you might have.

#### FORCED CHILD LABOR

Senator DORGAN. Mr. Commissioner, thank you very much. When I met with you in my office I asked if you could provide me a report on two provisions that we included in last year's appropriations bill. One is the forced child labor funding. We added funding to that activity in Customs. I will ask if you would provide me and the committee members with an analysis of what has been done with the funding for the enforcement with respect to forced child labor issues.

Second, we included money for an intellectual property rights center that is dealing with counterfeiting and various things. We would like to get a report from the Customs Service also on the im-

plementation of that and the use of those funds and the progress that is being made.

#### SEA CONTAINER SECURITY INITIATIVE

Let me turn to the container area just for a moment. The Container Security Initiative, I indicated that when I heard that you were going to do this, I was pleased, because I think this is a significant threat to our country. There is such a lack of inspection of containers coming in. And we understand that it takes only one weapon of mass destruction in one container at one port to cause massive, massive damage in our country.

You, I think, mentioned did you say 5.6 million containers per year?

Mr. BONNER. 5.7 million last year, and so it is around 6 million per year.

Senator DORGAN. And if two-thirds of those come from 20, 30 ports?

Mr. BONNER. They originate in or come through those 20 ports. So if you think of Singapore, some of those are originating, being trucked down from Malaysia to Singapore. Some of them are literally coming from Pakistan and other areas and then on-loaded, transhipped through Singapore. Singapore, for example, would be a real choke point in terms of a lot of sea container traffic.

Senator DORGAN. It is probably not something we can do, to inspect 100 percent of all containers coming into this country. When you talk about two-thirds of nearly 6 million containers going through 20 ports, I understand that there are ways to work with other governments to pre-clear certain shippers. There are ways to deal with it at the point of origin? Also, here in the United States.

But if you talk about 6 million with 20 points representing two-thirds of the traffic, that means 2 million containers are not from those 20 ports. And so you have got a couple of million containers that we also have to worry about. And as I said, only one container containing one weapon of mass destruction can wipe out a city.

So this is a very important issue. Speaking as one member of this subcommittee, I am very anxious to work with you on aggressive and robust funding for this initiative because I think we are talking about a lot of things, Immigration, Border Patrol, Customs, Homeland Security, so many different facets of protection for our country. I think this issue is critically important.

You, I am sure, read the story about the fellow from the Middle East who had packed himself in a container, along with a GPS, a computer, a heater, a water supply, and he was shipping himself to Canada. And he was apprehended, but it describes the great, great difficulty we have in dealing with this container traffic.

Without asking a question about that, let me just tell you that I think you are on the right track and I want to be helpful and work with you on that.

#### NATIONAL GUARD ASSISTANCE TO CUSTOMS

Let me ask a couple of other quick questions. We are supplementing some resources at the ports of entry with the National Guard, but there is some concern that the National Guard are going up to these areas, working with your Customs agents and

others, and the National Guard is not armed. Yet, they are up there in full uniform. Do you know what the factors were behind the decision not to arm the National Guard? Were you involved in that?

Mr. BONNER. We made the initial request of the Department of Defense in late October. It went over to the Treasury Department and was submitted in early November, our request for National Guard. We were very specific. We had done an analysis. We wanted 626 National Guard to provide some relief to what were, and still are, some extraordinarily hard-working U.S. Customs inspectors at our borders who are working extraordinary amounts of overtime. They have been working far more than normal, Mr. Chairman, since September 11, to maintain the 24-by-7-by-2 security at our ports of entry, and also to make sure that we have lanes, including commercial lanes, open for longer periods of time.

My position, by the way, has never been that the National Guard should be unarmed. Essentially, after several months, after funding issues had been taken care of, we received from the Department of Defense an MOA, a memorandum of agreement, that they provided to us in which they were saying we were getting the Guard, and that they were going to be unarmed.

My own view is that we have never taken the position that the Guard should be unarmed, and frankly there are some locations in which it would be certainly preferable that the Guard be armed.

We were prepared, we have indicated to the DOD going back to November and December, that we were prepared to provide the training, both in terms of use of force of policy, and in terms of the training with some sort of a sidearm pistol, a nine millimeter pistol. And for whatever reason, essentially to get the Guard, we had a memorandum of agreement that they would not be armed.

Now we can use, at the large commercial ports and warehouses and things like that, we can certainly use the Guard and are using the Guard for appropriate purposes where they do not need to be armed. But in my judgment it would be preferable, certainly at the remote ports of entry, and also the other locations, that they be armed.

So that is my position on the subject matter. We just yesterday had a further discussion with the appropriate representatives of the Department of Defense and I think their position now is to simply—and by the way, we already have these Guards and it is for 179 days. Now their position, in midstream, is that they have made some analyses of the number of Guard that they think need to be armed, that appeared to pay little or no attention to the Customs Service's analysis of where we need Guard and where we need them to be armed.

So we are following up promptly and as expeditiously as possible with DOD to get this resolved, to identify those members of the Guard that frankly, do need to be armed, and then taking the steps—and Customs will absorb the cost of this—to send them for what is going to be perhaps as many as a 10-day training course in the use of force policy and weapons training.

The sad part of this is that this is not the time to be doing it. This should have been done before the Guard were ever deployed. But we are working on the issue.

Senator DORGAN. First of all, thank you for being candid about it. It may get you in some hot water in one corner or another, but I think it is an important issue here. The National Guardsmen and women, I think feel strongly about this issue, being sent to in some cases pretty remote places in full military uniform with a security role but being told, by the way you cannot carry a weapon. It is just an inexplicable decision.

I do not know when we are going to get a decision. We have appealed that and asked DOD to take a look at that issue. From your discussion, apparently there are active discussions and we are expecting some sort of decision.

Mr. Gurulé, do you agree with Commissioner Bonner?

Mr. GURULÉ. Yes. I was just going to add, I spoke with General George Casey yesterday on this issue. There was actually a meeting that was held yesterday between DOD officials and Customs officials. I think that we are close to resolving the matter and he certainly seemed anxious to resolve it as quickly as possible. So I think we are very close to having this behind us.

Again, as the Commissioner stated, it is unfortunate that it has taken this long, but I think we are close to resolving it.

Senator DORGAN. Can you describe close? Is it days or is it weeks?

Mr. GURULÉ. It is hard to say. My sense, from the conversation that I had with General Casey, is that we are literally days away from resolving it. I think it is that close. And I certainly sense that there is a strong willingness on the General's part to move as quickly and as expeditiously towards resolving it.

And I think the spirit of cooperation here is very strong, so I am optimistic.

#### PROPOSED COBRA FEE INCREASE

Senator DORGAN. Let me just ask one additional question and then I will turn to Senator Campbell.

This administration, just like the past administration, has recommended a user fee of sorts that would be used to fund a portion of the Customs Service. The Administration says that the Customs Service is actually receiving an increase in its budget from 2002 to 2003. That is based largely on the \$250 million proposal for a user fee.

We have not embraced the user fee under the previous administration, under the Clinton administration. I doubt very much whether we will this year. If we do not, what will we do about funding here? In order to have a user fee, you would have to work with the authorizing committee and have it authorized by July 1st. Is that work underway, Mr. Gurulé?

Mr. GURULÉ. Well, OMB and the Treasury General Counsel's Office have been engaged in extensive discussions on the legislation that would be needed to affect the change. It is my understanding that it is in the final stages. Again, when I say final stages, within a few days of being resolved, the language to be submitted to the Hill for consideration. So we are very close to having the language up here to authorize the user fee.

Senator DORGAN. Do you believe Congress would enact that?

Mr. GURULÉ. I do not know. I cannot speculate. The theory, as you know, underlying the proposal with respect to the user fee was that the user fee was established back in 1985. It has not been changed, has not been increased in the last 17 years.

I have not done the math but I would suspect that if we took the user fee and tied it to the rate of inflation, we could justify going from \$5 to \$11 with respect to just inflation and related costs incurred in conducting these inspections.

And then finally I would add that post September 11, I believe that we are seeing more scrutiny, close scrutiny of international passengers. And therefore, there is increased costs that are being incurred, as well.

Senator DORGAN. I understand that, but the point I was trying to make is the Clinton administration could not sell it here, and I do not believe the Bush administration can. If you cannot, then you are \$250 million short. And the question is where will we come up with that shortage? Any ideas?

Mr. GURULÉ. Well, if the Congress rejects the COBRA fee, and I am certainly hopeful that it will not, but if it rejects it then we will need to meet and work closely with Congress to see ways in which we might be able to fill the gap that is created in the absence of such a fee. I would welcome the opportunity to work with you and your staff to that end.

Senator DORGAN. Senator Campbell?

Senator CAMPBELL. Thank you, Mr. Chairman.

Before I ask Mr. Bonner a couple of questions, let me congratulate Mr. Gurulé on some of his recent staff additions. I speak with some authority, Mr. Chairman, because Mike Russell, who is sitting behind him, was my deputy chief of staff over 5 years. I still find myself, when I am in trouble, saying where is Mike, where is Mike? He is now doing a fine job for Mr. Gurulé.

Mr. GURULÉ. Absolutely.

Senator CAMPBELL. He was my loss and the Administration's gain.

Let me also make a comment on the so-called user fee. We have dealt with these user fees under different names for years and years. I can remember 15 years ago, on the House side, when we had the tourism caucus, when we were trying to just increase tourism by adding some kind of a fee that could be called a landing fee or some kind of a fee. And it absolutely fell on its face then because of opposition from the tourism industry.

I do not think we are in any better shape now when we talk about adding fees for people that want to come to the United States.

#### SEA CONTAINER INSPECTIONS

Mr. Bonner, I am really interested in the numbers expressed on these containers, and I do not know much about these containers, and math is not my long suit either. But it appears there is probably about 15,000 per day coming into the United States roughly, 15,000 or 16,000 containers a day.

Mr. BONNER. That is about right.

Senator CAMPBELL. You mentioned that the inspections now are based on high risk, did I understand you to say that?

Mr. BONNER. Yes.

Senator CAMPBELL. How do you identify high risk? Location or intelligence or something?

Mr. BONNER. Obviously, any time you have specific tactical intelligence, that is the best thing. But to be perfectly blunt about it, we do not get a lot of tactical intelligence that says you ought to take a look at *x* container coming in on *x* vessel.

What you do, Senator, is first of all Customs has a very significant volume of trade information in its databases. It also collects, right now on a voluntary basis, advance manifest information that is provided to us. By the way, it is incomplete, it is not adequate in my opinion.

Senator CAMPBELL. It could be counterfeit, and so on.

Mr. BONNER. But nonetheless, we do get a very large amount of information. And we essentially, using targeting principles and rules, we have developed and are getting more and more sophisticated in developing a rules-based targeting methodology which allows us to identify containers that are high risk.

By high risk I mean those at potential risk for terrorist threat.

By the way, I do not think it is perfect. It is not perfect because we are not getting complete information. We need complete information and if the Congress makes it mandatory that Customs be provided with complete manifest information, this will assist us. But we do have a lot of information.

And so we make judgments that are based upon a risk targeting methodology as to which containers we should inspect. That is number one. That is our general approach to sorting out high risk from low risk.

Senator CAMPBELL. Out of those 15,000 or 16,000 a day, what percent are actually inspected?

Mr. BONNER. I would say you are probably talking about maybe 2 to 3 percent that are inspected as posing a potential risk.

Senator CAMPBELL. You are primarily inspecting for some potential terrorist threat. But I was wondering, has your inspections had a spinoff of finding increased smuggled goods or counterfeit goods or so on that you have always been concerned with?

Mr. BONNER. Let me distinguish two things here. We were initially talking about sea containers, but we are also using this same methodology in terms of, for example, commercial trucks that are crossing our border and so forth.

So there, by the way, the Canadian border, I just want you to know we are actually inspecting, in some way or another, a significantly higher percentage than 2 to 3 percent.

But going back to your question, yes, there has been, by virtue of increased scrutiny and increased inspections, there has been a significant increase in the seizure, for example, of illegal drugs coming into the country. A lot of that has been at the southwest border because, as you know Senator, the estimates are 65 to 70 percent of all of the illegal drugs that are smuggled into the United States come across the border with Mexico.

Senator CAMPBELL. Have you found any more people, as Senator Dorgan suggested about that one guy that snuck in in a container.

Mr. BONNER. That was an individual that was actually on his way from Egypt through Genoa, Italy to Halifax, Canada. I think

he was originating in Port Sayeed, Egypt and, by the way, very troubling, he had an air mechanics certificate and some other identification on him. He never reached the United States.

In the broadest sense, of course, the inspection technology that we are using can detect a number of anomalies, illegal drugs, terrorist weapons, and it is certainly capable of detecting individuals that might be concealed either in a tractor-trailer truck or in a sea container.

Senator CAMPBELL. I have seen some of those gizmos that can measure heart rates inside of a container. I have seen them used.

Mr. BONNER. Again there have been instances in which sea containers have been used to—at least we have some evidence—where they have been used to transport people. I am not saying terrorists. And we certainly have images, x-ray images of, for example, train cars coming across from Mexico that have individuals in them. This is something that you pick up on the non-intrusive inspection technology, the large x-ray and gamma ray machines that can image these containers.

So yes, leaving aside the radiation detection devices that we have that we are also using, but the same kind of imaging technology, in my judgment, is increasing the numbers of seizures of illegal drugs that are coming into the United States.

#### POST-SEPTEMBER 11 BORDER CROSSING WAIT TIMES

Senator CAMPBELL. Let me ask you about impeding the flow of trade. I do not know much about containers but I know a little bit about the trucking industry. I was told by a number of truckers that travel from Canada to the United States that, for quite a while after 9/11, there was 24 hours or more wait at the border while being inspected. Do you know if there is still a huge wait like that? Or have we increased the speed?

Mr. BONNER. I know exactly what the wait times are, Senator, because one of the things I did even before I was confirmed as the Commissioner of Customs, I think on or about September 13, is I directed the U.S. Customs Service to start measuring with exactitude what the wait times were for a truck to come across the U.S. border. The reason that I did that was that we were experiencing what were 10 to 12 hour wait times to cross into Michigan, into Buffalo, New York, and some other points on the border.

So not only are we measuring these wait times, but we take two snapshots, 8:00 a.m. and 4:00 p.m. every day at all the major ports of entry, both on the northern border and the southern border with Mexico. They are posted on the U.S. Customs website, which is [www.customs.gov](http://www.customs.gov), and have been since a few days after September 11.

So if you want to know what wait times are for commercial trucks, and it also goes for passenger vehicles, you can go to that site. So I know, actually I track this if not on a daily basis, at least every week. I look at the wait times. And I can tell you, Senator, that while there were 10 to 12 hour wait times essentially in the week after September 11, that through a combination of efforts by U.S. Customs, with the trade, and with getting some National Guard deployed, by TDY-ing, temporary duty assignments, for Customs inspectors, to man more of the lanes more often, and some



other measures, we got the wait times down, by about September 17, to what were pretty close to pre-September 11 levels.

Senator CAMPBELL. I am just looking at a chart here that indicates in some places not more than 10 minutes delay or some places no delay, some places 20 minutes. That is not bad.

Mr. BONNER. It is not bad, and it is as good, by the way, in most places—there are some exceptions here, by the way, that we need to work on that are not commercial truck traffic so much as POV or privately owned vehicle traffic.

#### CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM

Senator CAMPBELL. Let me ask you another couple of questions on containers. You mentioned working with the industry on inspecting the containers. Does that mean industry sometimes inspects their own containers? Or is that always done with Federal agents, too?

Mr. BONNER. Well, it is our responsibility to certainly use our authority to inspect any containers that we think have contraband or pose a risk. But what we have done with the Customs Trade Partnership Against Terrorism is—

Senator CAMPBELL. I do not have too much time.

Mr. BONNER. I will try to put it in a nutshell. It is essentially to use the leverage of major U.S. importers to increase the security, not just—

Senator CAMPBELL. You do that at point of origin, rather than here then, do you not?

Mr. BONNER. Point of origin, yes. The origin of the foreign manufacturer to increase the security along the supply chain.

But that does not mean that we stop doing inspections. It just means that it adds another layer, if you will, of security with respect to goods, containers and cargo coming into the United States.

Senator CAMPBELL. Thank you. Thank you, Mr. Chairman.

Senator DORGAN. Senator Reed?

Senator REED. Thank you, Mr. Chairman, and thank you gentleman for your testimony.

Commissioner Bonner, it is good to hear that you are increasing the number of personnel across the northern border because that is a major access point to the United States. But I also sympathize with your general comment about the need for additional personnel for Customs Service. Indeed, in my home State of Rhode Island, we are one person short of our full complement of 12 people. That has been the case since the end of the year. I hope not only can you fill up the northern border, but also other places around the country that need additional Customs officers for the very reasons you pointed out so well in your testimony.

#### CUSTOMS AUTOMATION MODERNIZATION

Let me ask you a question with respect to the Automated Commercial Environment. How well is that going, which represents a major effort to increase the efficiency and effectiveness of the Service and replace the old ACS system?

Mr. BONNER. This is, of course, a very, very important procurement project at the U.S. Customs Service, and which had started

somewhat before my arrival and my confirmation on September 19 last year.

But number one, I want this committee to know that this is one of my highest priorities, the successful design, implementation, and the funding necessary to design and implement ACE in a timely manner. It is an incredibly important system because it does hold the potential, and if we do it right we will reform the way that the U.S. Customs Service does business with the trade. It also will significantly add to our ability to perform our security function against the terrorist threat by getting ACE implemented.

Where it stands right now is that before I arrived, there was a contract entered into with the E-Customs Partnership, which is a consortium of companies led by IBM, to do the design and the development of ACE, working closely with and being overseen by U.S. Customs. In fact, this whole process is also being overseen by the Office of Management and Budget and GAO and this Committee, rightly so. It is a big project and it is an expensive project.

We have just gotten approval, and I want to thank this Committee, for the second expenditure spending plan. A few weeks ago when I met, as I do on an almost monthly basis, with the executive steering committee for the ACE project, we approved and put forward the third spending plan, which is making its way to this Appropriations Committee, but which is right now somewhere between Treasury and OMB.

In any event, we believe that we will start receiving deliverables, the first release of deliverables, under the ACE system by, I believe, this coming fall. So right now, I would say we are making reasonably good progress toward getting ACE designed and beginning now, the implementation phase and starting to roll out the deliverables.

As you know, this is being done in phases. At the current level of funding, we should be able to complete the implementation of the ACE system and get off the old ACS life support system within 5 years. I am looking at seeing if there is a way, without materially in any way increasing the risk to ACE and its development, of actually completing the ACE project within 4 years. That is being discussed right now. If, in fact, we conclude that it can be completed within 4 years, then the question is what kind of funding implications that would have.

I am not at a point to discuss that further with this Committee. I chatted briefly with the Chairman about this last Monday, but as soon as I have formulated my own conclusions and discussed those appropriately within the executive branch, if we think this can be done, I would look forward to coming over and briefing not just the staff, but the members of this committee as to how we might do that and what would be the funding implications.

Senator REED. If I may, a quick follow up. Did the events of September 11 and all of the heightened security issues cause you or the architects of the system to look again at whether or not the system design is the right one for the new security needs? And if you did, do you foresee any changes in the system?

Mr. BONNER. We certainly are, and we are looking at the possibility of seeing if we cannot push forward certain things that would

help us with respect to security issues. That is being looked at, to see if we can do that.

Certainly, I mean if the system were in place now it would be of immense benefit to the U.S. Customs Service in being able to do even more sophisticated targeting and analysis of the type that I was talking about with Senator Campbell. So we want to see if there are some things, without again putting the system or its development at risk, that could be done to push—there are a couple of items that might be pushed forward that would be particularly beneficial in terms of better dealing with the security issue and the security threat.

#### JEWELRY MARKING

Senator REED. Thank you. One final point, if I may, we all have industries in our home States that are vital. The jewelry industry has a long time been a vital, not only economic but cultural and social force in Rhode Island. For many, many years now I have been trying to give them a level playing field by suggesting legislation which would require indelible markings on foreign jewelry, the major form of competition. Today there are requirements of some type of non-permanent marking, piece of paper, et cetera, which mysteriously disappear.

I am wondering what the Customs Service perspective might be on this matter? I think it is something that Senator Campbell might be familiar with since Indian jewelry requires a permanent indelible mark, which I think is very appropriate. Do you have any thoughts? Or could you get back to us?

Mr. BONNER. You know, I would be happy to get back to you on it. I must say, as I sit here right now, I have not given that detailed thought. And I would want to make sure that any system we have is one that Customs can—

Senator CAMPBELL. If the senator would yield on that specific point? Years ago, when Bill Richardson was in the House, we tried to put an amendment in the trade bill to make indelible stamping of metal. Several national groups, including the National Jewelers Association, opposed it and we could not get the thing passed.

Everybody wants some protection, but if it bites into their bottom line profit, sometimes the line gets blurred.

Senator REED. If you could get back to me, I would appreciate it, Mr. Commissioner. Thank you, Mr. Chairman, thank you Senator Campbell, for your comments.

#### ARMING NATIONAL GUARD DETAILEES

Senator DORGAN. Thank you, Senator Reed. Mr. Bonner, two other areas.

I just looked at an April 9th memorandum from the Department of Defense on this issue of arming the National Guard and I wanted to just share this with you. This is recommended to the chairman of the JCS that 411 soldiers be armed, 337 on the northern border, 74 on the southern border it appears. SECAR recommended approval, also. Forwarded to J-5 on March 22 for coordination with lead agencies. I assume that includes yours.

When approved by the lead agencies, it will be forwarded to the Secretary of Defense for approval. Upon approval by the Secretary

of Defense, both MOAs will need to be amended before arming can occur. It appears we are at least 8 weeks away from arming our soldiers at the earliest. That is dated April 9th.

Does that conform to what you are hearing?

Mr. GURULÉ. I think the reason for the delay is that there is going to have to be a training period. We are talking about the decision, when we would have a decision resolved on this issue. And my sense is that that is shortly to occur.

But after that decision is made, then there is still the training issue that needs to be resolved. So it will be some additional time before they are actually armed at the border because they need this additional training requirement.

Senator DORGAN. You are talking about 10 days training, right? I mean, the problem is this starts on March 2 and it looks like you are talking the potential of mid-June. It is sort of frustrating because I think the Commissioner indicated, and many of us feel as well, some of these soldiers should not have been deployed without arms. And as weeks and weeks and weeks go by, I think it is inappropriate to have to wait this long for an answer.

Mr. GURULÉ. Again, I do not think the issue is that difficult, so I am surprised that they are referring to this in an 8 week time frame. I do not think the issue is that difficult to resolve. The training is not that long. So I am not sure what other factors are being weighed into the equation here that is extending this for such a long time.

Senator DORGAN. I am not sure this even contemplates a training time. I think it contemplates a decisionmaking time. It talks about when it goes to the Secretary of Defense, dealing with lead agencies, then goes to SecDef, SecDef approved, both MOAs need to be amended.

I mean, I suspect this is probably just kind of a bureaucratic slowdown here.

Mr. BONNER. As I said, Mr. Chairman, they are available to Customs only for 179 days. And my full intention, as I told DOD all along, is to recruit, hire, train and deploy the new Customs inspectors to replace the Guard, because I only have the funding for 6 months anyway. So that is the problem we are into now. By the time they approve all of this, it does not make sense to take them away for 10 days and train them because they are only going to have another month or so left on their service. It was not done in an orderly way.

And second, the determination as to which Guard need to be armed is essentially a unilateral determination by DOD. All we are saying is here are the ones we need armed. It is not 411, actually it is quite fewer than that who need to be armed. Let us get them trained. I think we can probably get a training program put in place and I am going to take this out of my own budget, get the travel money to get them to FLETC or wherever we need to put them to get them trained and redeployed.

The DOD proposal does not take into consideration that—we are the ones that requested this and we are the ones that are actually paying for it. Now granted, OMB has been helpful here to Customs on the budget, but the DOD does not take into account first of all, where we want them, and second which Guard we think need to

be armed. At this point it does not make sense to, I do not think, to arm as many as they want. We are using some of them—actually, in this film you saw we are using some of them in situations at major commercial ports where there are a lot of Customs inspectors around who are armed, and we probably do not need them armed at this juncture in those locations.

But we certainly need them armed at remote ports of entry where they, along with one other Customs inspector, are essentially standing sentry at our border.

Senator DORGAN. When did you alert DOD to the fact that you felt that this certain group should be armed? About what time-frame?

Mr. BONNER. You know, the problem is—the evolution of this, frankly it has taken so long. But let me just say, I am going back to the discussions that we were having back in December with DOD. And in those discussions, we were proposing the training program for armed Guard that we would have, we would put together the training program, that we would be putting on the training for them.

And somehow, I honestly do not know Mr. Chairman, but somehow or another, as this evolved, and it was taking so long, we were presented with a memorandum of agreement. At that point, I thought we should just get the Guard and move on with life. But it was always our view that either all of the Guard would be armed, or at least some of the Guard where it made sense to have them armed would be armed. It was not our decision to have them all unarmed.

Senator DORGAN. You made that recommendation early and were overruled by the DOD, who determined the conditions under which they would be deployed; is that right?

Mr. BONNER. I think that is a fair way of characterizing it. You have to know that there were all sorts of other issues going on that were making this an excruciating process, in terms of the delay in the negotiation.

#### MEXICAN LONG HAUL TRUCKING

Senator DORGAN. Let me ask one other quick item. I have been told, it has not been made public yet, but I have been told the Administration is prepared to proceed with a June 30 decision point for allowing Mexican long haul trucks to come into this country. Many of us will have great heartburn about that, because I do not think anybody is ready for it. Certainly not DOT, certainly not the people who are engaged in inspections, and so on. And I think that will pose a danger on America's roads.

But tell me when the decision is made to allow Mexican long haul trucks to come into this country, what impact will that have on Customs? And is Customs ready?

Mr. BONNER. I think we are ready for it. There are some issues here that probably are beyond my province that have to do with safety of trucks and drivers and that sort of thing. We are working, by the way, with the Department of Transportation and Federal Highway Administration to do everything we reasonably can to assist them with being in a position to satisfy themselves that the

Mexican trucks that would be going past the 20 mile zone are safe and all of that.

I honestly think, Mr. Chairman, in terms of the inspectional issues, the only issue I see—first of all, I think we are ready for it when it happens because it is essentially the same tractor-trailer truck that is coming across. It is just not going back right away empty. Some of them would be continuing on into the highway system of the United States.

But I do not see it as, for example, significantly increasing in any way the numbers of tractor-trailer trucks and/or the numbers that we would need to screen and inspect.

Senator DORGAN. Had you heard of the June 30 proposal? In your discussions with DOT are they talking about a date?

Mr. BONNER. I have heard that—I did not know whether it was a firm date or a fixed date, but I knew that they were trying to work toward being in a position so that they were able to certify the tractor-trailer trucks coming in from Mexico sometime in June. But I do not know that I have actually seen, whether that was some specific legislation or regulation, or what the exact driver of that timetable was.

Senator DORGAN. But this issue is more for DOT, because I think you allow that quantity of Mexican trucks to come in and long haul without nearly the capability to inspect, and there is not the capability to inspect. And with massive problems, lack of log books, lack of the requirements on Mexican drivers that exist here, I mean a whole series of problems, we are going to run into real serious safety issues on our highways.

That is an issue I will pursue more with DOT, but I was curious about what you had been doing.

#### ADDITIONAL COMMITTEE QUESTIONS

Mr. Commissioner, thank you for testifying today. We look forward to working with you. Please tell the men and women of the Customs Service that we admire what they have done. September 11 underscored again their value to this country and the importance of having secure borders and their contribution to making those borders secure.

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

#### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

##### CUSTOMS TAX INCREASE

*Question.* The Administration is claiming that the Customs Service fiscal year 2003 budget will receive an increase from fiscal year 2002. This is largely based on the Administration's proposal for a tax increase to cover \$250 million of homeland security efforts. It is my understanding that this user fee must be authorized by July 1, 2002 to begin accruing the total \$250 million.

Are you working with the authorizing committees to pass this proposal? If not, who is responsible in the Administration for pursuing this legislation?

*Answer.* We have had discussions with the House and Senate authorizing committees and expect to continue working with them when the legislation is finalized.

*Question.* What plans do you have to cover the \$250 million shortfall if the legislation is not enacted?

*Answer.* Given that Customs must address its existing labor costs prior to embarking on new recruitments, it is essential that the COBRA fee increase be enacted

for the programs supported by the Administration's budget request to achieve success. The allocation of the fee increase would not be restricted to any aspect of that mission. The Administration will soon send a legislative proposal for a COBRA fee increase to the House Committee on Ways and Means and the Senate Committee on Finance. The Administration is willing to work with the Congress to ensure that the fee increase gets enacted because it is essential to the successful accomplishment of Customs overall mission. Consequently, the Administration has not contemplated an operating approach for Customs based on resources that are \$250 million less than the total availability assumed in the budget request. If the fee increase is not enacted, the Administration is committed to funding discretionary spending within the total submitted in the President's Budget and would work with this Committee to fashion acceptable trade-offs among all the important domestic spending priorities.

*Question.* What effect will this have on the Customs mission if this "tax increase" is not implemented?

*Answer.* As noted, the Administration is keenly aware that the funding associated with the fee increase is essential to the successful accomplishment of Customs overall mission. Consequently, the Administration has not contemplated an operating approach for Customs based on resources that are \$250 million less than the total availability assumed in the budget.

#### JOINT BORDER AGENCY

*Question.* It is my understanding that the Administration is moving closer to Governor Ridge's proposal that would combine the Customs Service in a joint border agency with other agencies such as the Immigration and Naturalization Service (INS) under the Department of Justice.

Given the INS's poor record and the most recent blunder of sending approval letters for student visas of two of the terrorists from September 11th, is it the most appropriate thing to combine these agencies at this time?

*Answer.* The U.S. Customs Service is committed to protecting the security of our Nation's borders and will continue to do so through enhanced programs aimed to deter and detect terrorists or implements of terrorism from entering the U.S. The U.S. Customs supports and is prepared to comply with any direction from the Administration designed to enhance overall border security.

*Question.* Do you support Governor Ridge in his efforts to create a joint border agency and how would the revenue generating responsibilities of the Customs Service fit in with such a plan?

*Answer.* As stated, Customs supports and is prepared to comply with any direction from the Administration designed to enhance overall border security. Governor Ridge has observed Customs border security operations first hand, and Customs is working with the Office of Homeland Security on a number of initiatives directed toward enhancing border security and supporting trade facilitation.

*Question.* What is the President's timeline for making a decision on this proposal?

*Answer.* Customs is not aware of a Presidential timeline for making a decision on this proposal. (Response reflects pre-June 6 Presidential announcement.)

#### BUSINESS STRATEGY ADJUSTMENT AND PAY PARITY

*Question.* Secretary O'Neill is requiring that all agencies incur a Business Strategy Adjustment. He feels that every agency can find savings, but all those we asked were absent any ideas that wouldn't affect mission-related activities. He proposed something similar in fiscal year 2002, but this Subcommittee restored the funds for law enforcement agencies. In fiscal year 2003, the BSA for Customs totals \$18,377,000. To reach parity to the military 4.1 percent from the President's request of 2.6 percent, it will cost Customs \$15,115,000.

What savings do you recommend to cover the proposed \$18.377 million business strategy adjustment?

*Answer.* Savings will be accomplished through an enterprise approach toward administrative services and functions that will create synergies within the Treasury Department and lead to economies of scale. Customs will work with main Treasury and other Treasury Bureaus to identify areas in which cost savings can be achieved. These areas could include but are not limited to reengineering the drawback process, implementing CD-ROM EEO Training, conducting EEO investigations at the Treasury Bureau level, and establishing a corporate approach to Treasury Acquisitions.

*Question.* What would be the affect on your agency if forced to absorb the business strategy adjustment and a 1.5 percent pay raise?

Answer. Customs would try to achieve even more cost savings using the enterprise approach mentioned in Question S-USCS7. Regardless of the types of management efficiencies, how they are achieved, and how successful they are, Customs will not compromise the security of the United States.

USA PATRIOT ACT

*Question.* This law authorizes the tripling of INS and Customs personnel from fiscal year 2001 levels along the Northern Border. Assuming the President's fiscal year 2003 budget is implemented, there is still a hiring shortfall of 1261 Inspectors and 355 Agents under Customs, while the shortfall for INS is significantly lower. I estimate that Customs will need an additional \$188 million to reach this goal. INS is short only 447 Inspectors and 280 Border Patrol Agent to reach the goal of tripling its personnel.

Would the tripling of staff from fiscal year 2001 levels fill the necessary holes in staffing the Northern Border to place you at optimal levels? Please detail what you would need to be at optimal levels along the Northern Border and separately along the Southwest Border.

Answer. We believe that if Northern Border Inspector staffing were tripled from fiscal year 2001 levels, coupled with appropriate hardening of low volume ports and installation of electronic surveillance equipment and Non-Intrusive Inspection Equipment (NII), Customs Inspector staffing would be adequate.

Southern Border Inspector staffing maintained at existing baseline levels, combined with additional staffing provided for in the fiscal year 2002 Emergency Supplemental and fiscal year 2003 funding requests, is sufficient for efficient and effective operations at the border. The Southern Border has been hardened over the past several years due to the ongoing contraband threat.

CONTAINER SECURITY INITIATIVE (CSI)

*Question.* Commissioner Bonner has been stressing the need to push out our borders away from the conventional border. CSI is designed to place Customs inspectors and agents in offices abroad to secure containerized cargo entering the U.S. at the 10 largest mega-ports (50 percent of all cargo to the U.S. enters through these 10 ports).

Why is this important?

Answer. The U.S. Customs Container Security Initiative (CSI), proposed by Commissioner Bonner in a January 17, 2002, speech given at the Center for Strategic and International Studies, would secure an indispensable, but vulnerable, link in the chain of global trade: the oceangoing sea container. Ensuring the security of the maritime trade system is essential, given that approximately 90 percent of the world's cargo moves by container.

Each year, more than 16 million containers arrive in the United States by ship, truck, and rail. In 2001, U.S. Customs processed more than 214,000 vessels and 5.7 million sea containers. A proactive stance by Customs in screening sea containers before they reach the United States will significantly contribute to the agency's overall efforts to secure the borders against dangers that might be introduced through commercial traffic. A key goal of the CSI is to identify potential high-risk shipments at the earliest point in the supply chain, thus helping to protect the global maritime trading system.

Osama bin Laden and the Al Qaeda terrorist network have vowed to cripple the U.S. and world economy. More than half of all goods that enter the United States arrive by oceangoing cargo containers.

*Question.* What are the ramifications and complications of stationing Customs Agents and Inspectors in foreign ports?

Answer. The ramifications and complications of deploying CSI teams overseas vary from port to port because each situation is completely different (e.g., ownership of the ports, relevant government agencies involved, the private sector, legal/regulatory issues, etc.)

Several reoccurring issues have been raised during discussions with foreign representatives such as sovereignty, port risk assessments, data sharing, container inspection procedures, and reciprocity. As our foreign partners gain a better understanding of our intentions under the CSI program and how we want to work with them, these issues do not elevate to insurmountable problems.

Also, we are coordinating with domestic agencies to answer foreign representatives' potential questions. We are working out a response process in the event a weapon of mass destruction is found in a CSI-participating port. We are working with closely with USCS' Office of Anti-Terrorism to coordinate our efforts with the Department of State and its Foreign Emergency Support Team. Feeding off the De-



partment of Energy's Second Line of Defense Program we expect to send DOE teams to potential ports to assess the host nation's ability to address this issue.

*Question.* Are there jurisdictional or safety issues? What conditions or constraints do you face?

*Answer.* The implementation of the Container Security Initiative (CSI) is not expected to encounter any jurisdictional issues. U.S. Customs officers stationed in foreign ports will be instructed to defer to their host country counterparts with regard to the actual inspection of containers. Host country inspectors will inspect the containers previously identified as potentially high-risk. U.S. officers will witness the inspections and ensure that any targeted containers have been adequately screened prior to their clearance for the United States.

The safety issues and potential conditions and restraints are addressed in the above answer. We are coordinating with domestic agencies to answer foreign representatives' potential questions regarding safety issues.

*Question.* What will full implementation of the CSI program cost? What time frame? What are the costs of a pilot project? In which Ports would a pilot be most likely?

*Answer.* We anticipate full implementation of CSI would cost approximately \$63 million for the start-up year using standard costs for overseas positions and estimates for establishing a new office. Second year costs would be approximately \$35 million. The estimated timeframe to reach full CSI implementation is January 2004. The average cost of a pilot project is \$800,000. U.S. Customs has already established CSI teams in Vancouver, Montreal, and Halifax, Canada. All three sites rely on current resources. Our next step is to pilot CSI in one port in Europe and one port in Asia. Following the establishment of the initial pilots, U.S. Customs will incrementally work with the Treasury Department and OMB to deploy teams in the world's top 20 megaports as well as other strategic locations. The typical configuration of a team would include two inspectors, one special agent, and one intelligence analyst. Of course, this configuration may vary from port to port.

#### PORT SECURITY

*Question.* During last week's full Committee Homeland Security hearings, we focused on port security. Witnesses highlighted the challenges regarding port security. One issue concerns identifying which Federal entity is responsible for the ports. One witness stated that the Department of Transportation and the U.S. Customs Service both claim control.

Commissioner Bonner, please state for the record, who is responsible for containers entering the U.S. through these ports? Who is responsible for security at the port itself?

*Answer.* Various Federal, State, and local agencies share the responsibility for security at seaports, including the Customs Service and the Coast Guard. However, the ultimate responsibility for seaports rests with the states, which charter seaports within their territories. Port authorities act on behalf of State or local governments and operate some marine terminals while private sector tenants of the port authority run others.

The Customs Service is the entity responsible for the security of containers entering the United States. Customs is the lead Federal law enforcement agency in the screening, examination and release of commercial conveyances, persons, and cargo entering the United States and a key stakeholder in the seaport security arena. Customs enforces hundreds of laws for dozens of different Federal agencies at our nation's air, land and seaports of entry.

Customs authority extends to the examination of cargo at both ends of the transport chain and Customs is equipped with the infrastructure, personnel, inspection equipment and computer systems to target, screen, examine and process cargo shipments entering the United States through our nation's seaports.

In general, State or local municipalities and terminal authorities govern most seaport facilities in the United States. These facilities are used to facilitate the movement of not only international shipments that are imported or exported, but also facilitate the movement of domestic cargo shipments that move between U.S. ports. As a result of the multiple roles our nation's seaports play in the overall international and domestic economies, there are multiple Federal agencies with interests in seaport security. Customs is a key Federal stakeholder in seaport security because Customs regulates the key entities (shippers, carriers, importers, brokers, etc.) which are involved in the importation/exportation of goods into and out of the United States.

*Question.* Also, please illustrate your relationship with the U.S. Coast Guard and other Federal, State and local entities at these ports. Who is tasked with what responsibilities?

*Answer.* At the national level, the Customs Service and the Department of Transportation (DOT) have been collaborating in a joint Container Working Group (CWG) initiative that is focused on improving the security of sea containers entering the United States. The U.S. Coast Guard is one of many DOT sub-agencies represented on the CWG. Additionally, Customs also works closely with the U.S. Coast Guard to address seaport security issues through the Marine Transportation System (MTS) and the Marine Transportation System National Advisory Committee (MTSNAC), and promotes Customs best-practice security standards through the U.S. Coast Guard at the International Maritime Organization (IMO).

On a local level, Customs is the lead Federal law enforcement agency in the screening, examination and release of commercial conveyances, persons, and cargo entering the United States and is a key stakeholder in the seaport security arena.

Customs authority extends to the examination of cargo at both ends of the transport chain. Customs is equipped with the infrastructure, personnel, inspection equipment and computer systems to target, screen, examine and process cargo shipments entering the United States through our nation's seaports. Customs is a key Federal stakeholder in sea port security because Customs regulates the key entities (shippers, carriers, importers, brokers, etc.) which are involved in the movement of goods into and out of the United States.

Customs enforces hundreds of laws for dozens of different Federal agencies. Additionally, Customs participates in Port Safety Committees and coordinates enforcement activity with the proper Federal, State and local entities, including the U.S. Coast Guard when necessary.

#### NATIONAL GUARD

*Question.* The National Guard has been assigned to augment security at the border and at Ports of Entry during on and off-hours after 9/11. Critically, these troops are UNARMED. (Customs instituted a Level 1 alert wherein all Ports of Entry are manned 24x7 by at least two people. This applied even to those border crossings, which have set hours of operation, traditionally left unmanned). The National Guard became dependant on the law enforcement officers of Customs and INS to protect them. A decision to reverse the policy of not arming the National Guard along the border is currently pending in DOD.

What were the factors behind the decision not to arm the National Guard along our borders, especially given that they are armed at our airports and at posts with the Capitol Police?

*Answer.* The Memorandum of Agreement (MOA) between the Department of the Treasury and the Department of Defense (DOD) calls for DOD personnel assigned to U.S. Customs to be unarmed for a number of reasons. One reason is to avoid giving the appearance that the U.S. government is militarizing its borders. Additionally, DOD personnel will only be used to support very low-risk missions and will always be under the immediate supervision of an armed Customs Inspector who can provide force protection in the rare event it becomes necessary. Furthermore, not arming DOD personnel helps minimize the possibility of a use of force incident. Last, these additional DOD resources are being utilized in a manner that is consistent with DOD support already in place and also serving in an unarmed capacity.

DOD personnel assigned to U.S. Customs are detailed to our agency under Title 10 USC. Title 10 soldiers are under the direction of the President of the United States, and are funded by the Federal Government. Therefore, the agreement to not arm the DOD soldiers assigned to U.S. Customs was made between the Customs Service and the DOD. On the other hand, the DOD personnel assigned to major airports and the Capitol Police are detailed to those entities under Title 32 USC. Title 32 soldiers are under the direction of the State governors, remain under the control of the States' Adjutant Generals, and receive funding from their respective States. Therefore, the decision to arm the soldiers assigned to major airports and the Capitol Police was made among the respective States' governors, Adjutant Generals, and the individual departments/agencies.

*Question.* What is the status of reversing this decision?

*Answer.* On April 12, 2002, the DOD requested to renegotiate the MOA between our agencies, with the intent of selectively arming Title 10 DOD personnel assigned to the Customs Service. In an effort to streamline the renegotiating process, Customs and DOD officials met at the Pentagon on April 17, 2002, to discuss issues related to arming Title 10 personnel. The DOD is currently drafting the proposed language changes to the existing MOA, which will be forwarded to U.S. Customs

for consideration upon completion. Although the proposed changes have not officially been agreed to at this time, the Customs Service has orally agreed with DOD to arm the Title 10 personnel assigned to the Northern Border locations. Both agencies have established this renegotiating process as a very high priority. Every effort is being made to ensure that the necessary changes are made and implemented as soon as possible.

#### OVERTIME CAP FOR INSPECTORS

*Question.* The USA Patriot Act lifted the overtime cap for INS inspectors, but not for Customs. It is my understanding that Customs did not ask for a similar provision because the Commissioner has the authority to waive the cap upon special request. When visiting Ports of Entry along the Northern Border, the overtime cap was a top concern of many inspectors.

The USA Patriot Act lifted the overtime cap for INS inspectors, but not for Customs. It is my understanding that Customs did not ask for a similar provision because the Commissioner has the authority to waive the cap upon special request. When visiting Ports of Entry along the Northern Border, the overtime cap was a top concern of many inspectors.

You detail in your prepared statement that inspectors are working 12 to 16 hour days, 6 and 7 days a week. Why did you not request lifting the caps through the Patriot Act, and do you require such a provision at this time?

*Answer.* We do not require such a provision at this time. 19 U.S.C. Section 267 (c) (1) authorizes the Commissioner of Customs to grant a waiver of the statutory overtime cap to individual Customs officers. As of April 26, 2002, I have granted overtime waivers to 94 inspectors for fiscal year 2002.

Officers working 12 to 16 hour days, 6 and 7 days a week are more an issue of available labor at certain locations than a cap waiver issue for Customs.

#### COBRA USER FEE SHORTFALL

*Question.* Customs collects nine different user fees covering services provided to the traveling public and trade community. These COBRA fees reimburse the Salaries and Expenses account to address overtime, benefits, salaries, and equipment, etc. COBRA receipts for fiscal year 2002 are \$35 million below fiscal year 2001 collections, due primarily to a drop in air passenger travel. Treasury did not request any funding in the Administration's recently released fiscal year 2002 Supplemental Request (of 3/21). However, it should be noted that the Administration proposes \$35 million for INS to make up for the "significant decline in international air travel to the United States and an equally significant decline in projected immigration user fee revenue."

Please provide your understanding of why the Administration requested funding for an INS shortfall in receipts from user fees and nothing similar for Customs.

*Answer.* This question regarding INS funding is best answered by the Office of Management and Budget.

*Question.* COBRA authorization expires 9/30/03. What efforts are being made to address this?

*Answer.* The fiscal year 2003 budget does not reflect a specific Administration position on extension of the COBRA fee, in either its existing or proposed form, beyond fiscal year 2003. The Administration will address this during the fiscal year 2004 budget cycle.

*Question.* The Administration is proposing an increase to COBRA user fees to cover an estimated \$250 million of homeland security needs. With the drop in collections and the sunset of COBRA at the end of fiscal year 2003, how do you envision the future and purpose of this user fee?

*Answer.* The Administration plans to address the future of COBRA during the fiscal year 2004 budget cycle.

#### ACE FUNDING

*Question.* You have expressed interest in completing ACE—the Customs trade processing system—within a four year timeframe. The Subcommittee strongly supports ACE and we have added funds to previous budgets to keep the program on track. I am pleased that the Administration now also seems to be supportive of the program.

How much is needed in additional funds in the next three years to accomplish this goal?

*Answer.* Customs has performed an analysis of the benefits and risks of a 4 versus 5-year plan, and is discussing with the Department and OMB pursuing the 4-year ACE schedule (ending March 2006). We are currently formulating the fund-

ing requirements for the President's fiscal year 2004 Budget and the Modernization Executive Steering Committee is considering the assumptions upon which the 4-year funding requirements are based.

*Question.* How much additional funding would be required in fiscal year 2003?

Answer. None

*Question.* Given the past experience with the IRS and its wasting of millions of dollars on its earlier, failed systems modernization program, are you concerned at all about moving too fast?

Answer. Customs goal to complete ACE in 4-years (ending March 2006) is undergoing careful analysis. We believe that the benefits outweigh the risks. The members of the Modernization Executive Steering Committee (which includes representatives from the Treasury Department, OMB, GAO and the trade) considered this issue when briefed on April 24, 2002. In the post-September 11 era, we are maintaining a determined yet measured approach to putting ACE capabilities to work on America's borders as soon as it is feasible.

ACE, like every development program, has a set of inherent risks that are generally dictated by inter-related variables including technical complexity, schedule, cost, and impact to the organization, among others. The decision to proceed with a 4-year schedule is based on not only the risk analysis, but also tangible factors including benefits to Participating Government Agencies (PGA) that have yet to be quantified, positive impacts on national anti-terrorism and border security efforts, and the incremental development that will be undertaken by the Customs Modernization Office (CMO).

The incremental development is extremely important as it provides tremendous management leverage to facilitate mid-course corrections, as necessary, throughout the development of ACE. This strategy will help ensure that ACE meets the goals of the Customs Service and PGAs in a manner that maximizes lifecycle benefit while remaining within planned acquisition cost.

A more detailed risk analysis is being sent to Senators Dorgan and Campbell via separate correspondence.

#### FORCED CHILD LABOR

*Question.* Over the past three fiscal years, Customs received Forced Child Labor (FCL) funding for initiatives to combat the illegal importation of goods produced with forced or indentured child labor. With this funding, Customs opened overseas offices in Brazil and the Philippines. The State Department has also approved the establishment of an office in New Delhi. Approval is being sought for Dubai and another site in Africa. Staffing was also increased in Pretoria and Moscow and backfilled in Beijing. Three overseas symposia were offered in Thailand, Germany and Panama, as well as two in the U.S. There are 32 open FCL investigations. Customs' focus to combat FCL is through (a) Foreign government training (b) International outreach and symposia and (c) International investigations at the source.

How successful is this multi-tiered approach in addressing Forced Child Labor?

Answer. The multi-tiered approach to addressing Forced Child Labor (FCL) has been successful in ensuring that the relevant foreign government entities, non-governmental organizations and U.S. Embassies are informed on the mission of the Customs Forced Child Labor program. In those offices where the FCL program has been established for at least two or more years, our officers have often been successful in gaining access to factories which export goods to the United States to determine if Forced Child Labor is used in the manufacture of goods. For example, the Customs Attaché Office in Bangkok has had two FCL dedicated agents since 1999. After successfully establishing an international outreach program in their Area of Responsibility (AOR), the Bangkok office has now been able to conduct several factory visits in their AOR. In the last year they have visited 67 factories that export goods to the United States with no findings of forced child labor. Our offices in Panama and Uruguay have been able to accomplish similar access for site visits in some countries in their AOR as well.

The multi-tiered outreach approach with foreign governmental entities has also been effective in enlisting the support of foreign governments in the FCL issue. For example, the Customs Attaché Panama Office has been able to cultivate support from politicians in the Panamanian National Assembly and Ministry of Labor in tackling this issue in Panama.

The success of tackling the issue of Forced Child Labor on a multi-layered front comes from the fact that this issue can only be addressed by focusing on all the entities that play a role in this issue from the relevant foreign ministries to Non-Governmental Organizations. Our overseas offices with FCL responsibilities have been vigorously utilizing this approach to this issue.

*Question.* What more could you do, or do you intend to do internationally to address FCL?

*Answer.* At the international level, the U.S. Customs Service plans on opening a Customs Attaché Office in India in July 2002 to address FCL issues in South Asia. Customs is also seeking approval from the Department of State to establish a presence in Dubai, United Arab Emirates and Nairobi, Kenya to address FCL issues in the Middle East and East Africa respectively. Customs plans to add an additional Special Agent to address FCL issues in our current Customs Attaché Offices in Moscow, Russia and Pretoria, South Africa. In addition, we are back-filling an existing Agent vacancy in Beijing, China to support the FCL program.

Customs will also be providing formalized FCL enforcement training to foreign officials based on a training plan that has been devised to focus on how foreign governments can assist Customs in tackling Forced Child Labor. This training will further enhance the international outreach programs that have already been performed in those countries suspected of having FCL problems.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

COMMISSIONER BONNER

*Question.* Mr. Bonner, as you are probably aware, the Senate Appropriations Committee has begun a series of hearings on homeland security. The first sessions were held last week, and included two witnesses who spoke about port security. Dr. Stephen E. Flynn of the Council on Foreign Relations in New York spoke about the need for security checks before shipment containers reach our shores. Admiral Richard Larrabee of the Port Authority of New York and New Jersey echoed that observation and spoke of Operation Safe Commerce as an example of a private-public partnership. It was interesting that none of the witnesses even mentioned the ongoing Customs efforts to pre-screen containers at the international mega-ports—the Container Security Initiative.

Please tell us more about the Customs Container Security Initiative. Where are you concentrating your current efforts? Are U.S. port officials and others involved in port security aware of this initiative?

*Answer.* The U.S. Customs Container Security Initiative (CSI), which I proposed in a January 17, 2002, speech given at the Center for Strategic and International Studies, will enhance the security of an indispensable, but vulnerable, link in the chain of global trade: the oceangoing sea container. Ensuring the security of the maritime trade system is essential, given that approximately 90 percent of the world's cargo moves by container.

Each year, more than 16 million containers arrive in the United States by ship, truck, and rail. In 2001, U.S. Customs processed more than 214,000 vessels and 5.7 million sea containers. A proactive stance by Customs in screening sea containers before they reach the United States will significantly contribute to the agency's overall efforts to secure the borders against dangers that might be introduced through commercial traffic.

The Container Security Initiative consists of four core elements. These are: (1) establishing security criteria to identify high-risk containers; (2) pre-screening those containers identified as high-risk before they arrive at U.S. ports; (3) using technology to quickly pre-screen high-risk containers; and (4) developing and using smart and secure containers. The fundamental objective of the CSI is first to engage the ports that send highest volumes of container traffic into the United States, as well as the governments in these locations, in a way that will facilitate detection of potential problems at their earliest possible opportunity.

As a first step, U.S. Customs has identified the top 20 "mega-ports" that send containers to the United States, and has entered into discussions with the governments in these locations to solicit their participation in the CSI. These locations were identified based on their volume of sea container traffic destined for the U.S.; however, the CSI program will not be restricted to only these locations. Risk assessments and trade analysis play an important part in future deployments, and increased security measures are vital to the operations of any port in today's environment.

U.S. Customs has undertaken an extensive outreach program to bring CSI to the public's attention. Briefings have been provided to numerous groups including the trade, Congressional offices, other government agencies, the press, and associations such as the American Association of Port Authorities which I addressed on March 19, 2002.

TOP TWENTY MEGA-PORTS: Hong Kong; Antwerp; Shanghai; Nagoya; Singapore; LaHavre; Kaohsiung; Hamburg; Rotterdam; La Spezia; Pusan; Felixstowe;

Bremerhaven; Algeciras; Tokyo; Kobe; Genoa; Yokohama; Yantian and Laem Chabang.

Mr. Bonner, there has been some discussion at the Customs Service and throughout the trade industry about escalating the development of the Automated Commercial Environment or ACE project. As you know, we have some concerns about the added risks inherent in this idea, especially considering that the General Accounting Office has consistently identified agency management control weaknesses, which have not yet been fully addressed.

*Question.* What is the status of a decision to reduce the ACE project schedule from 5 to 4 years? What steps have been or will be taken to address the management control weaknesses cited by GAO?

*Answer.* Based on an analysis of the benefits and risks of a 4 versus 5-year plan, Customs is discussing with the Department and OMB pursuing the 4-year schedule (ending March 2006). This issue was considered by the members of the Modernization Executive Steering Committee when briefed on April 24. Customs has taken, and will continue to take, prudent steps to address the risks associated with the Modernization Program. This includes actions to address concerns of the Committee and useful recommendations provided by the General Accounting Office (GAO). A more detailed response of actions taken is being sent to you and Senator Dorgan via separate correspondence. Key actions are highlighted below:

- Tasked e-Customs Partnership (e-CP) to update and extend the existing enterprise architecture to provide the requisite design content, consistency, and integration across the full scope of the Customs business areas. Enterprise architecture certification is scheduled for June 2002.
- Developed a new, expanded organizational structure that doubles the size of the Customs Modernization Office (CMO). Positions are being filled now.
- Completed 75 percent of the software acquisition controls that span the Software Engineering Institute's entire Software Acquisition Capability Maturity Model (CMM).
- Continued to focus first on the most critical plans, processes and procedures across all CMM Key Process Areas.
- Employed the use of both an independent government cost estimator and software tools that enable reliable cost estimation process.
- Identified the inherent risks of the 4-year approach, analyzed the potential impacts, and briefed the Modernization Executive Steering Committee.
- Employed risk management procedures that conform to Software Engineering Institute standards to mitigate program risks.

I am told that a Customs COBRA fee advisory committee was created in 1999 to advise the Customs Commissioner on issues related to the performance of the inspection services of the Customs Service. The membership is to include representatives from airline, cruise ship, and other transportation industries who may be subject to COBRA fees. The meetings are intended to be a forum for discussions about the proper number and deployment of inspectors, the level of fees, and the appropriateness of any proposed fees. Mr. Bonner, the fiscal year 2003 budget request again includes a proposal to increase the COBRA fees for airline and cruise vessel passengers. This proposal has landed with the same resounding thud as earlier efforts by the previous Administration, in part because the travel industry does not believe it is necessary.

*Question.* Why hasn't the Customs COBRA Fee Advisory Committee been actually established? After all, if you can convince the industry committee members that an increase is warranted, even a modest inflationary increase, the battle has been won.

*Answer.* By enactment of the Miscellaneous Trade and Technical Corrections Act of 1999, (Public Law 106-36), section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) was amended to direct the Commissioner of Customs to establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under 19 U.S.C. 58c. The Customs Service has published three separate Federal Register Notices soliciting applications for this committee. The first two Federal Register Notices only produced applicants from four of the seven eligible COBRA user fee sectors. After publication of the third Notice, five applicants were tentatively selected.

Notification letters to the selectees will be mailed by the first week in May 2002.

Along those lines, the fiscal year 2003 budget request assumes the increase in these fees to the tune of almost \$250 million which would be used to augment funds appropriated by Congress for operations of the Customs Service. Let us assume for a moment that Congress refuses to increase those COBRA fees, which is not a stretch of the imagination, and that we do not have sufficient funds to simply appropriate that amount.

*Question.* What steps will you be forced to take if your operating budget is, in effect, reduced by \$250 million?

*Answer.* We expect the fee increase to be enacted because it is essential to the successful accomplishment of Customs overall mission. The Administration would work with this Committee to fashion acceptable trade-offs among all the domestic spending priorities in order to accommodate Customs' requirements if the fee increase were not enacted.

Mr. Bonner, every Federal agency faces normal attrition, either by retirements or resignations, and those positions must be refilled. In the case of the Customs Service, this recruitment effort is further complicated by the need to fill additional positions authorized and funded by Congress. I am told that you hope to hire 1,244 Inspectors and 731 Special Agents this year, and your fiscal year 2003 request contains funding for even more positions next year. While I completely understand the need for more Inspectors and Special Agents, this is a huge recruitment undertaking.

*Question.* What is the status of your fiscal year 2002 hiring plan? How many applications are currently in the pipeline? Most importantly, how do you compete with other Federal law enforcement agencies, including the Transportation Security Administration, for the small pool of qualified potential employees?

*Answer.* We are making excellent progress in hiring against our fiscal year 2002 hiring plan. We have filled 57 percent of our positions and expect to meet all of our hiring objectives.

<i>Hiring</i>	<i>Customs Officers</i>
Hiring Plan (includes projected attrition) .....	1,955
Hired to Date .....	854
Cleared Pre-Employment & Scheduled for Training .....	269
Remaining to be Hired .....	832

We currently have an applicant pipeline of 3,000 Inspectors and 1,000 Agents who are pending pre-employment (medical, drug screening, and background investigation). They will fill our remaining positions for this year and be available for fiscal year 2003 hiring needs.

However, there has been a recent increase in the number of Customs employees who have transferred to the Transportation Security Administration (TSA). Seventy employees already have transferred to TSA this fiscal year. TSA offers a higher career ladder (GS-13 vs. GS-9 for Inspectors) and law enforcement retirement (wanted by most Inspectors). If losses continue at this rate, this will be the first time we have had problems in retaining Inspectors. (Our normal attrition rate for inspectors is 4 percent—half of which are retirements.)

SUBCOMMITTEE RECESS

Mr. BONNER. Thank you, Mr. Chairman.

Senator DORGAN. This hearing is recessed.

[Whereupon, at 3:40 p.m., Thursday, April 18, the subcommittee was recessed, to reconvene subject to the call of the Chair.]





**TREASURY AND GENERAL GOVERNMENT  
APPROPRIATIONS FOR FISCAL YEAR 2003**

WEDNESDAY, APRIL 24, 2002

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

The subcommittee met at 1:35 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan, Reed, Campbell, and DeWine.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

STATEMENT OF JOHN P. WALTERS, DIRECTOR

ACCOMPANIED BY MICHELE C. MARX, DIRECTOR, FINANCIAL MANAGEMENT

OPENING REMARKS

Senator DORGAN. I call the hearing to order. This is the Subcommittee on Treasury and General Government Appropriations here in the Senate, and good afternoon, Mr. Director. We are pleased that you are here.

This is the first time that you have testified before our subcommittee. Myself and Senator Campbell and a couple of other colleagues who will be joining us welcome you.

The purpose of this hearing is to discuss the fiscal year 2003 budget request for the Office of National Drug Control Policy and to discuss your agency's jurisdiction over our national drug control programs. I look forward to working with you and supporting the necessary programs that will have the greatest effect on our Nation to deter the use, promotion, production, and the importation of drugs. And I know that my colleagues on the subcommittee share that view.

I want to make a couple of observations as we begin. I will not make a lengthy statement here, but I will put a statement in the record.

I support and am interested in interdiction efforts, interdiction efforts that are successful and help us interdict the supply of drugs that come in. But I am also very concerned about and very supportive of efforts to provide drug treatment that is essential for those who are addicted to drugs. Those who are addicted to drugs

will find a supply somewhere at some price, and they will find a way to pay for it, if necessary through a life of crime.

Regrettably, our country has spent much more energy and effort to interdict than it has providing treatment. We ought to start, just as a starting point, with everybody who is incarcerated. Those in law enforcement tell me that there are two functions with respect to incarceration. You take a look at guns and drugs, and you will find an attachment to most people who are put behind bars to either guns or drugs. And especially with respect to drugs, we have the capability for those that we have incarcerated to treat them and allow them to leave incarceration free of the drug addiction. Turning someone back on to the streets with an addiction to drugs turns them back to a life of crime.

It is almost unforgivable, in my judgment, for someone to be addicted to drugs in our country and not able to find a slot in a treatment center with which they can get treated. And that exists around this country today, and we have people walking America's streets and having this terrible addiction and unable to find access to get treatment for it. So we must, even as we talk about all these other issues, which I support, we must pay much, much more attention to drug treatment than we have paid in the past, and we ought to start especially with those that we are incarcerating because we have the capability to address all of those issues at the Federal, State, and local level.

I also want to mention that we have embarked on this experiment of spending hundreds of millions of dollars on television commercials to try especially to convince America's youth not to take drugs. And we want to spend a lot of time analyzing the effects of that. Has it been successful or hasn't it?

We know that television advertising can have a profound impact on behavior. We know that. Everyone knows that. That is why people pay a massive amount of money to put a 30-second ad on during the Super Bowl, for example. They know it has an impact.

Does it have an impact, can it have an impact, has it had an impact with respect to convincing young people that they ought not experiment with drugs?

I think the jury is still out on that. I think that we have had some analysis that is encouraging, some that it really doesn't give us much of a road map here on what has happened. So I want to visit with you about that as well.

But the media campaign, the National Youth Media Campaign has been something that I have supported, Senator Campbell has supported, but let's take a hard look at what we are getting for that and exactly how we continue it, if we continue it. I know the authorizers are taking a look at that as well at this point.

But we welcome you here. I know you have assumed this role with an attitude of wanting to provide great public service and having an impact on what is happening with respect to drugs in our country. And we pledge to you that we want to help you in that mission. Our job as appropriators is to use the public's money wisely. We have limited money and unlimited wants, and our job is to economize in a way that provides the best investment possible for the American taxpayer.

## PREPARED STATEMENT

Investing in your agency is one part of that, and we want to do it in the most effective way possible as well. So we will need your guidance and help in order to accomplish that. Thank you for being here.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

Good Afternoon, Mr. Director. This is your first time testifying before our subcommittee, and we welcome you here today. The purpose of this hearing is to discuss the fiscal year 2003 budget request for the Office of National Drug Control Policy and to discuss your agency's jurisdiction over our national drug control programs. I look forward to working with you on supporting the necessary programs that will have the greatest affect on our nation to deter the use, promotion, production, and importation of drugs.

As you know from our meeting prior to your confirmation, I believe the issue of drug treatment is critically important. In December 2001, I wrote a letter to Acting Director Jurith on how much weight should be given to drug treatment issues in developing this Administration's first National Drug Control Strategy. Drug treatment is a necessary and vital component of our drug control strategy yet in recent years, the lack of facilities and options have left people who need treatment out in the cold. I was encouraged to see the commitment of both your agency and the Administration to this effort in the National Drug Control Strategy that was released in February.

We must not lose sight that this is a long term investment and commitment which we are making to close the gap on drug treatment. The \$224.2 million increase for substance abuse programs provided in the fiscal year 2003 budget request is a step in the right direction. I agree with many of your insights and ideas detailed in the National Drug Control Strategy and will continue to be supportive of any effort to increase drug treatment programs.

A crucial component of drug treatment resides within our criminal populations. This sector of the population should be one on which we have the most effect with regard to substance use. I commend the Bureau of Prisons for continuing its efforts to serve as a model system for many states and localities and for frequently modifying their ideas on how to tackle this growing problem. I am concerned that the \$7 million increase to the Residential Substance Abuse Treatment Program (RSAT) under the Department of Justice is not nearly enough to begin this effort on a state level. As I stated in my letter, "The National Drug Control Strategy should include a comprehensive budget and plan to test, treat, and monitor every person within the criminal justice system. This plan should incorporate Federal, State, and local prison systems." I am hopeful that in your capacity as Director of the Office of National Drug Control Policy, you will increase funding substantially for these programs and expand existing pilot projects in next year's budget submission.

Another area I would like to focus on is the National Youth Media Campaign. I understand that efforts are underway to reauthorize the campaign. My staff has been working with the Senate Judiciary Committee, representing the views of the appropriations Subcommittee responsible for funding the campaign. As you know, there continues to be enormous scrutiny over the Campaign, and with good reason. I look forward to viewing some of the new commercials you brought with you today and I understand that we will have an opportunity to see the commercials specifically tailored to targeting the use of ecstasy by our youth. This was something I felt very strongly about in the fiscal year 2002 budget process and I remain concerned about the increased use of this and similar club drugs.

Given the strain on our budget, it will be a difficult year for our appropriations bill. In the past, it has always been difficult to provide sufficient funding for the media campaign and this year will be no different. To that extent, you have an obligation to spend this money wisely and prove to this Subcommittee and to the American public that this investment is worthwhile. When you aired commercials linking terrorism to drug use during the Super bowl and the Olympics, two of the highest premium commercial air times, many people were concerned about the decision. I am hopeful that you can provide this Subcommittee with data on why you chose to spend media campaign on these spots and evidence of the impact/effect of those advertisements.

Finally, in the fiscal year 2002 budget submission, the Administration proposed the creation of the Parents for a Drug Free Future Program. ONDCP requested \$5

million for this program, but never provided my staff with sufficient information on how you planned to spend the money. There may have been good intentions behind the concept of this program, but I remain concerned when the Administration requests funds for a program without providing a detailed plan to Congress on allocating the funds. This was precisely the reason that Congress chose not to fund this program. Not surprisingly, the Administration is requesting this program during fiscal year 2003 through the Corporation for National and Community Service. This agency falls under the jurisdiction of another subcommittee; however, my staff informs me that they are having similar issues with getting more information on the proposal. It concerns me greatly that there seems to be no change in the Administration's practices, and even greater concern that they have tried to circumvent this Subcommittee.

We welcome you here this afternoon and look forward to your testimony. But first, let me turn to my Ranking Member, Senator Campbell, for any remarks he wishes to make.

Senator DORGAN. Now let me call on the ranking member, Senator Campbell.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Mr. Chairman. Just a short statement. I will include my prepared statement in the record.

I agree totally with the chairman. I think we have made some really big mistakes on our so-called war on crime, and maybe that is our fault as elected officials. We put so much emphasis on incarceration. I guess it helps you get elected if you talk tough on crime and talk to everybody about how you are going to put the bad guys away and make them break rocks forever and that kind of thing. But it is very foolish on our part because we don't put enough resources towards either education or trying to recover people that could be recovered.

Years ago, I was a volunteer police counselor in Folsom Prison and talked to a number of people, and I was absolutely convinced, after I came out of that experience, that if you don't do something about rehabilitation—and we don't—you just end up with a larger and larger and larger turnover of the same prisoners. I believe we have something like a 72 percent now of repeat offender, and an awful lot of them have something to do with alcohol or drugs. So I absolutely agree with the chairman that we are not putting enough emphasis towards parts of the war on crime and too much maybe on the other.

We have done an awful lot from the standpoint of education with the ONDCP, and I have to tell you that—you haven't been with us in past years, but we have gotten some really questionable results. I believe we spent something like \$930 million in the last 5 years on a national ad campaign to get youngsters away from drugs. And the result is not encouraging to me. In addition to that, how the money was spent bothered both the chairman and me. When I was the chairman and he was ranking, we felt we were completely left out of the loop on how the millions and millions of dollars were spent in the face of what we had sort of agreed to years ago when Senator Kohl and I were on the committee. And we were worried at that time that if we provided all that Federal money without some very, very careful oversight, it would become sort of a cash cow for all of the television stations, all of the networks, and magazines as well.

In some respects I think it did, we began to see them trade time for money rather than actually take the ads out, which was what the ad campaign was originally designed for. So I have some questions about that, too.

I think these other programs are just doing terrific. I followed HIDTA very carefully and the growth of HIDTA, and I visit the HIDTA outlets in different cities, in Denver and some of the other ones. And as near as I can tell, that coordinating effect it had with local, State, and Federal law enforcement agencies has really done a lot of good.

PREPARED STATEMENT

Another program that I am just a big supporter of is the Counterdrug Technology Assessment Center, CTAC. I have been to three, I guess, seminars where the Federal agents demonstrated the kinds of things local police departments who do not have the operation money or the research money or the development money to build the different kinds of highly skilled apparatus that the Federal Government already has. I have seen how much that can help the local communities when they get them. And I think we have transferred around, oh, I don't know, 3,000 or 3,500 pieces of equipment to local police departments through that program. I think it is just a terrific program.

So, in any event, thank you for calling this hearing, Mr. Chairman, and I look forward to asking a few questions as we have the time.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you, Mr. Chairman. I am looking forward to this afternoon's hearing. I know that our witness has time constraints, so I will keep this short.

The Office of National Drug Control Policy was created to oversee and coordinate this Nation's efforts to reduce illegal drug use. There have been both successful and not-so-successful periods during the past 13 years of ONDCP'S Existence. It is my hope that fiscal year 2003 will be a successful year.

This subcommittee provides funding to ONDCP through four separate accounts:

- Salaries and expenses.*—Which funds the oversight and coordination function.
- Counterdrug technology assessment center.*—Which provides needed technology to State and local Law Enforcement agencies.
- High intensity Drug Trafficking areas.*—Which are designed to reduce Drug trafficking in specified high-risk areas.
- And the special forfeiture fund.*—Which, among other things, funds the anti-drug national media campaign this year we have been asked to.

Provide a total of \$523,588,000 for these accounts, over \$457 million of which would go to the HIDTA program and the anti-drug campaign.

That is a lot of money. It is our job to make sure that we provide the funds required for these necessary programs without crossing the line to wasting taxpayers' money. And, Director Walters, it is your job to make sure we have the information necessary to make difficult funding decisions

PREPARED STATEMENT

Senator DORGAN. Thank you, Senator Campbell.

Senator DeWine, do you have a statement?

Senator DEWINE. No opening statement. I will actually have an opening statement submitted for the record.

Senator DORGAN. All right.

[The statement follows:]

## PREPARED STATEMENT OF SENATOR MIKE DEWINE

Good afternoon. Thank you, John, for taking the time to talk to us about the national drug control budget and your efforts to stop drug use, heal America's drug users, and reduce drug demand.

I know you are well aware of how seriously I take the drug problem and how committed I am to helping America fight against illegal drug use. The illicit drug trade is all-pervasive, threatening our children here at home and bolstering terrorist groups abroad. That is why, as I have said repeatedly in the past, to combat illicit drugs in this country, we need a balanced, comprehensive anti-drug strategy.

The first step in this balanced strategy is achieved by eradicating drugs at their source. In doing this, we can take an important step toward reducing domestic supply and demand. Right here in our own hemisphere, the Revolutionary Armed Forces of Colombia, or FARC, receives \$300 million a year from drug sales. And, Colombia's right-wing paramilitaries get 40–70 percent of their income from the illegal drug trade. These groups use drug profits to carry out murder, kidnappings, and extortion on a routine, if not daily, basis. Since 1990, 73 Americans have been taken hostage in Colombia. Since 1995, 12 have been murdered.

I look forward to working with you to help solve these problems—to help stop the flow of drugs at their source, well before they can ever reach our streets. I am pleased to see that your budget includes \$731 million for Plan Colombia and the Andean Counterdrug Initiative. Funding for this effort will help achieve our mutual objectives of strengthening democracy, eliminating drug trafficking, and enforcing the rule of law.

I read your op-ed supporting renewal of the Andean Trade Preference Act (ATPA). I completely agree with your assertions that letting the ATPA lapse threatens our regional security, and that our goal should be to create an environment in which legitimate industry can thrive. For us to be reliable partners with the countries of the Andean Region, we must pass this critical piece of legislation as soon as possible.

As I said already, the drug war has many fronts and we must take special care to address our problems here at home. We all know that prevention, education, and treatment programs help reduce drug demand. Your Drug Control Strategy supports these initiatives and indicates a commitment to achieving a sustained reduction in drug use in the United States. I support your efforts to focus on programs that work and to set new goals—a 10 percent reduction in current drug use over 2 years and a 25 percent reduction over 5 years. The President's support has been encouraging, and the budget includes the resources necessary to achieve these goals. I look forward to hearing more about it today.

I am particularly pleased to see the \$644 million in funding for the Safe and Drug-Free Schools Program. Over the years, Senator Dodd and I have fought to continue and improve this vital program, which provides funds to over 97 percent of our school districts nationwide to keep schools safe and drug-free. I also support your request for \$9.4 million in additional funding for the Drug-Free Communities Program. This program works hand-in-hand with the Drug-Free Schools Program and requires schools to implement proven, science-based prevention programs to reduce and prevent drug and alcohol use. Your leadership and coordination will be pivotal to the success of these two programs. Already, you have taken a leadership role in your new media campaign focusing on where the money spent on drugs actually goes—to terrorists, for example. It is imperative that we educate our children and the public about the evils and dangers of drug use. You have taken a very positive step with this new media campaign, and your website is fantastic. You are doing some very good work.

Thank you again for being here today. I look forward to hearing your testimony.

Senator DORGAN. Mr Director, thank you very much for being with us. We will include your entire statement as a part of the permanent record, and we will ask you to summarize. Since this hearing was scheduled, Secretary Powell has scheduled a briefing for members of the Senate, so we will perhaps be somewhat shorter in this hearing than we would otherwise. But we want to have a good discussion with you about your agency and the direction it is taking, and so why don't you proceed to summarize your testimony. Your entire testimony will be made a part of the permanent record.

## STATEMENT OF JOHN P. WALTERS

Mr. WALTERS. Thank you, Mr. Chairman, Ranking Member Campbell, and Senator DeWine. I am pleased to be here. I appreciate the opportunity to talk about our fiscal year 2003 budget and to review some of the programs with you. I look forward to continuing to work with each of you. I had an opportunity prior to taking office during the confirmation process to visit with you briefly, and I appreciate the time you gave me at that point. As I am still in the beginning of my term of office as director, I look forward to continuing those discussions, here and afterwards.

I am joined by Michele Marx, who is our Director of Financial Management, to help with any questions you have that may not be answerable by me at this point. So I will call on her, if you do not mind.

Just to summarize the high points and then to follow the issues that you want to pursue, we are requesting a total of \$523.1 million in the four accounts that make up the budget of the Office of National Drug Control Policy. In Salaries and Expenses, we are requesting \$25.5 million to support 116 FTE and 30 nonreimbursable detailees, as well as some conference activity, the clearinghouse that we are responsible for, and some policy research.

As you know, the President's request is part of the consolidated appropriation request for the Executive Office of the President. We have broken this out to help the Committee in doing its work.

Let me just summarize the highlights of—

Senator DORGAN. I just would point out, as you know, the committee has not supported the consolidated budget, and we intend not to. I can't speak for the entire committee, but I expect that the committee will again intend not to do that this year. So we appreciate your breaking it out, and we will break it out even further for you in the future.

Mr. WALTERS. I understand.

## COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

Let me start with the Counterdrug Technology Assessment Center. We are requesting \$40 million for the research and development part of that effort and the Technology Transfer Program. This supports, as you know, both demand and supply reduction activities. Demand reduction activities, for example, include neuro-imaging technology, medical instrumentation at medical research institutions, and in this current fiscal year, \$2 million to begin a brain-imaging system at the University of North Dakota.

Supply reduction activities include improving non-intrusive inspection technologies, strengthening law enforcement capabilities in such things as wireless communications-interoperability, such as the Test Bed Project at Lakewood, Colorado.

Since fiscal year 1998, the Technology Transfer Program has delivered a total of 4,750 pieces of equipment to over 3,800 State and local law enforcement agencies. We agree this is a good use of the Federal Government's ability to translate technology into usable devices and make them available to local and State officials who can use them. They sometimes are hard-pressed and find these items very valuable.

## NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN

The second area I would like to talk about that you referred to is the National Youth Anti-Drug Media Campaign. We are requesting \$180 million to allow the Campaign to continue the national multimedia paid advertisement campaign to its two target audiences: parents and adults who influence young people, and young people themselves.

During the past year, the Campaign, according to the research we have, reached 90 percent of America's youth at least four times a week. Ninety percent of youth and parents recall seeing or hearing anti-drug ads at least once per week.

The last evaluation report released in October, 2001 provided data collected from the first three collection periods or waves. It was retrospective to the first half of last year. We are beginning to see some changes in attitudes among youth, and we saw some decline in past-month use since the Campaign's start in the target age group of 12- and 13-year-olds. For example, past-month marijuana use among 12- and 13-year-olds decreased from 1.8 percent to 0.7 percent between the beginning and the third period of evaluation.

The next evaluation report, which is crucial because it covers the full implementation of the whole program for the first time and addresses the last half of 2001, is due next month. So we are weeks away from that report, which we will, of course, share with you as soon as we get it.

The pro-bono match component of this program has been successful. From January 1998 through September 2002, total value is projected to reach \$659 million. The Campaign has also been pursuing actively corporate involvement in the plan, and my written statement includes a list of some of the corporations that have been quite forward-leaning in their assistance to the Campaign in a variety of areas.

In response to the terrorist attacks of last September, the Campaign mobilized to educate the public on what has long been recognized as the link between terror and funding from trafficking in drugs. We did the most extensive process of focus-group testing for what became the final ads that have now been aired, beginning with release during the Super Bowl, and found them to be some of the most powerful ever tested in both their affect on young people, young adults, and parents, in both encouraging parents to talk to young people, but also in discouraging—or creating attitudes that would discourage tendencies to use drugs.

We will have the results of that part of the Campaign in the evaluation report that will be due, for the first half of this year, in the fall of this year.

Also, as you know, our multicultural and subcultural and language parts, especially foreign language, or language adaptations of the Campaign are delivered to target audiences. \$38 million worth of drug prevention messages have gone in this venue annually. The Campaign has just completed the Government's first Native American anti-drug TV ads along with a print complement and will be launched in the next several weeks in targeted markets.



Pursuant to the report language for fiscal year 2002, the Campaign is allocating \$5 million for Ecstasy advertising directed toward youth, which will appear on youth-oriented network programs. With your permission, I have two examples of these two ads that are only 30 seconds, I promise. I know everybody loves their own videotapes, but since this is an expensive program and I know you are concerned, I thought you might want to see the ones that are about to be released in the two areas you are interested.

Mr. WALTERS. We are committed to reauthorizing the Media Campaign and will be sending language that we are working to get both bipartisan and bicameral support for to Congress and have its introduction shortly.

Let me just mention a couple of the other programs that I know you have been interested in and that make up our request.

#### THE DRUG-FREE COMMUNITIES SUPPORT PROGRAM

The Drug-Free Communities Support Program, we are requesting \$60 million to expand the program. It now supports 463 communities in 50 States. We have also tried to expand this program to all communities. Approximately 25 grants have been awarded to communities with predominantly Native American and Alaskan populations. Reauthorization of this program included the creation of a National Coalition Institute to provide scientific and technical support to the coalitions. The Institute will help local coalitions measure outcomes in their work and improve overall performance.

#### ANTI-DOPING EFFORTS

The United States Anti-Doping Agency and the World Anti-Doping Agency have requested \$1 million to support research and administrative initiatives, educational programs, and efforts to inform athletes of the rules governing the use of performance-enhancing substances, and \$800,000 to pay U.S. dues for the World Anti-Doping Agency that coordinates efforts in sports and with intergovernmental organizations, public authorities, and athletes, respectfully.

#### COUNTERDRUG INTELLIGENCE EXECUTIVE SECRETARIES

Our Counterdrug Intelligence Executive Secretariat is requesting \$6 million to support approximately 30 reimbursable detailees to continue improving intelligence architecture. The ONDCP is completing an overall review as a part of the review directed by the President of all counterdrug programs, and we are working with the Counterdrug Intelligence Executive Secretariat to both complete and hopefully implement the results of that review.

#### NATIONAL DRUG COURT INITIATIVE

For the National Drug Court Institute, we have requested \$1 million to continue expanding the Drug Court Training Program, to convene special advisory groups to develop criteria for new disciplines, and to develop a national community probation initiative and expand the Institute's research library resources.

## PERFORMANCE MEASURES DEVELOPMENT

In the area of performance measures development, we are requesting \$2 million to develop and implement data sources for performance measurement and management. ONDCP is committed to management by results. We have started at the top. The National Drug Control Strategy released by the President in February sets the goal for this Nation of reducing drug use among teenagers and adults by 10 percent in 2 years and by 25 percent in 5 years. The President, I believe, took the bold step of making his administration politically accountable in the period with bold and aggressive, but I think achievable goals. We intend to build that into all other program structures using ourselves as an example.

## NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS

For the National Alliance for Model State Drug Laws, we have requested \$500,000 to enable the alliance to encourage States to implement laws, policies, and regulations that will help reduce drug use.

## HIGH INTENSITY DRUG TRAFFICKING AREAS

For the HIDTA program, we have requested \$206,350,000 to enable the HIDTAs to coordinate efforts to reduce the production, manufacture, distribution, and transport of drugs and to assist in money-laundering investigations.

We are requesting \$2.1 million of the total to continue auditing services and implement data collection systems. ONDCP is conducting a review to ensure that HIDTAs are targeted and results driven. In regard to the \$20 million that Congress added to the Administration's request for fiscal year 2001 in discretionary funds, we plan to transfer \$5 million to the Department of Defense for National Guard counterdrugs efforts that are supported largely by many in the field. This is a high priority to maintain current operational levels and will not affect current funding for existing HIDTAs. ONDCP will allocate the remaining \$15 million based on program priorities, including intelligence operations, information technology, infrastructure, training, money-laundering initiatives, and communications interoperability.

## FEDERAL DRUG CONTROL BUDGET

Finally, I will just mention what is in the National Drug Control Strategy. We announced our intention to begin the discussion with the goal of next year reorganizing the way in which we present the drug control budget. I was in Government before working on this issue all the way back in the Reagan administration. I know that for very good reasons the budget has tried to be a measure of what the drug problem costs the Federal Government, the many things that various programs have as expenses, as well as those that are targeted on supply and demand.

What has happened in that time, though, is we have accumulated many programs in this budget that we do not manage, and we would like to focus our resources on the programs that are directly targeted on reducing supply and demand. So we have a proposal there, a preliminary proposal, to focus the arraying and pres-

entation of the budget on real programs that cross-walk directly with the President's Budget and will for the first time allow us to use results-based evaluations to drive money to programs that work, not only within supply and demand categories, but across supply and demand categories.

#### PREPARED STATEMENT

I know many of us have talked about shifting money to programs of higher priority. This would be the first time that this office would actually have the structural ability to do that in an effective and concrete way. I have worked closely with Director Daniels, and we intend to try to employ this this time around in the budget process. But we announced it ahead of time so that we could have conversations with yourselves, people in the agencies, and others as we implement this program.

That is my summary of ONDCP's fiscal year 2003 budget request. I would be happy to answer questions about specifics.

[The statement follows:]

#### PREPARED STATEMENT OF JOHN P. WALTERS

##### INTRODUCTION

Chairman Dorgan, Ranking Member Campbell, and distinguished members of the Subcommittee: I am pleased to appear before you today to discuss the fiscal year 2003 budget request for the Office of National Drug Control Policy (ONDCP). I want to thank the Subcommittee for its strong bipartisan commitment to our shared national goal of reducing drug use in America, especially among our youth. This Subcommittee provides critical funding to support ONDCP's programmatic, policy, and budget development functions.

Your support of ONDCP's \$523.1 million budget request permits ONDCP to continue fulfilling our unique dual mission of serving as the President's primary Executive Branch support for counter-drug policy and program oversight while simultaneously managing our own diverse programmatic responsibilities to achieve measurable results. ONDCP takes seriously its primary statutory charge to develop national drug control policy and a supporting budget; coordinate and oversee the implementation of that policy and budget; and evaluate drug control programs to ensure that our efforts are coordinated and focused on obtaining measurable results. In addition to our policy role, ONDCP has become increasingly responsible for managing and evaluating four key programs: the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Program, the High Intensity Drug Trafficking Areas Program (HIDTA), and the Counterdrug Technology Assessment Center (CTAC).

In addition to setting forth ONDCP's fiscal year 2003 Budget Request, this statement includes brief updates on the President's National Drug Control Strategy, the consolidated fiscal year 2003 national drug control budget request, and current drug use trends.

##### THE PRESIDENT'S NATIONAL DRUG CONTROL STRATEGY

As you know, developing an effective and comprehensive drug control strategy and supporting budget is a complex challenge. I am confident, however, that our nation is prepared to meet this challenge. Upon assuming the office of Director of National Drug Control Policy last December, I began conducting an in-depth review of existing policies and program priorities. The first phase of that review culminated in the National Drug Control Strategy released by President Bush on February 12. At this release, the President reiterated his commitment to combat drug use and emphatically stated that reducing drug use is at the center of our national agenda. I welcome the subcommittee's involvement as we continue to review our approach and will continue to ask for your guidance as we implement policies and programs to make our nation a safer and healthier place in which to live and to raise our families.

The fundamental elements of effective drug control policy are consistent with common sense. We are committed to mobilizing our nation's efforts along three major themes:

*Stopping Use Before it Starts.*—We are using parents, educational institutions, the media, and community action to prevent young people from experimenting with drugs in the first instance and from starting on the path that all too often leads to addiction, crime, and personal and familial destruction.

*Healing America's Drug Users.*—We are placing a strong emphasis on drug treatment. The President has made a historic commitment of \$1.6 billion over 5 years in increased treatment funding. We will work to deploy these resources to areas and populations that need it most and provide more effective outreach to the chronically addicted drug using population.

*Disrupting the Market.*—We are readjusting our efforts in supply reduction based on market principles. We will identify and target strategic vulnerabilities in the business of drug trafficking. We will attack the drugs, money and corrupt financial institutions, precursor chemicals, key managers and individuals, crops, key transit routes, and key communication links that facilitate drug trafficking.

This Strategy places a heavy emphasis on obtaining measurable results and providing accountability to the American people, to Congress, and to our international partners. We will measure our success against the national goals of achieving a 10 percent reduction in teenage and adult current drug use over the next 2 years, and a 25 percent reduction in current drug use, nationally, over the next 5 years, as reported by the National Household Survey on Drug Abuse (NHSDA). The Strategy recognizes that entities with counterdrug responsibilities have not worked as effectively as they should. Consistent with the goals of the President's Management Agenda, it is our task to encourage and enable these entities to enhance their performance. Good government demands it, and it is our responsibility to future generations to ensure it. Finally, in the past, our ability to manage counter-drug programs has been complicated by the methods used to calculate the national drug control budget. The Administration is developing a new way to report the national drug control budget that will be readily identifiable and will reflect policy and management decisions guiding our counter-drug efforts (see discussion on page 7).

#### ASSESSING THE EXTENT OF THE DRUG PROBLEM IN OUR NATION

The Administration is committed to using science, research, and performance management to direct our drug policy decisions. This informed decision-making process will enable us to accomplish our goal of reducing drug use in America. Everyone who cares about the drug issue knows that our nation's drug problem is not a recent phenomenon. Unfortunately, drug use among our nation's youth has remained at unacceptably high levels for most of the past decade. Sadly, illicit drug use has once again become all too acceptable among our young people. This acceptance threatens to reverberate for years to come in areas as disparate as crime rates, higher education, economic competitiveness, and cohesiveness of community and family. For all these reasons, it is incumbent on us to do all we can to empower individuals to say "no" to drug use. The following is a snapshot of the state of drug use in our country and the enormous harmful consequences it inflicts upon our society:

*Overall Trends.*—According to the NHSDA, in 2000, 6.3 percent of the household population aged 12 and older (14.0 million persons) were "current" or past month users of an illicit drug, a level that was unchanged from 1999. Three of four current users (10.7 million) reported using marijuana, either alone or in combination with other drugs. Trend data prior to 1999 are not directly comparable to these numbers because a new methodology to improve and expand the survey was implemented in 1999. Nevertheless, historical data show that drug use peaked in 1979, when 25 million people (or 14.1 percent of the population) used illegal drugs.

*Adult Trends.*—According to the NHSDA, current drug use among adults—aged 18 or older—remained statistically unchanged between 1999 and 2000, at 5.8 percent and 5.9 percent, respectively. Four out of ten report having tried an illicit drug in their lifetime.

*Youth Trends.*—Drug use among 12–17 year olds also remained relatively unchanged—9.8 percent in 1999 and 9.7 percent in 2000. According to NHSDA, in 2000, 7.2 percent were current marijuana users, and about one in four youth (26.9 percent) have tried an illicit drug in their lifetime. The school-based Monitoring the Future study shows that among 8th graders, 11.7 percent reported past-month (current) use of any illicit drugs in 2001, lower than the 1996 peak of 14.6 percent. Among 10th graders, 22.7 percent reported current drug use in 2001, relatively stable in recent years and down slightly from the 1996 peak of 23.2 percent. For 12

graders, 25.7 percent reported current drug use in 2001, also relatively stable compared to the decade's peak of 26.2 percent recorded 1997. We are concerned that every day in 1999 (the latest year for which data are available), more than 3,800 young people tried marijuana for the first time, 1,800 tried hallucinogens, and about 1,700 tried inhalants. Every day over the same period, over 8,000 youths first used alcohol.

*Consequences of Drug Use.*—There were 19,102 deaths as a result of drug-induced causes in 1999, a slight drop from the 20,227 deaths in 1998. In 2000, there were 601,563 drug-related emergency room episodes in the United States. This is an increase of 16 percent over the 518,800 episodes reported for 1994. Episodes including cocaine remain at their historic highs; in 2000 there were 174,881 mentions of cocaine, an increase of 22 percent since 1994.

*Drug Consumption and Expenditure Estimates.*—Americans spent over \$64 billion on illegal drugs in 2000. Most of the expenditure was for cocaine (\$35 billion), followed by marijuana (\$10.5 billion) and heroin (\$10 billion). The amount of cocaine consumed in the United States has been declining over the past 10 years, from over 440 metric tons in 1990 to 260 metric tons in 2000. Heroin consumption has been stable at 13 to 14 metric tons per year, over the past 5 years.

*Drug Availability.*—Though overall coca cultivation decreased between 1995 and 2000, a 25 percent increase in Colombia resulted in an overall 18 percent increase in overall Andean Coca production in 2001. The primary coca cultivation country is now Colombia, which accounts for 580 metric tons, or 75 percent of the potential production. This compares with 1995, where Colombia's potential production was less than 25 percent of world production. In 1995, Peru contributed 50 percent of the total potential production. DEA's Heroin Signature Program, which chemically analyzes heroin seizures, suggests that Colombia is the source of over 60 percent of the heroin entering the United States and Mexico is the source of an additional 20 percent.

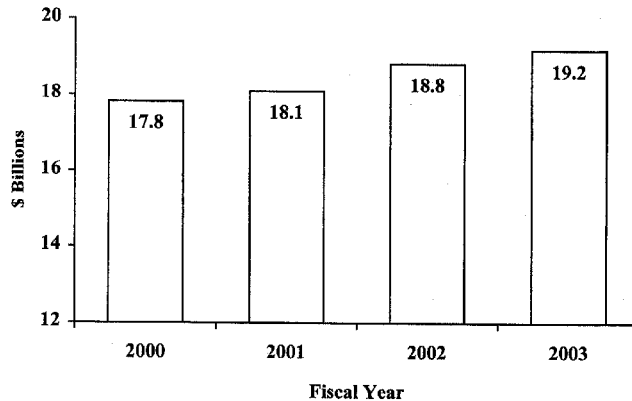
*Drug Seizures.*—Worldwide cocaine seizures, over the past 5 years, have averaged 280 metric tons (an average of 28 percent of the potential production). Those seizures are distributed equally among three components: (1) South America, (2) in transit to the U.S. market, and (3) domestic United States, which includes seizures at and within the United States border. Each of those components contributes to 30 percent of worldwide seizures. The remaining 10 percent are from seizures in overseas markets. Seizures in transit to United States markets have been rising (reaching 110 metric tons in 2001), while seizures at the border have fallen (down to 34 metric tons in 2001), suggesting that we are removing drugs farther from our borders. Federal cocaine seizures have varied between 100 to 130 metric tons over the past 5 years. Federal heroin seizures have been averaging 1,500 kilograms annually, but exceeded 1,600 kilograms in 2000. Federal seizures of marijuana, which occur primarily at the Southwest border, have increased annually about 20 percent for the past 5 years. In 2000, these seizures exceeded 1,200 metric tons. Federal seizures of methamphetamine rose dramatically in the late 1990s, and exceeded 3,300 kilograms in 2000. The number of clandestine methamphetamine labs destroyed is projected to exceed 7,000 when the 2001 figures are finalized. This compares with fewer than 4,000 labs destroyed in 1998.

It is all too obvious that despite our best efforts, too many Americans are using drugs. Too many of our young people are using drugs at a very early age. Too many of our citizens are addicted. The drug trade is too prosperous. These statistics make abundantly clear that achieving our goals will be a tremendous challenge. We are heartened that Americans will never acquiesce to those who believe there is nothing more we can do to reduce drug use—that we should be satisfied with the status quo. We will meet this challenge by uniting as a nation to begin the long and complex task of stopping use among youth before it starts, transforming drug users back to health, and disrupting drug markets to reduce the flow of illegal drugs into our country.

#### THE CONSOLIDATED FISCAL YEAR 2003 NATIONAL DRUG CONTROL BUDGET

The President's fiscal year 2003 Budget presents a balanced approach for drug control programs, fully supporting the National Drug Control Strategy. In fiscal year 2003, critical initiatives significantly expand the Administration's commitment to drug treatment, support essential drug prevention programs targeting youth, and continue assistance to our partners in the Andean region. As reflected in the following table, the President's fiscal year 2003 request for aggregate national drug control funding and the drug-related functions of Executive departments and agencies constituting the total is an estimated \$19.2 billion, an increase of \$356.9 million (+ 1.9 percent) over the fiscal year 2002 enacted level of \$18.8 billion.

## National Drug Control Budget



The President's fiscal year 2003 Budget Request puts the necessary resources behind our commitment to reduce drug use in the near term. The following are key budget highlights that will contribute to our shared effort to stop drug use before it starts:

- Safe and Drug-Free Schools and Communities Program: \$644 million (\$634.8 million drug-related).*—The budget continues funding for this school-based drug and violence prevention program aimed at young people, level funding the state grants program. To improve evaluation and better direct program activities in fiscal year 2003, ONDCP will work with the Department of Education to develop a useful evaluation plan that will provide the data needed to impose program accountability, while alerting schools to problem areas.
- National Youth Anti-Drug Media Campaign: \$180 million.*—The Media Campaign uses multi-media advertising and public communications strategies aimed at youth and parents to promote anti-drug attitudes and behavior. The campaign is a comprehensive national effort that integrates paid advertising at national and local levels with public information outreach through a network of public and private partnerships to amplify and provide local context for campaign messages.
- Drug-Free Communities Support Program: \$60 million.*—This ONDCP program provides assistance to community groups on forming and sustaining effective community and anti-drug coalitions that fight the use of illegal drugs, alcohol, and tobacco by youth. Further, the President's request includes \$2 million for the National Community Anti-Drug Coalition Institute. The Institute will provide education, training, and technical assistance for coalition leaders and community teams to enable coalitions to evaluate their own performance.
- Parents Drug Corps Program: +\$5 million.*—This new initiative, funded through the Corporation for National and Community Service, will encourage parents to help children stay drug-free by training them in drug prevention skills and methods.

The President's fiscal year 2003 Budget builds upon the significant bipartisan interest we enjoy in expanding our nation's commitment to effective drug treatment programs and research. We are proud to be associated with the President's historic commitment of providing \$1.6 billion over 5 years to increase funding for treatment. We look forward to working with the Department of Health and Human Services to implement this commitment in such a way that the resources are targeted to areas and populations with the greatest need. This Administration is committed to going beyond merely providing additional funding for drug treatment. We will seek to achieve a greater understanding of addiction and of the types of programs that prove effective, as well as to foster a climate where drug users are empowered to take an active, responsible role in their recovery. The following are key highlights that will begin an unprecedented effort to heal America's drug users:

- Targeted Capacity Expansion (TCE) Program*: +\$109 million.—This additional funding will help to expand the Treatment TCE program, which is designed to support a rapid, strategic response to emerging trends in substance use. Included in this proposal is \$50 million to be used for a new component of the TCE program. This new component will be structured to reserve funding for state-level competitions, weighted according to each state's need for treatment services.
  - Substance Abuse Prevention and Treatment (SAPT) Block Grant*: +\$60 million (\$43 million drug-related).—This increase in the SAPT Block Grant will provide additional funding to states for treatment and prevention services. States use these funds to extend treatment services to pregnant women, women with dependent children, and racial and ethnic minorities.
  - Residential Substance Abuse Treatment (RSAT)*: +\$7 million.—This enhancement will expand total funding for the RSAT program to \$77 million in fiscal year 2003. The RSAT program is a formula grant that distributes funds to states to support drug and alcohol treatment in state corrections facilities.
  - Drug Courts*: +\$2 million.—These additional resources will expand total funding for the Drug Courts program to \$52 million in fiscal year 2003. This program provides alternatives to incarceration by using the coercive power of the court to force abstinence and alter behavior through a combination of escalating sanctions, mandatory drug testing, treatment, and strong aftercare programs.
- The President's fiscal year 2003 Budget enhances our ability to protect our borders and cooperate fully in the international effort to combat drug trafficking. The following key highlights will enable us to disrupt the market at home and at the source:
- Andean Counterdrug Initiative (ACI)*: \$731 million.—The fiscal year 2003 Budget includes an increase of \$106 million over funding enacted for the ACI account in fiscal year 2002 for Colombia, Peru, Bolivia, Ecuador, Brazil, Venezuela, and Panama. This fiscal year 2003 request includes resources to continue enforcement, border control, coca and poppy eradication, alternative development, institution building, and administration of justice and human rights programs. For Colombia, the fiscal year 2003 funding will be used for several broad categories including: operations and maintenance of air assets provided with Plan Colombia supplemental funding; Colombian National Police and Army counter-narcotics Brigade operational support; and herbicide application programs. The additional funding requested will support USAID-implemented humanitarian, social, economic and alternative development programs, support for vulnerable groups, and resources for justice sector reform projects.
  - Deepwater Project*: +\$500 million.—This proposal continues to support the United States Coast Guard's Deepwater Project. The Deepwater Project focuses on the re-capitalization and modernization of the Coast Guard's assets including sensors and communications equipment for the aging deepwater cutters, aircraft and command centers. Although only a portion of this initiative is related to drug control, the re-capitalization of these assets will enhance the Coast Guard's ability to conduct counterdrug activities.
  - Border Control and Enforcement*: +\$76.3 million (\$11.4 million drug-related).—This enhancement for the Border Patrol includes hiring an additional 570 agents to enforce national borders and to combat international drug trafficking. For the new Border Patrol Agents, a portion of their time will involve drug control activities.
  - Southwest Border Prosecutor Initiative*: \$50 million.—The President's 2003 Budget maintains funding of \$50 million for the Southwest Border Prosecutor Initiative. This initiative provides critical support to counties along the Southwest Border for the costs of detaining and prosecuting drug cases referred to them by U.S. Attorneys.

#### *Restructuring the National Drug Control Budget*

The President has instructed the Federal Government to manage by results. Effectively managing the Federal drug control program, which involves coordinating the work of more than 50 national drug control program agencies, presents unique problems that require creative solutions. Previously, our ability to manage anti-drug programs has been complicated by the methods used to calculate the drug control budget. The national drug control budget presented in the Strategy each year does not represent actual managed dollars. With a few exceptions, the dollars reported are not reflected as line items in the President's budget or in appropriations acts. Instead, they reflect percentages of total appropriations for agencies and programs, with a number of different methods used to estimate the portion of the funds dedicated to drug control.

Recent independent analyses commissioned by ONDCP, as well as ongoing, required reviews by Inspectors General, have identified weaknesses in the methodologies agencies use to measure spending related to drug control. These reviews are unambiguous; we need to reform the National Drug Control Budget. The Administration is developing a new way to report the drug budget, based on the following guidelines:

- All funding items displayed in the drug budget should be readily identifiable line items in the President's Budget or agency budget justifications; and
- The budget presentation should be simplified by eliminating several supporting agencies from the drug budget tabulation. Only agencies with a primary demand reduction or supply reduction mission should be displayed in the drug budget. Agencies with no, or little, direct involvement in drug control would be excluded from the revised drug budget presentation.

Furthermore, the budget presentation has historically included costs that are a consequence of drug use rather than expenditures aimed at reducing drug use. As these costs do not reflect judgments about drug policy, they would be excluded from the National Drug Control Budget. ONDCP, however, will continue to report these costs as part of the biennial report, *Economic Costs to Society of Drug Abuse*.

This proposal will enable the Administration, Congress, and the general public to distinguish between funding for drug control efforts and funding for the consequences of drug use. While this presentational change will decrease the amount of funding attributed to the National Drug Control Budget, it will not negatively affect the total size of our Federal drug control efforts. In fact, this restructuring will improve our ability to manage those efforts by enabling policymakers to focus on managing programs genuinely directed at reducing drug use. The President's fiscal year 2004 Budget will implement the proposed changes to the National Drug Control Budget.

#### ONDCP'S FISCAL YEAR 2003 BUDGET REQUEST

ONDCP is requesting \$523.1 million in budget authority for fiscal year 2003. ONDCP requested \$519.1 million for fiscal year 2002. The fiscal year 2002 enacted level is \$533.313 million. The budget request reflects four program accounts: Salaries and Expenses; the Counterdrug Technology Assessment Center (CTAC); the Special Forfeiture Fund; and the High Intensity Drug Trafficking Areas (HIDTA) program.

##### *Salaries and Expenses: \$25.458 million*

For fiscal year 2003, ONDCP is requesting \$25.458 million for salaries and expenses to support 115 Full-Time Equivalents (FTEs) and 30 non-reimbursable detailees. ONDCP requested \$25.1 million for fiscal year 2002. The fiscal year 2002 enacted level is \$25.263 million. This request is essential if ONDCP is to carry out its policy, budget, and programmatic responsibilities in a manner consistent with achieving measurable results. Major expenses include:

- \$24.108 million to provide compensation and benefits for all authorized FTEs including a full complement of Executive Level (EX) positions; contract services; rental payments to the General Services Administration; travel and transportation; communications and utilities; and equipment.
- \$1.35 million to continue and expand ONDCP's policy research program. For the past 10 years, ONDCP has conducted a program of research and produced a series of studies and reports on key policy issues surrounding drug demand and supply, law enforcement, and consequences of drug use. With each round of funding, ONDCP seeks to expand and improve the methodology used in producing these studies and reports to improve the precision and accuracy of the resulting estimates.

As you know, the President requested funds for this account in the consolidated appropriation for the Executive Office of the President. The preceding discussion is included only to facilitate the work of the Appropriations Committees.

##### *Counterdrug Technology Assessment Center: \$40.0 million*

For fiscal year 2003, ONDCP is requesting \$40 million to support the Counterdrug Technology Assessment Center (CTAC). ONDCP requested \$40 million for fiscal year 2002. The fiscal year 2002 enacted level is \$42.3 million. The aggregate request includes funding for two distinct components: Research and Development (\$18 million) and the Technology Transfer program (\$22 million).

*Research and Development.*—Concerning demand reduction, CTAC's work, in conjunction with the National Institute on Drug Abuse (NIDA), to expand the understanding of substance abuse and addition is producing some of the most scientifically significant developments we have seen in this field. These funds enable CTAC



to sponsor advanced neuroimaging technology, medical instrumentation, and facilities at leading academic medical research institutions. In order to receive CTAC sponsorship, research facilities must agree to use the equipment to concentrate on drug abuse research and commit to train other professionals who will continue to advance the body of knowledge on the scientific aspects of substance abuse. Deploying proven or promising technologies for imaging the human brain activity of a subject on drugs is providing invaluable data and dramatically increasing our understanding of the short- and long-term effect of drugs on the human brain. Finally, this program supports developing and evaluating therapeutic drugs for treating addiction with minimal physical side effects.

By the end of fiscal year 2003, 12 of the nation's leading substance abuse research institutions will have benefited from CTAC's program. World-class medical expert teams at Massachusetts General Hospital, Emory University, the University of Pennsylvania, Harvard University, McLean Hospital, the University of Colorado, Oregon Health Science University, and UCLA have benefited. In most cases, their leading-edge drug abuse research efforts are sponsored by grants from NIDA. Two new centers will be started to advance our understanding of the genetics and phenotypes of the addicted brain.

It is time for these facilities be linked to form a central information exchange allowing the transfer and sharing of images, data, and research findings over a substance abuse research data backbone. This data exchange backbone will make it possible for scientific advances, achieved by individual applications of technology, to benefit all of the nation's premier substance abuse research teams and accelerate the rate at which research can progress.

Concerning supply reduction, CTAC R&D concentrates on high priority scientific and technological needs of local, State, and Federal law enforcement agencies. These efforts improve capabilities for conducting non-intrusive inspection of cargo and containers for illegal drugs and strengthen law enforcement capabilities to combat drug-related crime and violence. Tactical tools are under development to improve capabilities to intercept and process drug-related criminal communications and to improve law enforcement capabilities to communicate with each other. Advanced tactical repeaters and phone intercept systems developed under CTAC funding are being evaluated in the field by Federal, State, and local law enforcement agencies in the New York City and Baltimore/Washington areas.

CTAC also sponsors technology testbeds. Last August in the metropolitan Denver area, the wireless communications interoperability testbed project demonstrated the interoperability of radios used by the U.S. Customs Service, Drug Enforcement Administration, Lakewood Police Department, Front Range Task Force and the Aurora Police Department. Since the August 2001 demonstration hosted by the Lakewood Police Department, the system has been used on a regular basis. By this summer, a Colorado-wide capability will be demonstrated to law enforcement agencies from across the country. This model allows state and local police to continue using their existing radios inter-connected through off-the-shelf interoperable communications systems. The system used in Colorado is being added to the Technology Transfer Program this year. In fiscal year 2003, CTAC plans to continue to develop near-term improvements to law enforcement communications interoperability and management of investigative data. These capabilities assist in preventing, thwarting and prosecuting drug-related crimes, as well as terrorist activities.

*Technology Transfer Program.*—The Technology Transfer Program (TTP) provides technologies developed with Federal funding directly to state and local law enforcement agencies that may otherwise be unable to benefit from the developments due to limited budgets or lack of technological expertise. CTAC utilizes technology testbeds to test and evaluate new items before they are included in the program. The TTP is unique because it provides hands-on training and support with the delivery of the equipment to each recipient. The periodic follow-up evaluations (at 90, 180, and 270 days) assures proper employment of the technologies and helps the TTP to assess the effectiveness of both the program as a whole and the individual technologies transferred.

The \$79.498 million appropriated since the TTP began in fiscal year 1998 has made possible the delivery of 4,750 pieces of equipment to over 3,800 state and local law enforcement agencies (as of April 15, 2002). During fiscal year 2003, the requested appropriation will allow the transfer of much-needed technology to more than 1,200 state and local law enforcement agencies across the country. By the end of fiscal year 2003, TTP deliveries will have been made to over one-fourth of the 18,500 sheriffs and police departments across the nation.

*Special Forfeiture Fund: \$251.3 million*

ONDCP's fiscal year 2003 budget requests \$251.3 million for the Special Forfeiture Fund. ONDCP requested \$247.6 million for fiscal year 2002. The fiscal year 2002 enacted level is \$239.4 million. This account provides funds to a diverse group of ongoing programs: the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Program, the United States Anti-Doping Agency, the Counterdrug Intelligence Executive Secretariat, the National Drug Court Institute, and the National Alliance for Model State Drug Laws. Furthermore, this account contains a request for two new initiatives: Performance Measures Development and World Anti-Doping Agency (WADA) Membership Dues.

*The National Youth Anti-Drug Media Campaign: \$180 million*

For fiscal year 2003, ONDCP is requesting \$180 million for the National Youth Anti-Drug Media Campaign. ONDCP requested \$185 million for fiscal year 2002. The fiscal year 2002 enacted level is \$180 million. The Media Campaign uses multi-media advertising and public communications strategies aimed at youth and parents to promote anti-drug attitudes and behavior. The Campaign is a comprehensive national effort that integrates paid advertising at national and local levels with public information outreach through a network of public and private partnerships.

Clearly, the goal of the Campaign is to reduce drug use among youth. A statistically significant decline was found in past month marijuana use among 12- to 13-year olds from 1.8 percent to 0.7 percent between Waves 1 and 3. For 14- to 15-year-olds, however, there was a statistically significant increase in past month use from 2.1 percent in Wave 1 to 5.6 percent in Wave 3.

During the past year, the Campaign reached 90 percent of America's youth at least four times a week in multiple languages to various ethnic groups. A multi-cultural sub-set of the Campaign delivers \$38 million worth of drug prevention messages annually to diverse audiences, making it one of the largest multicultural communications efforts ever launched by the Federal Government, and rivaling that of most corporate efforts. The Campaign has just completed development of the government's first-ever Native American anti-drug television ads which, along with a strong print ad complement, are set to be launched soon in targeted markets.

In addition to its primary effort against youth drug use, the Media Campaign also developed and, through its partnership with the Ad Council, operates a national multi-media public service advertising campaign promoting community anti-drug coalitions. The campaign seeks to expand community involvement against drugs by demonstrating the positive effect coalitions can have in their own communities.

Paid anti-drug advertising placed in key television and radio time slots and high readership publications is the foundation of the Campaign. An integrated advertising program focused on specific Campaign themes and messages is running nationally and in 102 local U.S. markets (through more than 2,250 media outlets nationwide during a 5-year period). One unique aspect of the Campaign is that Congress mandated that media accepting advertisements must match the Campaign's purchases with an equal value of public service in the form of public service advertising time or space, or other activities related to youth drug use prevention. The Campaign has exceeded this ambitious "pro-bono match" goal. For the period beginning January 1998 through September 2002, the total value of the pro-bono match is projected to reach \$659 million. The pro-bono match was negotiated using paid media valued at \$614 million, and includes "in-kind" corporate contributions of \$72 million, bringing the total value of the Anti-Drug Media Campaign to over \$1.3 billion. Most of the match (86 percent) was PSAs. Eligible PSAs aid in drug prevention by encouraging activities such as mentoring, greater parental involvement, after-school programs, and other nationally relevant youth-related issues.

The Campaign is uniquely positioned to educate American youth and parents about the link between drug money and terror in the United States and around the world. In the aftermath of the terror attack of September 11, we realized that few Americans knew of the link between money spent for drugs and the support of terrorist organizations like Al Qaeda and the FARC. Twelve of the 28 international terrorist organizations recognized by the State Department engage in drug trafficking, and many other drug trafficking organizations engage in widespread acts of terror—kidnapping, torture, bombings, and the murder of innocents.

We subjected the ad concepts to an unprecedented level of testing to assure their effectiveness with target audiences. The ads were exposed to more than 1,300 individuals in 20 cities across the country. Youth that participated in the testing found that the ads significantly reduced their intent to use drugs in the future. Parents said the information gave them timely new information to use in talking to their children about drugs.

As the Subcommittee is aware, ONDCP launched the new ads during the Super Bowl program and they are still in use. Our anti-terror television, newspaper, and magazine ads are running currently and will continue through June.

The ads have generated a large response from across the country. Viewers are directed to [www.theantidrug.com](http://www.theantidrug.com), which is the Campaign's parenting Web site, where traffic surged after the ads were introduced. From the ads' launch on February 3 through February 27, page views on the site rose more than 21 percent. Visitors to the site doubled from an average 125,000 per month to 250,000, and the time spent at the site by visitors rose from an average 6 minutes to 10 minutes. During the same Feb. 3–Feb. 27 period, 1,282 parents signed up to receive a weekly parenting tips email.

ONDCP's fiscal year 2003 request will also support continued public communications outreach which builds on and complements the advertising component. Significant efforts under this "non-advertising" component include a public information campaign that directly supports our advertising messages and builds credibility for the Campaign, a robust partnership initiative that expands the collective communications output of the Campaign by building relationships with a wide range of private sector media organizations and nonprofit organizations committed to the goals of the Campaign.

The Campaign makes extensive use of interactive media. The outreach component operates a family of Campaign Websites—the two most important of which are "Freevibe.com", our youth site, and "www.theantidrug.com", our parents site. The growth and popularity of the Internet, particularly among the nation's youth, enabled the Campaign to achieve more than 1.2 billion match impressions on as many as 50 consumer Web sites, including America Online. The efforts have led to more than 40.7 million page views on the Media Campaign Web sites, as of February 2002.

To further leverage the appropriated dollars allocated to the Campaign, ONDCP is pursuing aggressively a corporate participation plan. Pursuant to fiscal year 2002 report language, ONDCP submitted to the Committee (on February 11) a report summarizing the Media Campaign's corporate participation program, including its evolution, value to the Campaign, accomplishments to date, and promise for the future. This report focuses primarily on the corporate participation effort that was initiated four months ago to recruit and engage America's businesses in the Media Campaign. It also describes how corporate participation fits within the context of overall private sector involvement in the Campaign.

*Evaluation Component.*—The evaluation of Phase III is designed to determine the extent to which changes in drug abuse-related knowledge, attitudes, beliefs, and behaviors can be attributed to exposure to the Campaign. Thus far, the evaluation has detected increases in awareness and some positive changes in perceptions and attitudes toward drugs. The parent findings are particularly positive, indicating changes in behavior among parents—slightly ahead of the expected timeframe of 2 to 3 years for behavioral change.

The Campaign has successfully exposed its target audience to anti-drug ads. Ninety percent of youth and parents recall seeing or hearing some form of general anti-drug advertising at least once per month. For recall of specific Campaign ads, 83 percent of youth recall seeing at least one of the Campaign ads in the past 2 months, and 44 percent of parents recall seeing at least one of the parent-targeted ads in the past 2 months. Furthermore, a key aspect of the Phase III Campaign is the introduction of the branding concept to both youth and parent messages: about 60 percent of 12- to 18-year-olds recalled the youth brand, and about 46 percent of parents recalled the parent branding phrases. Parents are becoming more involved in addressing drugs with their children. Building on positive findings reported in the second semi-annual evaluation report, there was an increase in parent reports for four of five key outcomes, including talking to their children about drugs and monitoring their behavior. The most significant increases are among those with the highest levels of exposure to the Campaign ads.

Recognizing that the funds are authorized to be appropriated to the Campaign through fiscal year 2002, ONDCP is committed to reauthorizing this program. With the support of members from both houses, we hope a reauthorization measure will be introduced in the next month.

*The Drug-Free Communities Support Program: \$60 million*

For fiscal year 2003, ONDCP is requesting \$60.0 million for the Drug-Free Communities Support Program (DFCSP). ONDCP requested \$50.6 million for fiscal year 2002. The fiscal year 2002 enacted level is \$50.6 million. The Administration is pleased that Congress recently reauthorized this program from fiscal year 2003 through fiscal year 2007.

The DFCSF provides matching Federal grants directly to local community anti-drug coalitions to improve or expand their efforts to prevent substance use among children (including the underage use of alcohol and tobacco). The DFCSF truly serves communities throughout our nation, currently supporting 463 communities located in all fifty States, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia. Furthermore, approximately twenty-five of the grants have been awarded to communities with predominately Native American and Native Alaskan populations. We anticipate awarding approximately 70 additional grants during the fiscal year 2002 grant cycle (September, 2002).

Of the total \$60.0 million ONDCP is requesting for this program, approximately \$54.4 million will be granted directly to community anti-drug coalitions. We anticipate awarding approximately 166 new grants and approximately 12 mentoring grants in fiscal year 2003, bringing the cumulative 6-year total to more than 700 grants awarded to over 600 community anti-drug coalitions.<sup>1</sup> The Drug-Free Communities Reauthorization Act of 2001 (Public Law 107-82) requires grant recipients to match their Federal grant funds with other non-Federal sources of support, including cash and in-kind contributions. Coalitions competing for new awards after completing their initial 5-years of eligibility must meet an increased threshold for matching funds as a condition of eligibility for further awards.

ONDCP policy provides that grantees may receive a maximum award of \$100,000 for years 1, 2, and 3, and \$75,000 for years 4 and 5. The rationale for the funding reduction in years 4 and 5 is to encourage the coalitions to become less reliant on Federal funds and more self-sufficient. The statutorily-created Advisory Commission has informed the ONDCP Director that this formulation is the most equitable and has the greatest chance of securing the long-term success of the coalitions.

Of the total \$60.0 million request, \$2.0 million, the maximum authorized amount, is to award a grant to support a National Community Anti-Drug Coalition Institute. The DFCSF Reauthorization Act requires ONDCP to award a grant to a national nonprofit organization that represents, provides technical assistance and training to, and provides expertise and broad national-level experience in, community anti-drug coalitions. ONDCP is working with the Center for Substance Abuse Prevention to create an Interagency Agreement for them to administer this grant. We anticipate awarding this initial grant in fiscal year 2002.

Of the total \$60.0 million request, only \$3.6 million will support "administrative costs." These activities include grants management and program evaluation, and program administration. We anticipate allocating \$3.28 million to OJJDP for grants management and evaluation, up to \$120,000 for grant management costs associated with the National Coalition Institute, and \$200,000 to support the DFCSF Program Administrator and the Advisory Commission on Drug Free Communities.

*United States Anti-Doping Agency: \$1 million.*

For fiscal year 2003, ONDCP is requesting \$1.0 million to support the United States Anti-Doping Agency (USADA). ONDCP requested \$3.0 million for fiscal year 2002. The fiscal year 2002 enacted level is \$4.8 million. ONDCP is proposing fiscal year 2003 appropriation language to allow ONDCP to transfer the entire amount of funds to the USADA without restrictions on the type of transfer. This will ensure that the Federal Government can provide appropriate financial oversight and ensure accountability for these funds.

Now that the Salt Lake Games are concluded, the \$1 million request would support research and administrative initiatives, educational programs, and efforts to inform athletes of the rules governing the use of performance enhancing substances, and the ethics of doping and its harmful health effects. Furthermore, USADA is developing an out of competition program that will occur during the off years of the Olympic and PanAm games.

*Counterdrug Intelligence Executive Secretariat: \$6 million*

For fiscal year 2003, ONDCP is requesting \$6.0 million for the administration and operations of the Counterdrug Intelligence Executive Secretariat (CDX). ONDCP requested \$3.0 million for fiscal year 2002. The fiscal year 2002 enacted level is \$3.0 million. The General Counterdrug Intelligence Plan (GCIP) created the CDX to implement the recommendations contained in it. The GCIP originally contemplated a staff of approximately 35 people for the CDX. Current funding at \$3 million can

<sup>1</sup>A number of community coalitions that received their initial award in fiscal year 1998 have completed the 5-year period of eligibility contemplated under the original DFCSF authorization. As the reauthorization permits these coalitions to reapply as a "new" grantee at the completion of the initial 5-year period, some coalitions will begin receiving their second "new" award in fiscal year 2003.

support only 5 management/administrative staff and limited substantive work to achieve GCIP action items. Of the total request, \$1.8 million will support existing administrative staff and continuing efforts to complete GCIP action items. The remaining \$4.2 million will support approximately 30 reimbursable detailees from other Federal agencies. This increase is necessary as participating agencies have been unable to provide the number of non-reimbursable detailees necessary to ensure sufficient support to the CDX.

A fully-staffed CDX will continue to improve our nation's counterdrug intelligence architecture by enhancing information sharing, operational coordination, and technical connectivity among Federal counterdrug components and their State and local law enforcement counterparts. CDX has reached a staff level of 16 (5 management and administrative staff, plus 11 full-time non-reimbursed professional detailees). Efforts are underway to address nearly all of the 73 action items. Approximately 33 percent have been completed, substantial progress has been made on approximately 30 percent, and some progress has been made on approximately 30 percent. Additionally, the member agencies have referred 16 interagency intelligence coordination or policy issues to the senior Counterdrug Intelligence Coordinating Group (CDICG) for review.

*National Drug Court Institute: \$1 million.*

For fiscal year 2003, ONDCP is requesting \$1.0 million for the National Drug Court Institute (NDCI). ONDCP requested \$1.0 million for fiscal year 2002. The fiscal year 2002 enacted level is \$1.0 million. The NDCI's research program requires these funds to continue the expansion of its drug court training program for practitioners, to convene special advisory groups to develop curricula in new disciplines, to develop a national community probation initiative, and to expand and update the Institute's video instruction library.

Research conducted by the National Center on Addiction and Substance Abuse, Columbia University, June 1998, demonstrates that drug courts provide more comprehensive and closer supervision of the drug-using offender than other forms of community supervision. Drug courts have been tremendously successful in creating a comprehensive and coordinated environment among the criminal justice and public health systems and the community in which they operate. Furthermore, individuals graduating from a drug court have lower rates of additional criminal behavior and/or recidivism. In contrast to the traditional "revolving door" approach, drug courts provide an effective solution to drug addiction and drug-related crime through the innovative use of and sanctions and incentives, comprehensive supervision, drug testing, and judicial monitoring. Defendants who complete the program either have their charges dismissed (in a diversion or pre-plea model) or have their probation sentences reduced (in a post-plea model). Drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program than other forms of community supervision.

To date, there are over 1,100 drug courts operating in the community or are in various planning stages across the nation. These include approximately 167 juvenile courts and 37 family courts. Since their inception, almost 230,000 people have enrolled in drug court programs and almost 75,000 have graduated. For fiscal year 2003, the Department of Justice is requesting \$52 million for the Drug Court Program, an all-time high.

*Performance Measures Development: \$2 million*

For fiscal year 2003, ONDCP is requesting \$2.0 million for Performance Measures Development. This is a new initiative; no funds were requested or appropriated for fiscal year 2002. ONDCP will use the requested funding to develop and implement data sources for performance measurement and management for counterdrug programs government-wide. Many measures are currently lacking or inadequate for informing policy decisions. Over the past 4 years, ONDCP identified such shortfalls in its annual Performance Measures of Effectiveness report, and described efforts through its Data Subcommittee to address these limitations. Additionally, last year, the results of the ONDCP-funded study from the National Research Council containing a review and recommendations on drug policy research were released. Both of these activities have highlighted, among other topics, (a) the need for improvement in estimates of the price and purity of illegal drugs, (b) the supply of drugs flowing to the United States, and the amount of drugs consumed in the United States; (c) evaluations of the effectiveness of prevention, treatment, and law enforcement programs; and (d) empirical study of drug markets. ONDCP will lead an inter-agency effort to address these research and data issues. As a result of this effort, ONDCP will make use of data generated to improve and refine program performance and consider new initiatives.

*World Anti-Doping Agency Membership Dues: \$0.8 million*

For fiscal year 2003, ONDCP is requesting \$0.8 million for World Anti-Doping Agency (WADA) Membership Dues. This is a new initiative; no funds were requested or appropriated for fiscal year 2002. WADA's mission is to promote and coordinate the effort against doping in sport at the international level. To accomplish this task, WADA cooperates with intergovernmental organizations, governments, public authorities, athletes, and other public and private bodies working against doping in sport. Furthermore, WADA coordinates a comprehensive anti-doping program, including out-of-competition controls.

The requested funds represent full membership dues for the United States in the WADA. The dues assessment is formula driven. The International Olympic Committee (IOC) pays fifty percent of the costs associated with WADA; participating governments and other agencies (which are divided into six geographic regions) pay the remaining fifty percent. The Americas' region is responsible for a twenty-eight percent share of the governments' and other agencies' fifty percent. The United States and Canada each pay one-third of the twenty-eight percent share (\$0.8 million); the rest of the Americas pay the remaining one-third.

*National Alliance for Model State Drug Laws: \$0.5 million*

For fiscal year 2003, ONDCP is requesting \$0.5 million for the National Alliance for Model State Drug Laws (NAMSDL). ONDCP requested \$1.0 million for fiscal year 2002. The fiscal year 2002 enacted level is \$1.0 million. These funds will enable the NAMSDL to encourage states to adopt and implement laws, policies, and regulations to reduce drug use and its adverse consequences. The funding reduction is in no way reflective of dissatisfaction with the MSDL. However, the ONDCP appropriation has been the NAMSDL's only source of support since fiscal year 1997, and we believe NAMSDL should become less reliant on Federal funds. We are working with NAMSDL to identify additional funding sources. This approach is consistent with the Administration's philosophy that Federal dollars should not necessarily be the only source of funding for a program in perpetuity; these limited resources should be used to leverage additional funds, thereby making the organization/program able to survive even if Federal funds are reduced or eliminated.

*High Intensity Drug Trafficking Areas: \$206.35 million*

For fiscal year 2003, ONDCP is requesting \$206.35 million for the HIDTA program. ONDCP requested \$206.35 million for fiscal year 2002. The fiscal year 2002 enacted level is \$226.35 million.

The ONDCP Director, in consultation with the Attorney General, Secretary of Treasury, heads of National Drug-Control Program agencies, and appropriate governors, designates the most critical regions in the United States as HIDTAs. The HIDTA Program enhances and helps coordinate efforts among State, local, and Federal law enforcement entities in 28 designated areas to reduce the production, manufacturing, distribution, transportation and chronic use of illegal drugs and its consequences, as well as the attendant money laundering of drug proceeds. Resources are allocated to link local, State, and Federal drug enforcement efforts and to optimize the investigative return on limited fiscal and personnel resources. ONDCP will work with all involved entities to ensure that HIDTA resources are properly targeted to offer maximum effectiveness. When HIDTA resources are appropriately targeted, drug law enforcement entities will have a greater chance of obtaining measurable results in their effort to disrupt the illegal drug market through cooperative investigations, intelligence sharing (coordinated at HIDTA Investigative Support Centers), and joint operations against drug-trafficking organizations.

The philosophy underlying the HIDTA Program is to allow each region the flexibility to address its unique drug threat in an appropriately tailored manner. An Executive Board (the "Board"), which consists of an equal number of local/State and Federal law enforcement agency leaders, is the governing body of each individual HIDTA. The Board develops and implements the HIDTA Threat Assessment, Strategy, and Initiatives, as well as the fiscal administration operations of the HIDTA. The Board hires a HIDTA Director to administer the day-to-day operations of the HIDTA, implement appropriate oversight controls, and remain in contact with ONDCP. In contrast to the administrative management functions, the participating law enforcement agencies maintain sole operational control of initiatives.

The fiscal year 2003 HIDTA request includes \$2.1 million to continue auditing services and associated activities, and at least \$0.5 million shall be used to develop and implement a data collection system to measure the performance of the HIDTA Program. ONDCP contracted with Klynveld, Peat, Marwick, Goerdeler (KPMG) to perform external financial audits on the HIDTA grantees and Federal agencies. Thus far, KPMG has conducted 13 full-scope audits and 16 limited-scope reviews.

With regard to the 13 full-scope audits, the HIDTAs grantees received all unqualified “clean” opinions. With regard to the limited-scope audits, the HIDTAs grantees and Federal agencies received no major findings. In addition to issuing the final audit reports, KPMG will prepare a Best Practices Report which will be shared with all of the HIDTAs. Internally, ONDCP has begun a review process that includes on-site visits to HIDTAs by ONDCP staff, as well as members from the Departments of Justice and Treasury. The on-site reviews help strengthen management at the individual HIDTAs and at ONDCP. To date, we have reviewed 13 HIDTAs and we plan to conduct an additional 5 to 6 program reviews in fiscal year 2002 and an additional 5 to 6 in fiscal year 2003. The program reviews have proven beneficial to the HIDTAs and ONDCP as best practices are identified and shared.

Concerning the allocation of the \$20 million in fiscal year 2002 funding, having obtained the concurrence of the Department of Defense, ONDCP will be transferring \$5 million to the Department of Defense for National Guard counterdrug enforcement efforts. We believe that this transfer is a high priority to maintain current operational levels for the National Guard Bureau, and it will not affect current funding for existing HIDTAs. ONDCP will prioritize the remaining \$15 million based on program priorities and other issues specific to the HIDTAs.

Since January 1990, counties in the following 28 areas have been designated as HIDTAs: Houston; Los Angeles; South Florida; New York; and the Southwest Border, which includes South Texas, West Texas, New Mexico, Arizona and Southern California (in 1990); Baltimore/Washington, DC; and Puerto Rico/U.S. Virgin Islands (in 1994); Atlanta; Chicago; and Philadelphia/Camden (in 1995); Gulf Coast (Alabama, Louisiana, and Mississippi); Lake County (Indiana); the Midwest (Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota); Northwest (Washington); and Rocky Mountains (Colorado, Utah, and Wyoming) (in 1996); Northern California (San Francisco Bay Area); and Southeastern Michigan (in 1997); Appalachia (Kentucky, Tennessee, and West Virginia); Central Florida; Milwaukee; and North Texas (in 1998); Central Valley California; Hawaii; New England (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); Ohio; and Oregon (in 1999); and Northern Florida; and Nevada (in 2001). HIDTA designated counties comprise approximately 10 percent of United States counties; they are present in 41 States, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

#### CONCLUSION

In announcing the release of the National Drug Control Strategy this February, President Bush stated the Administration’s view that we need to have clear goals that can be measured, that we take responsibility for achieving them, and that we explain how we will meet them. The President’s statement is worth quoting in this context: “I told John [Walters] when he signed on, I’m the kind of fellow that likes to say, what are the results? I like to know, actually, are we making a difference? And so here’s our goal, here’s the goal by which we’ll be measured—here’s the goal which I’ll be measured first, and then John will definitely be measured if I’m measured. I want to see a 10 percent reduction in teenage and adult drug use over the next 2 years, and a 25 percent reduction in drug use, nationally, over the next 5 years. Those are our goals. We understand we can’t do it alone here in Washington. And that’s why our approach is a community-based approach. That’s why we recognize the true strength of the country is our people. And we know there’s thousands of parents, thousands of educators, thousands of community activists, law enforcement officials, all anxious to come together to achieve this national strategy.”

We look to this Subcommittee, and indeed the entire Congress, to provide bipartisan leadership and support in this effort.

#### MEDIA CAMPAIGN

Senator DORGAN. Director Walters, thank you very much.

Let me ask a couple of questions about the media campaign first. The information that I have says that, in fact, the goal of the media campaign is to reduce drug use among youth. You say a statistically significant decline was found in the past-month marijuana use among 12- and 13-year-olds, from 1.8 percent to 0.7 percent between waves one and three. For 14- to 15-year-olds, however, there was a statistically significant increase in the past-

month use from 2.1 percent in wave one to 5.6 percent in wave three. That is nearly a doubling of the 14- to 15-year-olds.

You indicate that the campaign during the past year reached 90 percent of America's youth at least four times a week, and now those of us in politics understand about reach and gross rating points. And I think what you are saying here is that you have purchased enough points so that you expect that 90 percent of your target group has seen four messages a week.

Mr. WALTERS. That may be a month, I think, but—

Senator DORGAN. Is it a month?

Mr. WALTERS. It is a week. I am sorry.

Senator DORGAN. All right. So that is a pretty significant reach to your target audience, and, you know, we have been at this now some number of years, and this year we are talking about, what, \$180 million again. That is a significant expenditure.

Tell me, how can we know whether we are making a difference here? If 14- and 15-year-olds—I would expect 12- to 13-year-olds last-month drug use, I am guessing that is probably marijuana in school or something—or I shouldn't say "school," but marijuana use has gone from 1.8 percent to 0.7 percent. I assume that it is a very small number. The 14- to 15-year-olds has gone from 2.1 to 5.6. That is more than doubled, and yet that comes at a time when the average 14- to 15-year-old has seen four messages a week for a year's worth of messages in our media campaign.

How do we reconcile that, and what does that say to you?

Mr. WALTERS. First of all, I believe the only way to judge this Campaign is whether it reduces drug use. We have interim measures of awareness such as "have you seen this and are you remembering contact with it." But my goal for this and other programs is reducing drug use. That is why the President set the goals. If we can not reduce drug use with either our supply or demand programs generally or individually, then my view is we have to make changes and support the programs that do.

In regard to the Campaign, I think in fairness, from the look I have been able to have at it so far, there has been a lag, of course, in the period of the first appropriation to the full implementation of the plan. We are now, for the first time, going to get the evaluation in May to show us the first full 6 months of the fully implemented campaign on nationwide effects on drug use. I think that will be an important part of our ability to say whether or not it is working at an adequate level to justify the support it has been given.

Senator DORGAN. Let me ask you a hypothetical about that. What if that shows pretty much what you have seen here? You talk about full implementation. This is a pretty significant implementation, the reach of targeted audience four times a week for a lengthy period of time, and what it shows is that your target audience is aware of the ads, but that 14- to 15-year-olds, which is a pretty crucial area for us, it seems to me, have more than doubled in their last month's use of drugs.

What if you discover that your first 6 months of full usage, as you describe it, shows exactly the same thing? What would that say to you?



Mr. WALTERS. I think we have two choices in that regard. If it is working for younger kids, if it continues to show a relationship to working for younger kids, then I think that what you are seeing is at least part of the Campaign that is targeted on younger kids, either directly or through trying to influence parents, which is the other part of the target audience to reinforce these messages with young kids, which we know will have maximum effect, then we could say that part is working. The direction of the Campaign against older students needs to be changed, strengthened, or expanded.

In fact, I have begun discussions with my staff saying that for years we have seen that, in fact, drug use doubles between junior high school and high school. If we have shown success in this age category, I think we have to do it across the board—not just here but with things like the Drug-Free Schools Program and others—we need to do a better job in high school. We need to raise the awareness of people that we are losing the battle at the high school level. We know that we are trying to get kids not to experiment during their teenage years. We have had long, hard experience here. If they do not use drugs during their teenage years—the same is true of alcohol and cigarettes—they are unlikely to go on to use later on; and if they don't start experimenting, they will not go on to addiction.

Our goal has to be to not only follow them in the early teenage years, but we have to provide an effective prevention effort throughout that whole period if we are going to be successful. But the good news is, if we are successful, that is the way to contain this problem for subsequent—

Senator DORGAN. I agree with that, but the question that I am asking is: Is the media campaign successful? We are spending potentially \$180 million again this year on it, and at some point, we are going to have to make a judgment. Are we just putting a lot of money out there, running a lot of commercials, and making kids more aware of the commercials, but, in fact, among 14- and 15-year-olds last month's drug use is doubling? Is there a point at which we say there is a much more effective way to spend that money?

Mr. WALTERS. Yes, I agree with you entirely.

Senator DORGAN. And what is that point?

Mr. WALTERS. I think in fairness, the point will be probably in the next two evaluation rounds. If we do not see significant improvements in drug use, then we have to face the problem of is this a matter of restructuring or is this a matter of, for one reason or another, what seemed to be a good idea is not working.

Senator DORGAN. Can I ask you, when you say a statistically significant decline was found in the past month of 12- to 13-year-olds from 1.8 to 0.7 percent, what kind of polling is this or sampling? What kind of error rate exists with this sampling?

Mr. WALTERS. I am not an expert on the statistics. We should probably provide you a full answer for the record. My understanding, though, is that the samples are—especially given the lower rates of use at that age group, the samples are relatively small. So a statistically significant change will have to be a larger

change than it would be if we had a broader sample with more ability to have significant changes measured at smaller increments.

That is significant. I believe that means it is 95 or 99 percent certain. That is probably not an accident based on the statistics. But we should give you a complete answer for the record.

Senator DORGAN. All right. I have some other questions, but let me turn to my colleagues. Senator Campbell?

Senator CAMPBELL. Thank you, Mr. Chairman. Let me also talk about the Anti-Drug Media Campaign. I think I have been concerned with it, as you have.

I would like to first add that I like that second ad,—about 10 percent of South Dakota are Indian people, and many youngsters we lose not from high-powered drugs like, you know, cocaine or something that is expensive. We lose them to paint and glue, canned heat, cold medicines, oven cleaners, I mean the stuff that just burns out their skull. It just gives them no future at all. And I would like to see some resources put there.

But as the chairman mentioned, we put an awful lot of money in this ad campaign, and I am not altogether sure that we put it in the right places, because it seems to me you have mentioned targeting yourself a couple times, though, we have had some disagreement with your predecessor about who they are targeting and who is actually watching or viewing what it is.

As an example, I understand we spent a great deal of money on the Super Bowl ads at roughly a million bucks a minute. I am not too sure how many 12-year-olds watch the Super Bowl. I am sure their dads all watch it, but I am not too sure how many of those youngsters watch it. So whether it is cost-effective or not, I don't know.

But I know one thing. We are not targeting and we are not asking—we make too many decisions around here in the White House and the agencies about where we put the money without asking the people that are going to be affected.

I just happened to notice, while you were speaking, a bunch of youngsters came in the back of the room, and we are always very pleased to see young people attend these hearings. But if I might, Mr. Chairman, I would like to ask the young people back there: What kind of magazines do you read? Do you read teen magazines, or *People* or some of those? Somebody just give me a type of magazine you read. Yes, you. *Seventeen* and *People*. And what is the third one? *Sports Illustrated*.

Well, if young people are using those, it seems to me that that is where we ought to be taking out the ads. But last year, or perhaps it was the year before—I am sorry, I lose track. I have been around here too long. Your predecessor put a whole bunch of money into an ad campaign buying ads for teenagers *U.S. News & World Report*. And how many young people read *U.S. News & World Report*? There might be one once in a while, but that is a specialty magazine that tends to go to—you know, it might go to bankers or investment people or business people, but not many teenagers read that. It seemed to me it was just a terrific waste of money. What we ought to be doing is taking the word of young people like this saying what they are interested in reading and putting those ads in there. And we can't micromanage the agency

from here, obviously, but somebody over there that is making the decisions, it seems to me, needs to find out who the heck they are trying to get to before they start signing contracts with high-powered magazine agencies and television media consultants and so on, because I think it is just not getting to a lot of young people. And as I understand the numbers, they support—the use of marijuana is going down. You said 12- and 13-year-olds, if I am not mistaken. But use of other drugs has gone up in other places. And yet we have spent 930 million bucks.

So I just want to pass that on. If you want an expert in what young people are reading, ask the experts, and that is the young people, not us or not somebody over at the White House or in the agency. Ask the young people what they are reading, and that, I would suggest, is where we ought to put our money, Mr. Walters.

Now, let me go on to just a couple of other things.

Mr. WALTERS. Could I address that issue?

Senator CAMPBELL. Yes, please do.

Mr. WALTERS. I think it is important that we have a common understanding about what you want to have the program do.

My understanding in part of the answer to the question is the decision was made when the Campaign started to divide the program into two target audiences. One was the young people, and I agree with you that “U.S. News” is not a good vehicle to reach young people. The other part of the program was parents, and to try to give the message with the information that they needed to talk to their children based on the research that if parents—I know parents sometimes feel they are not listened to, but parents are the biggest influence. They are the most important teacher; they are the biggest example. And the research has showed that if parents state clearly their sense of right and wrong in this area, it is the most powerful thing. So to have reinforcement of the message that is going directly to the kids with a message, that was targeted on parents to get them to talk to young people.

Now, that is a technique. It may or may not work effectively. The initial research or the evaluation showed that there was both a greater engagement of parents on this, and there were children reporting greater engagement by parents to them talking about this. So it is bifurcated. But that may be part of the reason why you are seeing this in different places.

Obviously, a children’s ad should not be in “U.S. News & World Report.” I am not taking issue with that.

On the Super Bowl, we did more focus group testing, on this ad than any other came on late in this process, but I made the decision to do the Super Bowl ads for the office. I personally watched the most extensive set of focus group tests that we did with parents and young people and saw the reaction to this. And the reason we used the Super Bowl, while it is expensive, it is a huge audience. It crosses all demographics that we are trying to reach better than any other single vehicle that we could find. And, in addition, it is the most watched program where parents watch with kids so we get reinforcement.

Now, this concept is one thing. It cannot be the whole game, and I am not saying that I am an expert on media. But what I am say-

ing is from what I heard, the reason we did that that way was, dollar per eyeball, we got a good bargain on that.

But, again, I want to be clear. I agree with you entirely. I am not arguing, I am not equivocating. If this program through the evaluation we have, which is one of the most sophisticated ever constructed, to my knowledge, in a Government program, does not change patterns of drug use, all the good feelings, all the awards for ads, all the awareness that does not translate into changes in use does not matter. We will have to change what we do.

Senator CAMPBELL. Well, I am not an expert on a lot of things, and I am certainly not an expert on parenting with the new styles of communicating all the problems with your youngsters and dealing with them in some kind of a manner. I guess I am kind of old-fashioned. I have a youngster who is a grown man now, a very productive, hard-working, good citizen. When he was a young teenager, if I had caught him using drugs, I would have knocked the hell out of him. It is as simple as that. I guess I am old-fashioned, because I remember that is the way my dad did things. And sometimes I think that the new method of parenting doesn't get it done.

Mr. WALTERS. I understand.

Senator CAMPBELL. But, in any event, there is another problem with that, too, and that is, sometimes the parents are drug users, as you know.

Mr. WALTERS. Yes, I know.

Senator CAMPBELL. If they are, I don't know how we give the kids a chance if the parents are fooling around with the stuff.

Let me go on, Mr. Chairman, just maybe a couple others. I am using too much time. Let me skip a couple of them.

This new drug called Ecstasy, we carved out \$5 million in the National Anti-Drug Media Campaign last year for that. How do you plan to spend that, if it is going to be directed specifically to Ecstasy?

Mr. WALTERS. We have a series of ads. I showed one here. We have some also that are targeted—

Senator CAMPBELL. A general ad dealing with everything.

Mr. WALTERS. Yes. And we are about to launch the actual showing of these ads in target markets. Because \$5 million in the national advertising market is not a lot of money, although I am not saying I do not recognize it is substantial money we are going to try to use some target areas so that we get enough of a concentration that we can measure effect. If it works we will try to expand it.

Senator CAMPBELL. Okay. And one last question, I guess, Mr. Chairman, is: Why are we doing this at all? Because when I was the chairman of this subcommittee, in 1997, your predecessor requested funding for this National Media Campaign. It was supposed to be a 5-year effort. So basically what we are saying, now is that this is the 60 year. Where do we go from here?

Are you working with an authorization committee to extend this, or are we?

Mr. WALTERS. Yes. We will submit language with representatives in both chambers, bipartisan, to reauthorize the program. Now, again, we may reach an issue where you want to make changes, but unless we have an authorization there, we will not have the

option of continuing. But that will be forthcoming in—I think next month is when we are going to be able to introduce it.

Senator CAMPBELL. Well, in closing, I just have to tell you, I really support any effort we can to educate youngsters about the dangers of it. I have a nephew that is 50 years old now, my nephew. When he was a youngster in high school, as a freshman and sophomore, he was a straight A student. He was on the wrestling team. He was in the band. Just a terrific kid. And somehow he got to fooling around with speed and something else; I have forgotten what it was now. Well, he is still in an institution, 50 years old. And he did something to himself that was not recoverable, and he has to be on medication all the time. If he goes off medication, he hallucinates, he gets violent, he does all kinds of things.

When they let him go home, as long as he takes the medication, he is in pretty good shape. But if he doesn't, he ends up back in the institution in California. And that is his life, and that is what is going to be the rest of his life, 50 years old, never have a family, never have children, never be able to enjoy the fruits of America, all the things that we do, because of a mistake he made when he was a youngster fooling around with the wrong kind of stuff. Oh, I know what it was, TCP? What is that stuff called?

Mr. WALTERS. PCP.

Senator CAMPBELL. It is something, I guess, that alters your mind so that it doesn't grow back. And he did that, as I understand it, just a few times as sort of a dare with some other kids, and it has ruined his life. That is what has happened to our family.

Mr. WALTERS. I think that is an important point, and I do not mean to take too much time. But I think it is important that you understand what we are trying to do or what I will try to do here.

The discussion about the drug problem in general tends to lapse into a view that the drug problem is about 28-year-olds or 32-year-olds deciding to use drugs as a recreational activity. That is not what the drug problem is in America, and we cannot say that enough. It is about kids. It is about teenagers. If they do not start at that age, they are not going to be using drugs later on. It is about addiction when they start young and they start too young, and it is about damaged and destroyed lives through the use of those drugs.

We need to do a better job with our teenagers. We believe we can do a better job and that we can help reduce the number of people who will go on to adulthoods of wrecked lives. But we are not going to do that by not making clear what the reality is here, what the danger is here, and that the process of addiction is a change in the human brain. The use of drugs is a preventable behavior. Addiction has characteristics of disease. It physically changes the brain.

We are taking young people when their brains are in development, and we are damaging them, and we have difficulty many times bringing them back from that dependency. That is what this is really about. It has been distorted.

The Media Campaign, may not work. We may want to change it. But I believe it was partly a response to the claims by a lot of parents and adults by saying the culture is against me. I am trying to do this at home, but all the messages coming from the media

and the culture in too many situations are the wrong ones for my kids about drugs.

This may not work. It is a bold experiment. It is risky. It is high visibility. It is a lot of money. But if we can do something to help create a better environment for the way parents and people in communities are trying to work this problem, I think it is worth the risk. But I want to repeat: I have no hesitation. If it does not work and I think we have a reliable evaluation, we will change it.

Senator CAMPBELL. Director Walters, I think we are on the same wavelength. Thank you.

Thank you, Mr. Chairman.

Senator DORGAN. Senator DeWine?

Senator DEWINE. Thank you, Mr. Chairman.

Mr. Director, I want to continue on the ad issue, and I guess I come from this maybe a little different perspective, but maybe not so much.

It seems to me that when you try to change the culture, as you pointed out—which I think is a good point. I think that is what we are trying to do, is try to change the culture, or at least attempt to do that. And when you try to reduce consumption, the demand side, there are many factors that go into that. And I think it is very difficult to pull out one thing that you are doing and isolate that and determine whether or not that is working. It seems to me you have to do a lot of things.

It is sort of like, if I could reference a political campaign for my colleagues, you end up in a political campaign doing a lot of different things, and at the end of the day when election day is held, you are really not sure exactly what worked, but you either won or you lost. But you did a whole bunch of different things, and you hope a lot of them worked if you won.

So I think it is difficult, very, very difficult to pull this one out and say this is responsible for a reduction or it is not responsible for a reduction.

Now, having said that, let me ask you, who do you rely on to make the determination about what type ad, where the ad is placed, what the target is? And do those people who advise you in regard to that, who I assume are the advertising experts, also figure out some way of measuring the success or failure?

Mr. WALTERS. Yes, there is a multi-part process that includes staff in my office, but then working with a panel of behavior-change experts that include child psychologists as well as advertising people, to measure whether particular ads or particular approaches are likely to be successful. So those are all screened, and then the buys are based on advice from advertising folks given the target audience and the nature of the particular item that message is being placed.

I have begun to become more familiar with this. We do not want to have amateurs entirely; but, on the other hand, we also do not want to not be responsible for a large program. I have asked them to make sure that if I can not understand what is going on here, we better figure out how we can either make it understandable—

Senator DEWINE. But let me take an example, though. The determination of what specific age we are targeting, who makes that decision, and how is that made?

Mr. WALTERS. There was a strategy conducted when the program started that we can provide you that was based on advice of prevention people in the field on where to start and what might be a target audience. As I said, I have directed a reconsideration of a part of that strategy to focus on older young people, high school age, basically because of the data that we have seen from the first part of the campaign where it may be working against the younger target audience, which has been a target. We have to give them credit for that. But we are not getting follow-through on the older kids where drug use starts to increase.

Senator DEWINE. You know, it would seem to me from what I know—I am new to this committee. I am not new to the issue. I have dealt with this for a long time. I don't pretend to be an expert. I don't think we have any experts. But it would seem to me that most of the information I have read and most of the people I have talked to would indicate that, like most other things in life, the earlier you are reaching someone, the better off that you are. And then you have to sustain that.

So your problem is you have got to reach them young, and then you have got to keep reaching them and keep reaching them and keep reaching them.

Mr. WALTERS. Yes.

Senator DEWINE. An example of a problem we have had—and you and I have talked about this—is the Drug-Free School Program. The problem with the Drug-Free School Program is not that a lot of the programs don't work—some of them don't work; but we have tried to correct that—but that we don't do it consistently. We don't have a K-12 program because there isn't enough money to do it.

If you had a K-12 program, you would have a decent shot at maybe doing something. So it seems to me that that is the same problem that you are facing with a finite amount of money.

My time is up, Mr. Chairman, but I just would say that I am not—I think this committee should have oversight. We should keep questioning you about how that money is spent. I know you are questioning the experts. But at least this member of the committee is not convinced that we shouldn't be spending money on advertising. If it is good enough to try to get Mike DeWine elected to the U.S. Senate and change people's minds, it seems to me—and we all do it. There isn't a one of us that doesn't do it. It seems to me that it is good enough—and it is good enough to do anything else in society, then it ought to play a part—it ought to play a part of our anti-drug strategy. It is not everything. But if you look at the total amount of dollars—the total amount of dollars, not what we give to you but the total amount of dollars in the Federal Government that we spend on anti-drug efforts, what we spend on advertising is a very small amount of money.

Mr. WALTERS. I agree.

Senator DEWINE. Thank you, Mr. Chairman.

Mr. WALTERS. I just want to be clear. The evaluation I am talking about is not to say what is happening with drug use globally and then hold only the Media Campaign, \$180 million, out of more than \$19 billion in the drug control budget requested for fiscal year 2003. The evaluation we have and we have been submitting to you

is the state of the art, very sophisticated. It is expensive. But the goal was, since this was a very expensive campaign for the Federal Government to do, as much as possible to isolate the contribution the Campaign itself makes to these behavior changes. We are not citing generalized numbers. We are citing the numbers within the component of use that is part of the evaluation of the Campaign.

Now, all these things are not perfect, but I have not heard anyone say that the evaluation for the campaign will not give us the best results and pretty reliable results at this point. We will see what they say.

Senator DORGAN. Senator Reed?

#### HIGH INTENSITY DRUG TRAFFICKING AREAS

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

Thank you, Director Walters, for joining us today. Let me speak about the High Intensity Drug Trafficking Area Program. It is extremely popular with law enforcement officials in New England, and New England is somewhat unusual. It has a sixth State as part of its region, one of the larger concentrations of States. They would like more money. Last year, Congress put an additional \$20 million to raise the total up to \$226 million, but this year the President's budget goes back to \$206 million. Why was the \$20 million, which you are using already, lopped off the budget?

Mr. WALTERS. I have been personally meeting with the HIDTA directors. I met with them when they assembled in Washington, actually right after I was confirmed, and I met with them more recently. I am personally visiting—and I intend to go to all the HDTAs.

I was actually in the ONDCP when this program was started back in the President's father's administration. The question with this program is how much additional value, given other forms of law enforcement support and other activities the Federal Government does, is appropriate.

My own view is—and when I have talked to the HIDTA directors about it—if this program as it exists in some of the best HDTAs, I think, that are out there that I have seen, can be used to build coordination, which it has, to target law enforcement resources on enforcement activities that make a difference, we are prepared in the course of the review to drive more dollars here.

Now, this request got put together at the end of my coming, and I am not making an excuse. I defend the President's budget. But if the program simply provides an add-on in a competitive environment for budgets that actually should be placed in another program or put in another direction, we intend to do that. But my goal to the HIDTA directors is to tell them—across the board we have talked about what works here as a criteria because, I think the greatest single thing—you talk about this as well as I do—that we face as a threat in the area of fighting the problem of drug abuse is cynicism that nothing works.

I have asked them to not just talk about coping with the drug problem. Give me a plan in every program, demand and supply, including HIDTA, give me a plan using your resources, with your coordination, to reduce the problem in your area. We intend to attack the supply side as a market, and I have asked them to give me a



plan to do that. The additional \$20 million, with the exception of the \$5 million of that that we have sent to support the shortfall for National Guard that many of the HIDTAs use, we have asked them to give us plans for directing their efforts and expanding their efforts in that direction of shrinking the problem.

If we can get those kinds of proposals, we are prepared to support it as heavily as the results will warrant. But if it is going to cope with it—and I am not saying there are not valuable activities going on there—then I have to ask myself where are there opportunities to reduce the problem.

Senator REED. Well, I get very, very strong comments from law enforcement professionals, and they are in the field. They are the proverbial people on the front lines. And I think they have got a good sense of what works and what doesn't, and they go out of their way to tell me how important this is to New England. One aspect of HIDTA is the Investigative Support Center. That gets very good reviews, too, and I would urge you to make sure that this program is funded adequately.

Mr. WALTERS. I understand.

Senator REED. There is another aspect of this up our way. Route 95 cuts right through the heart of New England. Last year, in our report, we directed your office to work with State law enforcement officials to combat interstate shipment of drugs in the New England region. I wonder if you could comment at all about any efforts that are underway or any specifics.

Mr. WALTERS. I do not know the specific operations that are there. I will be happy to supply those for the record.

Senator REED. Thank you, Mr. Director.

There is another aspect of the drug problem that has reared its ugly head in Rhode Island. Just recently, the first methamphetamine lab was discovered by Rhode Island law enforcement officials. This marks a new chapter and a very sinister chapter. Can you comment about your efforts to combat the meth trade up in New England?

Mr. WALTERS. Yes. As you know, we have seen this problem essentially start at the West Coast and move east. I was just at the DEA Training center earlier this week looking at the training they are doing for State and local law enforcement officials to certify them. They essentially have to be certified as hazardous materials handlers in order to conduct enforcement operations and clean up sites. DEA has resources appropriated by Congress to help in cleaning up such sites.

When I leave here today, I am going out to the Northwest to look at what has, unfortunately, a more mature meth problem in labs. We have used both parts of the HIDTA resources but other programs in coordination with DEA and other Federal agencies to go after this problem. We are continuing to look at ways, both in terms of controlling precursors but also in, of course, targeting the labs, to more effectively look after the issue. The diversion of things like pseudoephedrine off the licit market but in large quantities is obviously something that we can take a look at. When you get the small labs, which are essentially quantities you can go into larger discount stores and buy off the shelf, even if you have to use a couple of buyers because some of the stores have put in rules about

how many packs of pseudoephedrine you can buy, that is a different problem.

But it is a serious problem. It is a growing problem. We intend to both try to focus our law enforcement resources effectively. I think we are—in some cases, doing a better job of staying on top of it, but we are not where we need to be there.

#### PRESCRIPTION DRUG ABUSE

Senator REED. Thank you, Mr. Walters.

I just want to raise two final issues that are unrelated, but give you a chance to comment on both, because the chairman is very kind about his time, and I am sure he has other questions.

We often focus in terms of drug abuse will regard to illegal drugs, yet prescription drug abuse is becoming—not becoming, it is a critical problem. One of the marquee issues is OxyContin, which not only is being abused but people are breaking into drugstores and stealing it at gunpoint in some cases. That is one issue.

The second issue is when you go into the juvenile justice system, you find very troubled youngsters, most of them with substance abuse problems. Here is literally a captive audience. You don't have to catch them watching the Super Bowl. You have got them. And yet it seems to me that we do just an absolutely deplorable job in trying to get them the type of support, assistance, and resources to cope and to get off this problem. And sometimes they leave those places worse than when they get in.

So can you comment briefly on the issue of prescription drugs, your strategy to deal with that type of abuse? And, also, what are we doing with incarcerating youth in juvenile justice?

Mr. WALTERS. On the diversion of—or the illicit use of prescription drugs, we have begun discussions. I have met with the Deputy FDA Commissioner and I have been in conversations with DEA. I have also conversations with one of the physicians that has been a leader in—Tennessee had an unusual concentration of a diversion problem, and I met with a professor there at Vanderbilt who was a leader in helping to create programs for physicians.

There are two different problems here. Part of it is the criminal diversion of drugs through, you know, either stealing or the writing of criminal prescriptions knowingly. Another big problem, which OxyContin is part of that, is physicians simply not being careful or not being fully trained or not being aware of what to look for: people shopping from one physician to another to get multiple prescriptions; people being duped when they present the alleged needs for pain or other kinds of medication.

They have created an educational program in Tennessee that has helped reduce the problem there. We are looking at ways that we could be a convener to do that more broadly at medical schools, with State licensing boards, because there is some education that could help reduce a substantial part of this problem.

There also is a need for referral because some of this diversion is physicians writing prescriptions which are dubious to friends or colleagues or family members and themselves, frankly. So there needs to be kind of an intervention in the profession, but there also needs to be better education. And I think we can make some headway on this. It will probably take us a few months to get every-

thing together to convene that. But I am hopeful that we can make a contribution here that will help some of that problem.

The other part is tighter diversion controls, and we will look at that with FDA, DEA, and the State Agencies involved as well.

On the treatment effort, no one knows how long you are going to be in these positions. You borrow them for a short time from the American people. But I would like to have—one of the results, I hope, of what our work can be removing the current sharp line in people's minds between the criminal justice system and the treatment system. I think criminal justice has been going in this direction where people have been leading and sorting people who have a dependency problem and using the resources and, frankly, the authority of the criminal justice system to get them treatment. We know if we start younger, we have better outcomes. We know that if we do this consistently and the longer people stay in treatment, the better off they are. We know that if we follow up with them and we provide a way of tying services that may be educational or employment services to them, including mental health services, we have better outcomes.

The criminal justice system through diversion programs for youth and adults, drug courts, treatment in prisons, and follow-up can be a very important source. We are going to increase—the President has asked, as you probably know, to add \$1.6 billion to Federal treatment spending over the next 5 years. The Federal Government makes a big contribution. It is not the only contribution. I would like to see us continue to move in the direction of using the criminal justice system as a way of effectively providing both intake when people have problems and present themselves, but also as a kind of case management to give people who are not violent offenders, who are not hard-core criminals, and are not engaged in major trafficking the impetus they may need to get into treatment and to get into recovery and stay there.

Our goal is to make people well. The criminal justice system is already an important intake point. I think there is actually a better story here than most people know. We need to make that clear. We need to reinforce it. I have asked my staff as a part of the review to see how rapidly we could contribute to an expansion of the drug court system and the system that provides treatment in prisons. We should have that review done to begin to shape the budget for the next fiscal year.

Senator REED. Well, thank you, Director Walters. I would suggest—and I know you are doing this—that in your analysis you come up with some dollar figures which might be very impressive in their size if we are going to really deal with this treatment problem throughout the country. But I commend you for that initiative, and I thank you.

#### DRUG TREATMENT

Senator DORGAN. Senator Reed, thank you.

Director Walters, is the \$1.6 billion all new money?

Mr. WALTERS. It would be all new money. It would be over 5 years.

Senator DORGAN. My understanding is that some of it in the 2003 request is paid for by reductions in other treatment programs.

I don't have the list of that, but I think it is important to understand when the administration says \$1.6 billion over 5 years, is this a commitment to new money or is it a commitment to rearrange old programs?

Mr. WALTERS. It is a commitment to new money, and I will supply the detail for the record. There were some service-providing programs that were consolidated and removed, but the net increase meets the President's commitment, and the reductions were not used—we did not rob Peter to pay Paul. I understand the point of the question.

#### NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN

Senator DORGAN. Now, let me go back to this issue of the media campaign because—I don't want to dwell too much on it. I am going to submit a series of questions to you in writing. But, you know, we would have expected at the end of 5 years to be able to say, yes, we did it and it worked, or we did it and it didn't work. We spend, what \$500 million on your agency; almost \$200 million of that is the media campaign, so it is a significant part of what we do.

The question, I guess, is: Why after 5 years do we not have a pretty clear answer, yes, it worked or, no, it didn't work?

Mr. WALTERS. I think there are two reasons for that at this point. One is there was a lag from the beginning of the program to when it got fully implemented.

Two, the operating strategy, which, again, these are all best guesses of how this is going to work, was to provide messages both to parents and to young people that would first try to get them to change the way they think, and then there would be some lag between that process of re-analyzing the issue and then the actual change in behavior; that there would, in short, be a delay from first—it would not be watch one ad, do something different; that it would take some exposure and some time to create the environment.

Now, again, that may be true. That may not be true. But what we will have in the period of the report that should be available next month and then the next 6-month review available in the fall is the first full implementation nationwide, and I think the first period of time such that, if this follows as predicted, the behavior change should be there.

Now, it may be—and, again, I want to emphasize I agree with the premise of the question. It may be the Campaign either does not work or is not big enough to counter things, and then you have got to decide do you want to change it or do you want to put the money somewhere else.

Senator DORGAN. But, you know, the behavior change isn't like breaking the sound barrier. I assume if it exists it is incremental. Over 5 years you ramp up, you have incremental change, and at the end of the full phase-in, you measure where that incremental change took you.

My feeling is that if this were the private sector, after 5 years you would decide whether you were making progress or not making progress. And when I say "you," you have just recently arrived, but, you know, after—the anticipate was to spend close to \$1 billion in

a 5-year period and then hand it off to corporate sponsors and expect to be able, by the end of the 5 years, to evaluate with what accomplishment did we spend this money.

The only reason I am raising that issue is I know the authorizers will take a look at it, we in the Appropriations Committee will take a hard look as well, at whether this is an effective use of money, and whether there are other ways to use this money that might be more effective.

Let me just also comment quickly, I think the record on drug treatment for those who are incarcerated in this country is abysmal. Most people who are incarcerated—we have well over 94 or 95 percent of the people incarcerated are incarcerated by State and local governments. And I understand we have a different standard at the Federal level, although it is not perfect. But in most areas of State and local government, county jails, State penitentiaries and so on, a substantial portion of those in those incarceration facilities with drug addictions are not getting treatment and not getting effective treatment and are being released from incarceration with a drug issue unresolved.

I think it requires a great deal of money to address that. I don't know how much, but addressing the drug problem also requires us to address that issue, I think, in a very aggressive way. And so I hope—based on your testimony, I know you will take a look at that.

I am going to submit a series of questions to you because of Secretary Powell's briefing on his Middle East trip.

Mr. WALTERS. Can I say one thing about that?

Senator DORGAN. Yes, of course.

Mr. WALTERS. I have made clear my own concern about our rigorous evaluation of the ad Campaign. But I also want to be fair to you in this opportunity about what I think from my experience the underlying factors are.

The closest thing we have to the kind of research about attitude versus behavior in my experience over the long term has been something like the high school survey that was conducted for years that also measured both use and measured attitudes of disapproval and change. We always saw that attitudes about the danger of using drugs or disapproval were about a year to 18 months or 2 years ahead of the change in behavior. It would not be impossible—in fact, it is not unreasonable to expect that there would be a similar pattern here.

But, again, we are guessing as to what is the most likely story of how these things work across a large population. Some individuals are going to be different. That is not to say that I do not think we have to be rigorous, and I understand exactly what you are saying. If it does not work, we are not going to continue funding it. And I understand the frustration with after 5 years and this amount of investment how much change do we see.

We also know that there are important factors here that we have seen from the evaluation. An important factor in whether kids use is the percentage that say they have been presented with drugs through peers and others.

So the Campaign will play a part, we will be able hopefully to measure that part, but we also have to hopefully empower parents and other adults in their lives to supervise young people. We can-

not just have them watch ads and then inoculate them and dip them into a society which is otherwise not doing other parts of crucial activity here. So it has to be a part—we will examine it as a part, but I understand what you are saying.

Senator DORGAN. Well, you know, we used to raise horses, and we actually drove some horses with a buggy, and we used to use blinders on the horses from time to time, especially one of them that would shy at almost anything. And the blinders, of course, prohibit the horse from looking anywhere but ahead, straight ahead. The only reason I am raising these questions is we are moving straight ahead on this campaign. I resisted the attempt by those in the Senate 2 years ago to interrupt the campaign by saying that a much bigger problem in America's schools is the issue of alcohol and drinking, and let's take some of this money and move it to deal with that issue.

And I was one of those who resisted that and said, no, we have embarked on a course here for 5 years to evaluate with what effect can we achieve a reduction in drug use and a change in behavior with respect to drugs among America's young people.

As I said, if this were the private sector, my guess is they would have at this point been about the business of deciding does this make sense or doesn't it, do we continue it or don't we.

We still have those who believe that we ought to be doing this with respect to teenage drinking, and I am very sympathetic to that, I must say. I mean, I think there are going to be far more kids in the next month killed by underage drinking than drugs. It doesn't suggest—I don't think this program has—I mean, I am really anxious to see the measurement of it. But I will bet everybody in this room knows of a young kid that is dead because of drunk driving. I have got several in my family that have been killed from drunk driving, loved ones and so on. And I think if you go to a school today and talk to these kids, you will discover the really big problem is somebody getting drunk and somebody else getting in a car and having three of them killed in an accident.

So we will have those in Congress continue the effort to say this campaign is spending \$1 billion on this issue and the issue in most high schools these days continues to be, as it has been for 50 years, that kids are not responsible with respect to alcohol. And a lot of our kids are dying because of it.

Well, that took me off in a different discussion. Again, the reason that I think it is important that we discuss this, we are at the end of 5 years. This subcommittee doesn't have an unlimited quantity of money. We are going to do with the money that we have from the American taxpayer the most effective job possible to address a range of issues. We want to provide good funding for you so that you can do your job, and we have tried to work very cooperatively with your agency over time.

Mr. WALTERS. I appreciate that.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator DORGAN. So let me do this: There are other things I wanted to inquire about, but because of time I will forfeit that. But let me ask if you will submit to some questions in writing.

Mr. WALTERS. Absolutely.

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

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN  
 NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN

*Question.* Has ONDCP used media campaign funds for creative costs associated with producing advertisements? If so, how much and for which ads?

*Answer.* Of the \$658.1 million spent for paid advertising in the last 4 fiscal years, \$3.4 million (0.5 percent) has been spent on creative labor costs. This was primarily for the production of internet creative materials, for ethnic, in-language advertising addressing important “niche” audiences, and for strategic brand development; create material that the Partnership for a Drug Free America was not able to produce.

*Question.* In each year, how much of the media campaign allocation is used for media buys versus all other costs for producing advertisements?

*Answer.* Advertising production is a small percentage of the overall advertising budget, which is primarily allocated for media buying. Over the last 4 fiscal years, 96 percent of the advertising budget was used to purchase time and space with 4 percent used for production costs (including creative labor). This compares favorably to private sector allocations which typically include 90 percent for time and space and 10 percent for production. Production and media planning budgets have varied from year to year depending on the need to develop creative materials and when those materials were needed versus the cost of television and radio time. Additionally, the media-planning year runs from July to June, which crosses over calendar years.<sup>1</sup>

[In millions of dollars]

1998/1999 .....	157.5
1999/2000 .....	143.0
2000/2001 .....	143.2
2001/2002 .....	140.0

The following provides the calendar year commitments for media and production materials and labor, along with media budgets for the July through June plan years:

MEDIA AND PRODUCTION BUDGET FOR THE MEDIA CAMPAIGN CALENDAR YEAR BASIS

[In millions of dollars]

Fiscal year	Media spend	Production spend	Percent/split
1999 .....	\$140.6	\$6.8	95/5
2000 .....	125.0	5.0	96/4
2001 .....	134.0	4.0	97/3
2002 .....	<sup>1</sup> 130.0	<sup>2</sup> 4.9	96/4

<sup>1</sup> Budgeted.  
<sup>2</sup> Estimated.

*Questions.* How is the \$5 million for ecstasy targeting being spent?

*Answer.* Fiscal year 2002 Conference report language directed the Campaign to allocate \$5 million (out of the \$180 million appropriated) “for advertising time and space specifically targeted at combating the drug Ecstasy.” ONDCP intends to base this effort on anti-ecstasy television ads already developed by the Partnership for a Drug Free America. This anti-ecstasy advertising will be directed toward youth and will appear on popular youth-oriented network television programs.

*Question.* What are the targeted media outlets and times?

*Answer.* The ecstasy campaign will air on a variety of popular programs on the key networks that youth watch most, such as WB, MTV, UPN, ESPN, Fox, and Much Music. Programs may include shows such as WB’s (“Seventh Heaven,” “Gilmore Girls,” “Dawson’s Creek,”); UPN’s (“The Hughleys,” “Wolf Lake,” “The Parkers”); MTV’s (“Real World,” “WWF Heat”); Fox’s (“Mad TV,” “Family Guy”); ESPN’s

<sup>1</sup> Program Year July and June Historical Media spending is higher than CY spending as noted below due to FAR obligation requirements and budget allocation procedures.

Sports Center; and Much Music's ("Live at Much Music," "Oven Fresh"). These programs air in primetime (8–11 p.m.) and late night (11:30 p.m.).

The above schedule is based on ONDCP's April-June 2002 planned television schedule. Actual programs airing ecstasy advertising will vary depending upon availability and scheduling and will air between June and September 2002.

*Question.* Why are you not continuing this effort in fiscal year 2003?

*Answer.* The Campaign is first and foremost a primary prevention effort and its focus must be on the primary entry-level drug, marijuana. We simply must respond to the fact that marijuana is the single most significant factor in overall drug use by America's youth.

The Campaign focuses on primary prevention for three key reasons. First, primary prevention targets the underlying causes of drug use, and, therefore, has the greatest potential to reduce the scope of the problem over the long term. Second, over time, a primary prevention campaign will lessen the need for drug treatment services. And third, a media campaign has greater potential to affirm and reinforce the anti-drug attitudes of youth who are not involved in drug use than to persuade experienced drug users to change their behavior.

When we examine the most recent findings from the 2000 National Household Survey category of "12–17 year old past 30-day use of all drugs," we find that marijuana accounts for the 9.7 percent reporting such use, approximately 75 percent of the total. This use is mostly by itself, but also to a smaller extent is in combination with other drugs. Therefore, as we look to focus our communications power against youth drug use, the most obvious entry point has to be marijuana.

The communications challenge of this is significant. Of all illegal drugs, marijuana is clearly the drug about which youth attitudes are the softest and their parents attitudes are the most ambivalent. It should be clear that we cannot expect to make progress in youth drug use until we significantly reduce the use of marijuana, the preponderant drug of choice.

To include a significant effort against ecstasy or any other specific drug, will drain funds from focussing on the primary issue of marijuana, fragment our messages, and result in a less effective and efficient program.

*Question.* How will you monitor the effects of a targeted campaign?

*Answer.* As the primary focus of the campaign is on illegal drugs in general and marijuana and inhalants specifically, the bulk of the advertising component and therefore the evaluation focus on related awareness, attitudes, and beliefs.

As with the core Campaign, we use a range of tools to monitor the effects of our efforts. To ensure communications are strategically sound and grounded in behavioral science, communications are reviewed by our Behavior Change Expert Panel, by target audience specialists, and by PDFA's Creative Review Council. All communications are qualitatively tested in focus groups throughout the country to ensure the intended message is being clearly communicated and understood by our target audiences.

Measures in the market include our on-going Advertising Tracking Study which tracks advertising awareness and related attitude and behavior change. Further, our regular focus group testing of advertising also provides us an opportunity to learn first hand the impact of our advertising in-market and provide us with insight into effects of targeted efforts. In addition we monitor the traffic to our various websites and the NCADI Clearinghouse activity.

*Question.* How does the campaign intend to change with the alterations recognized in youth drug behavior?

*Answer.* Based on the Westat Evaluation Report (May 2002), ONDCP is pursuing a number of changes to improve the effectiveness of the Campaign. First, ONDCP will become much more involved and at an earlier stage in the development of the messages of the Campaign. Second, ONDCP is changing the core target age of the Campaign from 11–14 years to 14–16 years. Third, ONDCP is requiring that all television ads be tested twice before they are aired, first in concept form and second after they are produced, before target audiences in several cities. ONDCP will continue to work closely with Congress and key Campaign partners to ensure that the Campaign plays a significant role in our effort to achieve the President's goal of achieving a 10 percent reduction in teenage and adult drug use over the next 2 years, and a 25 percent reduction in drug use, nationally, over the next 5 years.

*Question.* Why is the focus on marijuana, the most difficult drug to unroll and the drug with flat lined behavior studies?

*Answer.* We focus on marijuana precisely because of its insidious nature as an entry-level drug that accounts for the majority of adolescent treatment episodes. Marijuana is the most prevalent drug of use for the Campaign's youth target (as well as for young adults and adults). If we are to produce a dramatic reduction in drug use overall, we must begin with marijuana.



The Campaign leverages its communications power to produce maximum impact on youth and drugs. As the Media Campaign is a primary prevention campaign for youth, it focuses on the primary entry-level drug, marijuana. According to the NHSDA, in 2000, 6.3 percent of the household population aged 12 and older (14.0 million persons) were "current" or past month users of an illicit drug, a level that was unchanged from 1999. Three of four current users (10.7 million) reported using marijuana, either alone or in combination with other drugs. More than 70 percent of the total "Past 30-day drug use" of 12–17 year olds in 2001, which combines data on all types of drugs, is marijuana. The campaign's budget for media purchases is committed against this entry-level, primarily marijuana strategy.

*Question.* Why are you not focusing on drugs that you can make stronger claims on the potential dangers?

*Answer.* Marijuana is a dangerous drug and we can make strong claims on its potential dangers. We will attack the pervasive myth that marijuana is not addictive. A drug is addicting if it causes compulsive, often uncontrollable drug craving, seeking, and use, even in the face of negative health and social consequences. According to the National Institute on Drug Abuse (NIDA), marijuana meets these criteria. Moreover, treatment seeking for marijuana dependency has increased almost twofold over the past 10 years. Research findings suggest that marijuana dependence is more similar than dissimilar to other forms of drug dependence. In 1999, the Treatment Episode Data Set recorded more than 220,000 admissions for primary marijuana abuse to publicly funded substance abuse treatment, or 14 percent of the 1.6 million admissions for alcohol or drug treatment in these facilities. Marijuana activates the same pleasure centers in the brain that are targeted by heroin, cocaine and alcohol. A Scripps Research Institute study reports the stress and anxiety associated with the long-term use of marijuana produces the same bio-chemical changes associated with the withdrawal from other drugs, blurring the distinction, according to the researcher, between what is considered hard and soft drugs because they all do the same thing.

Well-funded and fully entrenched pro-marijuana interests have been at work for many years seeding their messages throughout our popular culture. However, no one of common sense will argue that marijuana use is appropriate for our adolescent youth. We will conduct our effort against marijuana by giving youth the facts in contexts they can identify with, exploding the myths, and allowing them to draw their own conclusions.

Further, while claims against the stronger drugs' may seem easier to make, the rate of prevalence of these substances are dramatically lower than for marijuana use, suggesting that the potentially largest return for investment in an anti-drug campaign is in the area of marijuana.

*Question.* Why do you wait until you reach a certain threshold to target a given drug? Why would you not attempt to get ahead of the curve? Isn't prevention a goal as well?

*Answer.* Clearly, the Media Campaign is a drug prevention program primarily for youth, but the Campaign has finite resources, and therefore, focuses on the primary entry-level drug, marijuana. Primary prevention addresses all drugs. If the Campaign attempted to address all thrusts, we would be unlikely to achieve our goals.

#### PARENT CORP

*Question.* When Congress chose not to fund the fiscal year 2002 initiative for lack of information, why are you repeating the same behavior?

*Answer.* The President is requesting \$5 million for this initiative within in the Corporation for National and Community Service's budget. The program will encourage parents to help children stay drug-free by training them in drug prevention skills and methods. It is my understanding that CNCS included a description of the program in its Congressional Budget Justification, but I would be pleased to continue working with CNCS to ensure that all relevant Subcommittees obtain all necessary information.

*Question.* Why circumvent this subcommittee and place it under the Corporation for National & Community Service?

*Answer.* The Administration's decision to request funding for this initiative is not intended to circumvent this Subcommittee. During the formulation of the President's fiscal year 2003 Budget Request, the Administration reached the conclusion that the CNCS would be the most appropriate agency to administer this program because of their extensive experience in community-based volunteer programs.

*Question.* Do you have details to provide to this or any other subcommittee on how the \$5 million will be disbursed?

Answer. The President's request is for \$5 million to make grants to national parents' organizations to train thousands of parents in communities nationwide in how to reduce drug use and form parent drug prevention groups. This effort will promote cooperation among national parent groups and enable them to have a significant impact by working through the network of community anti-drug coalitions nationwide and with other local and state anti-drug efforts.

The Parent Drug Prevention Corps will provide an opportunity for parents of school-age children to give 2 years of service to their country to prevent drug use among children. Key parent leaders will be trained in all aspects of the drug problem in communities, including how to make their neighborhoods and schools safe and drug-free. The parent leaders will mobilize other parents in the community who have a few hours per week to volunteer in this effort.

Parents are a key in the effort to prevent drug use by teenagers. Research has established that parents have a significant influence over a child's drug use. For this reason, many drug prevention efforts are targeted at sending messages and support to parents. The Parent Drug Prevention Corps is built on the notion that other parents are often in the best position to assist in delivering this message.

In fiscal year 2003, CNCS anticipates making one or two national grants for this purpose. In turn, the grantee will support programs in 50-75 communities. Approximately 10,000 parent volunteers are expected to be involved in this effort. Further, the grantees will share information and technical assistance with anti-drug use programs engaging parents as volunteers in other communities throughout the country.

#### DRUG TREATMENT

*Question.* With the drain on state budgets due to increased homeland security efforts and needs, many states are facing tough decisions about where to cut. Drug treatment in prisons could be a prime candidate. How will a \$77 million program cover the entire country? Who gets left out and how can we help?

Answer. This Subcommittee, and indeed, the entire Congress can help additional drug users obtain treatment by fully-funding the President's request expanding funding for treatment services by \$1.6 billion over 5 years.

Concerning drug treatment in prisons, the Department of Justice's Residential Substance Abuse Treatment (RSAT) Program is not intended to provide all funding necessary for State prison drug treatment programs. Rather, the program supplements funding the individual States allocate for this purpose. The President's fiscal year 2003 request includes an additional \$7 million (for a total of \$77 million) for the RSAT Program to support treatment of an additional 2,572 offenders. The Corrections Program Office (CPO) estimates having resources in place to treat 45,913 offenders. As programs mature and move through preparation, hiring and training stages to actually admitting clients and providing substance abuse treatment, CPO anticipates that the numbers of offenders treated will increase at a much slower rate than experienced during the early years of the program. In fiscal year 2002, RSAT program funds were first made available to support transitional substance abuse treatment services, which involve coordination between the correctional institutional treatment program and other human service and rehabilitation programs in the community. Funding these services may reduce the number of offenders able to receive treatment, but should reduce relapse and recidivism.

*Question.* If the Administration is committed to increasing efforts in drug treatment, then how will drug treatment in prison be addressed in the out-years?

Answer. As the Subcommittee is aware, the President has proposed an additional \$1.6 billion over 5 years to expand drug treatment. ONDCP, with the participation of Federal demand reduction and drug control agencies, is now conducting a strategic review of all treatment and prevention programs and developing the strategic plan that will define next steps. This review will help inform the policy process as the Administration contemplates adjustments to the National Drug Control Strategy and potential budget initiatives for the President's fiscal year 2004 Budget Request.

*Question.* Do you have data on the extent to which drug treatment programs operate in state correctional facilities?

Answer. The RSAT Program provides formula grants to states to help them develop and implement residential substance abuse treatment programs that provide individual and group treatment activities for offenders in residential facilities operated by state correctional agencies. The Corrections Program Office (CPO), which administers this program, conducted technical assistance workshops and conferences on effective treatment programs and strategies to over 1,238 policymakers, correctional practitioners, and treatment practitioners. Also in 2001, 39,718 offenders received treatment from 151 programs initiated or expanded with 2001 funds.

In 2002, CPO estimates that 40,840 offenders will receive treatment from about 185 programs.

*Question.* The President stated his commitment to add \$1.6 billion to the drug treatment system over 5 years. In the fiscal year 2003 budget request, not all of the increase is new money. In fact, some of it is paid for by reductions in other drug treatment programs. Will the Administration commit to adding new money to these programs to accurately account for a \$1.6 billion increase?

*Answer.* The Administration has launched a major new treatment initiative. In May 2001, the President committed to expanding funding for treatment services by \$1.6 billion over 5 years. We are on track to meet the President's commitment with net increases in fiscal years 2002 and 2003. We are fulfilling this commitment gradually. In fiscal year 2002, an additional \$95.4 million was provided to the Substance Abuse and Mental Health Services Administration (SAMHSA) to begin to fulfill this pledge. The Administration's fiscal year 2003 budget builds upon this increase with additional funding for SAMHSA. The Budget proposes a net +\$127 million increase for the President's Drug Treatment Initiative to help narrow the gap between the number of people in need of drug treatment and the number getting it. The request includes a \$60 million (+4 percent) increase to the Substance Abuse Block Grant, a \$109 million (+56 percent) increase to discretionary substance abuse treatment grants, and a \$43 million (-45 percent) reduction in drug treatment research and demonstration grants. The request will support 52,000 additional drug treatment slots.

In addition, ONDCP has directed the major Departments and agencies involved in funding and support of drug treatment to provide clear and targeted input on what they will do to address the identified treatment need, including efficiencies that can be implemented to help available treatment funding support more and better treatment.

It is clear that we need to expand treatment capacity. But simply expanding capacity nationwide will not ensure adequate support for locations or populations in greatest need, nor will it ensure increases in the kinds of treatment most needed. And broad increases are not enough to get people into needed treatment and help them see it through to completion. Addiction is a life-long challenge, requiring the sustained efforts of the drug user to stay drug free. Some will relapse, falling back into drug-taking behavior. As a society, we must continue to take an active role in supporting these individuals including providing appropriate, individualized treatment and follow-up support to maintain recovery. For those who accept responsibility and obtain treatment services, treatment can prove successful. Only by developing this broad-based continuum of services and resources can we provide the essential and life-saving assistance to those who need it.

#### DRUG FREE COMMUNITIES ACT

*Question.* Do you intend on granting the \$2 million for a National Community Anti-Drug Coalition Institute to the Community Anti-Drug Coalitions of America?

*Answer.* As you know, the Reauthorization created a National Coalition Institute (\$2 million authorized in fiscal years 2002 & 2003). We have reserved \$2 million for a grant award in late fiscal year 2002. Pursuant to Federal grant law and report language accompanying the Drug-Free Communities Support Program Reauthorization Act, the grant will be awarded through a competitive process. CSAP will award a grant to a national nonprofit organization with expertise and broad national-level experience in community anti-drug coalitions to provide technical assistance and training to community anti-drug coalitions.

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#### QUESTIONS SUBMITTED BY SENATOR JACK REED

##### DRUG TRAFFICKING IN NEW ENGLAND

*Question.* As you know, there is a great deal of concern about drug traffickers' increasing use of the interstate highway system in New England to distribute illegal drugs from urban centers to rural areas. This Subcommittee's fiscal year 2002 report directed your office to work with State law enforcement drug control task forces to combat interstate shipment of drugs in the region.

Could you describe your efforts to address this problem and any progress you have made?

*Answer.* We have worked to address this serious threat throughout the New England HIDTA. The most significant threat confronting the HIDTA is the transportation of drugs from sources of supply in New York to New England. Consequently, it is the major concentration of efforts for the NEHIDTA. The New England HIDTA

recently completed its first year of operations and already is supported by representatives from over eighty Federal, State and local agencies.

The New England HIDTA developed a cohesive and comprehensive program combining regional and state specific initiatives. The NEHIDTA's initiatives focus on reducing and disrupting the flow of drugs along the pipeline. To accomplish this, the HIDTA is coordinating thirteen initiatives in fiscal year 2002. These initiatives are organized into and support four (4) counter-drug subsystems, with each subsystem integral to the success of the HIDTA. Initiatives that were approved to implement the 2000 New England HIDTA Strategy include:

- Southern New England HIDTA Task Force (CT)—this is a collocated task force that is concentrating on mid-level to major traffickers in the Fairfield county area of Connecticut and will be comprised of Federal, State and local investigators in Bridgeport, CT.
- Southern New England Street Sweep Initiative (CT)—this is a multi-agency task force that targets violent narcotic traffickers in the Fairfield and New Haven counties of Connecticut. This task force will target those criminal groups whose activities negatively impact quality of life issues in the neighborhoods and communities in these counties.
- Bradley Airport Transportation Group (CT)—this task force is led by the Connecticut State Police, and is staffed by special agents of the Drug Enforcement Administration and the U.S. Customs Service. This interdiction task force will concentrate on cargo shipments containing drugs and general airport enforcement programs.
- Northeast New England HIDTA Task Force (ME)—this task force is located in Portland, ME and is a multi-agency, collocated task force. This task force is targeting core and secondary heroin, cocaine and crack cocaine criminal distribution organizations.
- New England HIDTA Financial Task Force (MA)—this task force is led by the U.S. Customs Service and the Internal Revenue Service, Criminal Investigation Division. It is staffed with Customs and IRS special agents, Massachusetts State Police and Boston Police Department detectives. This task force is identifying, investigating and prosecuting large scale money laundering organizations in New England and internationally.
- Greater Boston Task Force (MA)—led by the FBI, this multi-agency, collocated task force will target mid to upper level criminal organizations in the Greater Boston area. This initiative also manages a smaller task force in Lawrence, Massachusetts.
- Central Massachusetts Task Force (MA)—this task force is led by the DEA and consists of Federal, State and local investigators targeting widespread criminal organizations in Central Massachusetts.
- Northern New England HIDTA Task Force (NH)—established in Manchester, New Hampshire this DEA led, collocated State, Federal and local task force investigates core and secondary drug distributors in Hillsborough County, New Hampshire.
- Rhode Island HIDTA Task Force (RI)—the Rhode Island HIDTA Task Force is an FBI led, multi-agency task force that is co-managed by the FBI and Rhode Island State Police. This task force will primarily target violators in the greater Providence, Rhode Island area.
- Providence County HIDTA Transportation Task Force (RI)—this task force is DEA led and is working in the major rail, bus and airport terminals, as well as cargo terminals and express package delivery services. This interdiction task force was established to intercept and seize illicit drugs and currency derived from criminal activities.
- Northern Vermont HIDTA Task Force (VT)—this DEA led, multi-agency task force will concentrate its efforts in the greater Burlington, VT area and will target mid to upper level criminal organizations.

#### METHAMPHETAMINE IN NEW ENGLAND

*Question.* I understand that two weeks ago the first methamphetamine lab was discovered by law enforcement in Rhode Island.

Given the significant crime and health concerns associated with use of this drug in other parts of the country, what plans do you have to address potential growth of the meth trade in New England?

*Answer.* This past year OxyContin, MDMA (Ecstasy), hydroponic marijuana, and the methamphetamine precursors, ephedrine and pseudoephedrine, became significant and formidable threats for the New England HIDTA. In response, the HIDTA has brought together over 100 Federal, State and local law enforcement and pros-

education agencies; medical examiners; prevention and treatment professionals; health providers; emergency medical services; emergency room doctors and personnel and others to assist in the preparation of a comprehensive and inclusive strategy for heroin and the emerging methamphetamine/precursor and other drug threats. HIDTA brought these professionals together to discuss the epidemic heroin problem and to establish cooperative and coordinated communications to assess the drug problem and provide recommendations. This was the first time professionals from all the different disciplines met and formed a strong cooperative coalition.

The basic element of the strategy is to build a coalition of professionals and establish communication links that will provide a system to alert law enforcement, health providers, treatment and education and emergency services professionals and others with an "early warning system." A significant problem is obtaining timely, accurate, multi-source information/intelligence on emerging drug trends/epidemics and disseminating that information to law enforcement, education/prevention, emergency medical services, hospitals and others to ensure a timely, efficient, coordinated response. Our common goal is to save lives and ensure a thorough investigation and successful prosecution of the Drug Trafficking Organizations, distributors and violent criminals. When intelligence/information detects a new drug or trend or a drug problem that is reaching epidemic proportions, as is the case with heroin in New England, all disciplines will be alerted to immediately focus on the threat. This same system will be used to warn all the disciplines of new emerging drug threats as we are doing with methamphetamine. We have started to build a system using email addresses that will provide the basis for a more sophisticated alert system, if necessary.

HIDTA participating agencies seized 3 clandestine methamphetamine laboratories in 3 months. Furthermore, NEHIDTA Task Forces are providing training courses for state and local law enforcement on the investigation of clandestine laboratories.

#### NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN

*Question.* In your testimony you note that the National Youth Anti-Drug Media Campaign integrates paid advertising at the national and local levels with public information outreach through a network of public and private partnerships to provide local context for campaign messages. How is the media campaign tailored to address issues of specific concern to New England? Who are your key partners in this effort?

*Answer.* The media campaign is tailored to address issues of specific concern to New England via targeted media buys to key markets and areas in the region (markets are defined as Designated Marketing Areas/DMA's a standard media/population measurement).

Examples of media placed in New England are as follows:

##### *Maine (Portland-Auburn DMA)*

*General Market.*—Newspapers—Portland Press Herald Telegram, The Sun-Journal, Kennebec Journal; Spot Television: WGME, WMTW, WPXT, WCSH; Spot Radio: WJBQ-FM.

##### *Vermont (Burlington DMA)*

*General Market.*—Newspapers: Burlington Free Press, Plattsburgh Press-Republican, Rutland Herald; Spot Television: WCAX, WPTZ, WVNY; Spot Radio: WXXX-FM.

*Multi-cultural.*—African-American: WWBI (Syndicated TV).

##### *Massachusetts (Boston DMA)*

*General Market Newspapers.*—Boston Globe, Worcester Telegram Gazette, The Boston Herald; Television: WLVI, Boston Interconnect (cable), WSBK; Radio: WBOT-FM, WJMN-FM.

*Multi-cultural.*—The Boston DMA has a high concentration of African American and Hispanic teens and Parents. Media is strategically deployed to reach these key population groups; African American: Bay State Banner (Newspaper), WSBK, WLVI, WHDH (Syndicated TV); Asian: Boston Chinese News (Newspaper); Hispanic: TV—Univision WUNI, Telemundo WWDP, W32AY; Radio—WHAV, WRCA, WORC.

##### *Worcester, MA Hispanic*

Radio—WKOX.

##### *Connecticut (Hartford/New Haven DMA)*

*General Market.*—Newspapers: Hartford DMA—Hartford Courant, New Haven Register, Waterbury Republican-American, Manchester Journal Inquirer, New Lon-

don Day, Meriden Record-Journal; New York DMA—Connecticut Post, The Danbury News-Times, The Norwalk Hour, Stamford Advocate/Greenwich Times; Spot Television: WCTX, WTIC, WTXX; Spot Radio: WZMX-FM;

*Multi-cultural.*—African American: WTXX, WCTX, WTNH (Syndicated TV); Hispanic: TV—Univision W47AD, Telemundo WRDM; Radio—WPRX, WRYM.

*Rhode Island (Providence/New Bedford DMA)*

*General Market.*—Newspapers: Providence Journal Bulletin, The New Bedford Standard Times, Spot Television: WLWC, WNAC, WLNE; Spot Radio: WPRO-FM

*Multi-cultural.*—African American: WLWC, COX—(Syndicated TV); Hispanic: TV—Telemundo WRIW; Radio—WRIB, WPMZ, WJYT.

New Hampshire, which does not have its own DMA (Designated Market Area), receives Newspaper and Broadcast coverage from Boston with some additional spill from Portland.

In addition several dozen community coalitions, and other local organizations and agencies routinely receive Campaign materials, newsletters, updates and e-mails from the Campaign.

Importantly, several organizations in New England have benefited from the Campaign's Pro Bono Matching program, which has provided opportunities to deliver important public health/anti-drug messages at the local level at no cost. Working with American Advertising Federation (AAF), local New England coalitions were able to participate in the local television and local radio match activity. The local activity aired from April 2000 through January 2001. The following outlines the organizations and their match value (dollars are gross) and match units:

Organization	Match value	Unites	Media
American Symphony Orchestra League-Boston .....	\$46,409	50	(1)
Cenikor Foundation-Boston .....	19,518	22	(1)
PDFA-Boston .....	19,776	35	(1)
PDFA-New Hampshire .....	37,999	65	(2)
Rhode Island Dept. of Mental Health, Retardation & Hospitals .....	787,832	3,957	(3)
<b>TOTAL</b> .....	<b>911,534</b>	<b>4,129</b>	.....

<sup>1</sup> Spot TV.  
<sup>2</sup> Spot TV/Radio.  
<sup>3</sup> Spot Radio.

SUBSTANCE AMONG YOUTHS IN THE JUVENILE JUSTICE SYSTEM

*Question.* More than 2 million youth under the age of 18 are arrested each year, and more than 100,000 of these youth will be placed in juvenile detention and correction facilities on any day. Research indicates that approximately twenty percent of all youths who enter the juvenile justice system experience serious mental disorders, with a much higher percentage experiencing some level of mental health problems. Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population than among youths in the general population. There is also a growing recognition that many of these youths—between 50 and 75 percent—have serious substance abuse problems.

What is your strategy for addressing this problem? What steps can we implement to help these troubled youth break this destructive cycle?

*Answer.* We must link public safety with public health in a systematic manner. We must intervene early, before problems have worsened to the point where intensive, specialized treatment is necessary. Working in concert, justice and public health agencies can establish a continuum of accountability and treatment for juvenile offenders with substance use disorders.

The juvenile justice system should operate—in concert with other service systems—as a series of opportunities for intervention with offenders experiencing substance use disorders. Interventions should be carried out in a systematic manner and at the earliest possible opportunity to prevent entry into the juvenile justice system for those who can be safely diverted to community social service systems; to limit penetration into the juvenile justice system for nonviolent offenders through community justice interventions in concert with other social service systems; and to intervene with those who must be securely confined, through appropriate treatment and supervision, both during and after the period of confinement.

Successful interventions are based on thorough assessments and maintained with structured case management. The National Drug Control Strategy has supported many effective efforts: the juvenile Breaking the Cycle program in Eugene, OR; the juvenile assessment centers in Miami and Tampa, FL; the juvenile justice/treatment

network in Denver, CO; and juvenile drug courts and TASC programs to name a few.

The most cost-effective interventions will take place before the juvenile breaks the law and before the juvenile becomes drug dependent. There is considerable evidence that brief interventions can be effective in helping drug users who are not yet dependent stop their use. ONDCP is working with Federal drug control agencies to incorporate brief interventions into a number of social settings, including schools, community prevention programs, child welfare programs, primary healthcare programs, and community policing.

On a broader scale, the National Drug Control Strategy is designed to foster the active and skilled involvement of families, faith-based and community organizations, anti-drug coalitions, child welfare workers, civic groups, healthcare workers, and workplaces in delivering prevention and intervention programs, persuading drug users in need to seek help, and supporting their neighbors who are in recovery.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHORSE CAMPBELL

NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN

*Question.* Director Walters, last year this subcommittee carved out \$5 million of the anti-drug national media campaign funding specifically for efforts to combat the drug “Ecstasy”. Use of this prescription drug for illegal purposes has become a widespread problem in all areas of our country.

What, exactly, are you doing to address this problem?

*Answer.* Fiscal year 2002 Conference report language directed the Campaign to allocate \$5 million (out of the \$180 million appropriated) “for advertising time and space specifically targeted at combating the drug Ecstasy.” ONDCP intends to base this effort on anti-ecstasy television ads already developed by the Partnership for a Drug Free America. This anti-ecstasy advertising will be directed toward youth and will appear on popular youth-oriented network television programs.

*Question.* How do you plan to spend this \$5 million?

*Answer.* ONDCP intends to base this effort on anti-ecstasy television ads already developed by the Partnership for a Drug Free America. This anti-ecstasy advertising will be directed toward youth and will appear on popular youth-oriented network television programs.

*Question.* I noticed the ONDCP ads during this year’s Super Bowl game. Those spots are usually pretty expensive.

Why did you decide to purchase time during the Super Bowl?

*Answer.* We purchased time during the Super Bowl because we could reach a very large, diverse audience. In the aftermath of the terror attack of September 11, we realized that few Americans knew of the link between money spent for drugs and the support of terrorist organizations like Al Qaeda and the FARC. Twelve of the 28 international terrorist organizations recognized by the State Department engage in drug trafficking, and many other drug trafficking organizations engage in widespread acts of terror—kidnapping, torture, bombings, and the murder of innocents.

*Question.* Do you have any evidence that these ads actually reached your target audience?

*Answer.* The ads have generated a large response from across the country. Viewers are directed to [www.theantidrug.com](http://www.theantidrug.com), which is the Campaign’s parenting Web site, where traffic surged after the ads were introduced. From the ads’ launch on February 3 through February 27, page views on the site rose more than 21 percent. Visitors to the site doubled from an average 125,000 per month to 250,000, and the time spent at the site by visitors rose from an average 6 minutes to 10 minutes. During the same Feb. 3-Feb. 27 period, 1, 282 parents signed up to receive a weekly parenting tips email. Wave 5 of the Evaluation Report will provide more details.

*Question.* Director Walters, the ad which tied drug money to terrorism was very powerful. The question is, though, whether it had any impact upon your target audience.

What were the reactions of your test audiences to this ad?

*Answer.* We subjected the ad concepts to an unprecedented level of testing to assure their effectiveness with target audiences. The ads were exposed to more than 1,300 individuals in 20 cities across the country. Youth that participated in the testing found that the ads significantly reduced their intent to use drugs in the future (6 of 10 youth said they would not use drugs if they knew about the link between drugs and terror). Parents said the information gave them timely new information to use in talking to their children about drugs.

*Question.* Are you able to tell us whether this particular ad had any tangible results?

*Answer.* Wave 5 of the NIDA/Westat evaluation will address the terrorism ads.

*Question.* Director Walters, I was chairman of this subcommittee in 1997 when your predecessor requested funding for an anti-drug national media campaign. It was described to us as a 5-year effort which would then be transitioned to a private sector responsibility. I have to tell you that I was concerned that once we started to fund this campaign, it would become a cash cow.

Director Walters, we are now being asked to fund the 6 year of this 5-year program. While we have all seen the ads and can appreciate the effort which went into producing them, there is little information to indicate that the \$930 million we have provided so far has had a specific impact upon drug use by the youth of this country.

Director Walters, why should we continue to fund this program?

*Answer.* Admittedly, the latest evaluation of the Campaign has proved disappointing. While the ads aimed at parents are performing quite well, the ads aimed at teens appear not to have had any meaningful effect on their attitudes and decisions about drug use. We are committed to addressing the problems that have been identified and creating a more effective and robust Campaign. The President, Congress, and the American people rightly have high expectations for the Campaign, and it can be one of America's most important tools for addressing the national priority of reducing youth drug use.

Therefore, we are implementing a number of changes, effective immediately:

—Prior to being aired, all TV ads will undergo rigorous testing.

—The age target for youth ads will be shifted from 12–13 year-olds to 14–16 year-olds.

—Sharper, more focused advertising will be created to ensure effectiveness with youth, especially targeting the drug most frequently abused by youth: marijuana.

—ONDCP staff will become more directly involved in the message development process.

No initiative can break through pro-drug attitudes and reduce drug use without broad public support and strong efforts by parents, schools, and law enforcement. Although the evaluation has revealed serious shortcomings, the Campaign has been bolstered by local anti-drug coalitions across the country joining the cause and building strong programs that protect local youth from the threat of drugs. New advertising prepared by the Ad Council supports these efforts. Further, a number of major corporations are joining the national effort to keep kids off drugs by delivering the Campaign's messages and resources to their employees and customers, adding to the chorus of parents, educators, and youth-serving groups already involved.

It is also important to note that our hard-hitting drugs and terrorism ads, released during the Super Bowl, were not measured by this evaluation. These ads were among the most rigorously tested in the Campaign's history, and we are confident that they will have a positive impact on reducing youth drug use.

ONDCP will continue to work closely with Congress and key Campaign partners to ensure that the Campaign plays a significant role in our effort to achieve the President's goal of achieving a 10 percent reduction in teenage and adult drug use over the next 2 years, and a 25 percent reduction in drug use, nationally, over the next 5 years.

With these changes, the Campaign will become much more effective with teens, and its influence with parents will grow even stronger. Therefore, we will continue to support the budget request of \$180 million in fiscal year 2003, and will seek Congressional reauthorization for the Media Campaign.

*Question.* Does it need to be reauthorized by Congress?

*Answer.* Yes. The Campaign is an important tool in reducing youth drug use to meet the goals of the National Drug Control Strategy. It should be reauthorized.

*Question.* If so, what are you doing to secure that reauthorization?

*Answer.* ONDCP is working with authorizing committees and individual members in both houses to prepare a reauthorization measure.

#### GOVERNMENT-WIDE DRUG CONTROL EFFORTS

*Question.* Director Walters, the Office of National Drug Control Policy was created to oversee and coordinate government-wide drug control efforts. As you know, the Office of Homeland Security was created for a similar purpose with regard to homeland security efforts. The major difference, however, is that your office has been au-



thorized by Congress and your duties and responsibilities and authority clearly outlined by statute.

I would appreciate if you could give us a thumbnail sketch of how you carry out this coordination effort and what specific authorities you use.

Answer. The President promulgates a National Drug Control Strategy and a supporting budget. ONDCP coordinates implementation of the Strategy within the Executive branch. ONDCP takes seriously its primary statutory charge to develop national drug control policy and a supporting budget; coordinate and oversee the implementation of that policy and budget; and evaluate drug control programs to ensure that our efforts are coordinated and focused on obtaining measurable results.

ONDCP is effective in carrying out its coordination function when it works closely with other Federal Drug Control Departments and Agencies. ONDCP staff and senior policy officials remain in close contact with their interagency counterparts, as well as with Congress, state and local officials, international partners, and non-governmental organizations. This collaboration enables ONDCP to assist in developing a coordinated national drug control policy focused on obtaining measurable results. Specifically, ONDCP is taking a lead role in mobilizing our Nation's effort to achieve the President's goal of achieving a 10 percent reduction in teenage and adult current drug use over the next 2 years, and a 25 percent reduction in current drug use, nationally, over the next 5 years, as reported by the National Household Survey on Drug Abuse (NHSDA).

*Question.* Do you tell other Federal Departments and agencies what they are expected to do and how much money they are expected to spend?

Answer. Upon assuming the office of Director of National Drug Control Policy last December, I began conducting an in-depth review of existing policies and program priorities. The first phase of that review culminated in the National Drug Control Strategy released by President Bush on February 12th. At this release, the President reiterated his commitment to combat drug use and emphatically stated that reducing drug use is at the center of our national agenda. This Strategy places a heavy emphasis on obtaining measurable results and providing accountability to the American people, to Congress, and to our international partners.

ONDCP's authorization statute requires that by July 1st of each year we issue funding guidance to Federal Drug Control Program Departments and Agencies for the next fiscal year and for subsequent outyears. This guidance highlights broad areas that the agencies should focus on as they formulate their budgets in order to implement adequately the Strategy. We rely on that guidance as the benchmark by which we judge if agency budgets are adequate during our review of budgets each summer and fall. Working collaboratively with the agencies during this process assists in ensuring the adequacy of the submissions.

*Question.* What happens if they disagree with you?

Answer. ONDCP's focus is to work closely with Federal Drug Control Program Departments and Agencies when developing budgets and policy to avoid disagreement. However, ONDCP recognizes that we possess statutory budget certification authorities that could be employed if absolutely necessary to ensure that budgets are adequate to implement the President's national drug control program.

*Question.* Absent your statutory authority, would you be able to effectively coordinate this government-wide effort?

Answer. Any coordinating entity is going to achieve the greatest results when it works collaboratively with its interagency partners. While the current statutory structure is effective for ONDCP, there are a number of models, depending on the specifics of the agency mission (including statutory or Executive Order), that would enable an agency to coordinate effectively government-wide efforts.

*Question.* As you noted in your prepared testimony, the National Drug Control Strategy envisions a 10 percent reduction in teenage and adult current drug use over the next 2 years AND a 25 percent reduction over the next 5 years. Those are admirable goals and there are several departments and agencies which have a piece of the action.

How do you define "current use"?

Answer. Current drug use is defined in the National Household Survey on Drug Abuse as using an illegal drug within the last 30 days.

*Question.* What was the percentage of reduction in current drug use over the past 2 years?

Answer. According to the National Household Survey on Drug Abuse (NHSDA), in 2000, 6.3 percent of the household population aged 12 and older (14.0 million persons) were "current" or past month users of an illicit drug, a level that was unchanged from 1999. Drug use among 12-17 year olds also remained relatively unchanged—9.8 percent in 1999 and 9.7 percent in 2000.

Trend data prior to 1999 are not directly comparable to these numbers because a new methodology to improve and expand the survey was implemented in 1999. However, between 1996 and 1998, past month use of any illicit drug for the household population increased 4.6 percent for those aged 12 and older and 15 percent for those aged 12 to 17.

We are confident that we can achieve the President's goal of reducing drug use by 10 percent over the next 2 years, as our nation achieved an 11 percent decrease in past month use between 1990 and 1992 for the household population aged 12 and older and a 19 percent decrease for those aged 12–17.

*Question.* Five Years?

*Answer.* Trend data prior to 1999 are not directly comparable to current data because a new methodology to improve and expand the survey was implemented in 1999. However, according to the NHSDA between 1993 and 1998, past month use of any illicit drug for the household population increased 11 percent for those aged 12 and older and 64 percent for those aged 12 to 17.

We are confident that we can achieve the President's goal of reducing drug use by 25 percent over the next 2 years, as our nation achieved a 42 percent decrease in past month use between 1985 and 1990 for the household population aged 12 and older and a 50 percent decrease for those aged 12–17.

*Question.* What, exactly, do you plan to do to coordinate efforts to reach these goals?

*Answer.* The President's National Drug Control Strategy contains three principal objectives: stopping drug use before it starts, healing America's drug users, and disrupting the market. Each objective is described below in greater detail.

*Stopping Drug Use Before It Starts.*—Every American can play an important role in the fight against illegal drugs through education and community action. In homes, schools, places of worship, the workplace, and civic and social organizations, Americans must set norms that reaffirm the values of responsibility and good citizenship while dismissing the notion that drug use is consistent with individual freedom. The National Drug Control Strategy ties national leadership with community-level action to help recreate the formula that helped America succeed against drugs in the past.

*Healing America's Drug Users.*—The vast majority of the millions of people who need drug treatment are in denial about their addiction. Getting people into treatment—including programs that call upon the power of faith—will require us to create a new climate of “compassionate coercion,” which begins with family, friends, employers, and the community. Compassionate coercion also uses the criminal justice system to get people into treatment. Americans must begin to confront drug use—and therefore drug users—honestly and directly. We must encourage those in need to enter and remain in drug treatment.

*Disrupting the Market.*—The demand for drugs tends to vary with their price and availability. Disrupting this market relationship provides policymakers with a clear lever to reduce use. Domestically, attacking the economic basis of the drug trade involves cooperative, combined efforts of Federal, State, and local law enforcement.

*Question.* If those goals are not met, who is to blame?

*Answer.* In announcing the release of the National Drug Control Strategy this February, President Bush stated the Administration's view that we need to have clear goals that can be measured, accepted responsibility for achieving them, and explained how we would meet them. The President's statement is worth quoting in this context: “I told John [Walters] when he signed on, I'm the kind of fellow that likes to say, what are the results? I like to know, actually, are we making a difference? And so here's our goal, here's the goal by which we'll be measured—here's the goal which I'll be measured first, and then John will definitely be measured if I'm measured. I want to see a 10 percent reduction in teenage and adult drug use over the next 2 years, and a 25 percent reduction in drug use, nationally, over the next 5 years. Those are our goals. We understand we can't do it alone here in Washington. And that's why our approach is a community-based approach. That's why we recognize the true strength of the country is our people. And we know there's thousands of parents, thousands of educators, thousands of community activists, law enforcement officials, all anxious to come together to achieve this national strategy.”

CTAC

*Question.* One of my favorite programs under your jurisdiction is the Counterdrug Technology Assessment Center. I've seen first-hand how excited State and local law enforcement offices are about additional equipment from the Federal Government to make their jobs easier. I commend you, Director Walters, for requesting money to continue this program. And, as an aside, Mr. Chairman, we will be able to see

some of this technology at the law enforcement tech display you have scheduled for April 30.

The President's budget request includes \$40 million for CTAC, of which \$18 million is for research and development. That amount is divided between supply reduction—\$4 million—and demand reduction—\$14 million.

What technology is currently under development for supply reduction?

Answer. CTAC's Research and Development (R&D) efforts concentrate on high priority scientific and technological needs of local, State, and Federal law enforcement agencies.

*Nonintrusive Inspection.*—R&D projects for nonintrusive inspection capabilities are in the areas of chemical based sensors, selective breeding and olfactory studies of detector dogs, methods to make it harder to use anhydrous ammonia in the manufacture of methamphetamine, and a portable capability to detect drugs and contraband in shipboard liquid filled tanks.

*Tactical Technologies.*—R&D projects for tactical technologies include advanced concepts to enhance capabilities in the areas of miniaturized covert tagging and tracking devices, case management tools, improved communications systems to share data across platforms, and communications interoperability technologies. Successful R&D projects become candidates for state and local agencies through the Technology Transfer Program (TTP).

*Test and Evaluation Support.*—Technology testbeds have been established to develop a central architecture for all systems and equipment to work together. Items available under the TTP are being evaluated at the testbed located at the Navy's SPAWAR Systems Center located in San Diego, CA. Technology applications also are tested in several operational state and local settings before they are added to the TTP.

*Question.* For demand reduction?

Answer. CTAC's overall goal for R&D relating to demand reduction is to put the capability in place to generate and share neuroscientific data among those research scientists and to focus their research efforts on the prevention and treatment of drug abuse. To accelerate progress, each team will be linked to a central backbone/clearinghouse so that images, data and research findings can be shared. In addition CTAC funding stimulates technological advancements to support neuroscience, specifically to improve the performance characteristics of systems produced for imaging, to increase our understanding of the genetic and environmental risk and protective factors to prevent drug use.

*Advanced Brain Imaging Technology.*—In conjunction with NIDA, leading academic and addiction research institutions receive funding to support medical instrumentation and facilities for research teams to focus their work on substance abuse prevention and treatment. The leading academic and addiction research institutions receiving this equipment have all agreed to concentrate on drug abuse research and train other professionals who will continue to advance our state of knowledge and to share their findings with other research teams across the country.

*Data collection systems.*—CTAC funding is supporting an assessment of the effectiveness of drug treatment through the Drug Evaluation Network System (DENS). The database rich in detail on the profiles of 2,000 patients enrolled in 21 treatment programs and an additional 29 randomly selected treatment programs will provide a nationally representative sample for research and analysis. The new sites also support the Random Access Monitoring of Narcotics Abusers (RAMONA) to allow the size, characteristics, and geographic distribution of the "hardcore" drug using population in the U.S. to be monitored over time.

*Question.* Of the types of equipment currently available for transfer, please give us some examples of some that fall into each of these two categories.

Answer. Congress created the TTP to provide technologies developed with Federal funding directly to state and local law enforcement agencies that may otherwise be unable to benefit from the developments due to limited budgets or lack of technological expertise. Therefore, demand reduction technologies are not available through the TTP.

Some supply reduction oriented R&D projects will provide improved capabilities or additional options to systems currently in the TTP:

—The wireless communications interoperability system was demonstrated in Denver in August 2001. This system provides a cost-effective option to enable the smaller state and local agencies to continue to use their existing radios and still be able to communicate with other agencies using different communications systems.

—Additional functionality, called CRYSTAL, will be available for the AG-SMS tracking system currently in the TTP. This system links criminal and background information derived from drug-related investigations to geo-positional

information in real-time. CRYSTAL is being tested under operational conditions with the Rockland County Narcotics Task Force (NY).

Other R&D projects will be completed and considered for transition to the TTP—Solutions have been developed to the problem of intercepting cellular phones operated in “Push to Talk” radio mode. Testing is being conducted under operational conditions with the Rockland County Narcotics Task Force and Westchester District Attorney’s Office (NY), the Baltimore Police Department (MD), U.S Customs Service in El Paso (TX), and DEA Technology Development Unit in Lorton (VA).

*Question.* The largest part of the CTAC budget is for the technology transfer program—\$22 million. I understand from staff that 3,255 pieces of equipment have been distributed to 2,533 State and local agencies in the past 4 years.

What kind of technology is provided to state and local agencies?

*Answer.* There are 22 distinct technologies available under the program, with varying degrees of complexity and cost that allow state and local law enforcement entities of all sizes to take advantage of this program. The following are the available technologies: Air-Ground Surveillance Management System (AG-SMS); AIRNET32; Audio Surveillance System; Advanced Vehicle Tracking System (AVTS); Body Worn; Borderline System; Cellular-Based Surveillance System (CBSS); Drugwipes; LINCOLN Wiretap System; Mini-Buster Contraband Detector; Multimedia Processing System (MPS); Night Vision Kit; Pen-Link Analysis Software; PicoDAC; R3000 Navigator Telephone Surveillance System; Small Look; Suspect Pointer Index Network (SPIN); Thermal Imager—Handheld; Thermal Imager—Vehicle; Video Stabilization System; VisuaLinks Software; and Wireless Communications Interoperability.

*Question.* What is the most expensive equipment, and how does CTAC determine who gets it?

*Answer.* The wireless communications interoperability system is the most expensive item available under the TTP. These systems cost from \$250,000 to \$750,000, depending on the coverage required (citywide or statewide).

Concerning how decisions are made on each application, Fort Huachuca, CTAC’s contracting agent, receives the applications from the requesting entity and distributes them to teams of regional experts who evaluate the choices of the entities to make certain that they are appropriate. Priority is placed on a first-come first-served basis each fiscal year for each item contained in the program, with remainder carried over to next fiscal year.

*Question.* What equipment is used the most?

*Answer.* Due to the large volume of requests and the affordability/utility of the technologies to any state or local law enforcement entity, the TTP provides more thermal imagers and mini-busters than any other technology.

#### HIDTA

*Question.* Director Walters, I am also interested in the High Intensity Drug Trafficking Areas program—called HIDTA. I am very familiar with this program and have spent time talking with folks at the Rocky Mountain HIDTA. The concept of a Federal/State/local partnership has worked extremely well to increase drug-related investigations and decrease the natural tension between these entities.

Last year, Congress provided \$20 million more than requested for the HIDTA program. Although we did not specify how you were to spend the money, we expected that each HIDTA program would provide justification for some additional funding and that ONDCP would consider applications for new HIDTAs.

The fiscal year 2003 budget does not request the continuation of that additional \$20 million. Given that there is no guarantee that Congress will again provide more than the budget request, distribution of those fiscal year 2002 funds becomes more difficult since the funding may not continue.

What is the status of that \$20 million?

*Answer.* The National Guard (NG) is experiencing a funding situation in fiscal year 2002 that is causing NG members to be redirected away from counterdrug missions. A number of Senators and Representatives have written the Administration asking for assistance. Having obtained the concurrence of the DOD, ONDCP has transferred \$5 million to the DOD for NG counterdrug enforcement efforts. This is a high priority to maintain current operational levels for the NG; it will not affect current funding for existing HIDTAs.

ONDCP prioritized the remaining \$15 million based on program priorities (the allocation is as follows).

—Provide additional funding to bring the HIDTAs designated in 2001 (Nevada and Northern Florida) to \$2.0 million. This funding will enable the HIDTAs to

make incremental progress on HIDTA Program priorities related to combating their regional threat, including intelligence/information sharing, training, and communications interoperability.

- Provide necessary funding to support the designation of additional counties to existing HIDTAs. The following HIDTAs submitted requests for discretionary funding to support the designation of additional counties: Gulf Coast, Houston, Milwaukee, New England, Northwest, Oregon, Rocky Mountain, and Southeast Michigan. ONDCP currently is leading an interagency review to determine which, if any, of these requests meet the statutory criteria for designation. ONDCP anticipates a decision on additional designations by July.
- Enhance several HIDTA intelligence centers.
- Enhance existing and fund new HIDTA training, community based prevention, and law enforcement (including money laundering and General Counterdrug Intelligence Plan) initiatives.
- Provide \$7.5 million in funding to a new initiative: the HIDTA National Priority Targeting Project. This program will make funds available to HIDTA initiatives that develop and conduct investigations against major drug trafficking organizations affiliated with National Priority Targets and meet the criteria outlined within this Project. HIDTA funds will be used to supplement, not supplant existing agency/program budgets.

*Question.* What instructions have been given to the individual HIDTA programs with regard to applying for those funds?

*Answer.* The National HIDTA Program Office informed the HIDTAs of the availability of the discretionary funding and the need to submit supplemental budget requests if they wanted to be eligible for funding. The individual HIDTAs are aware that the \$20 million in fiscal year 2002 is supplemental funding that has not been requested for fiscal year 2003.

*Question.* A recent Montana newspaper article stated that the Rocky Mountain HIDTA will be expanded to include five counties in Montana, and that each of these counties will receive \$100,000 a year to fight methamphetamine use and production.

Is this report accurate?

*Answer.* ONDCP is reviewing requests for additional counties to be designated as part of existing HIDTAs, including a request to designate several counties in Montana as part of the Rocky Mountain HIDTA.

*Question.* If so, will the Rocky Mountain HIDTA be provided additional funds for this expansion?

*Answer.* ONDCP has set aside \$1.55 million to provide necessary funding to support the designation of additional counties to existing HIDTAs. The following HIDTAs submitted requests for discretionary funding to support the designation of additional counties: Gulf Coast, Houston, Milwaukee, New England, Northwest, Oregon, Rocky Mountain, and Southeast Michigan. ONDCP currently is leading an interagency review to determine which, if any, of these requests meet the statutory criteria for designation. ONDCP anticipates a decision on additional designations by July.

*Question.* If additional funds are not provided, how will the expansion be funded?

*Answer.* Whenever additional counties are designated as part of an existing HIDTA, there are two options for funding: (1) additional funding to the HIDTA or (2) the existing HIDTA reallocates from within existing resources.

*Question.* Funding was provided last year to conduct outside audits of the various HIDTA programs. I understand that there have been 13 full-scale audits so far, and that more are planned.

What were the results of these audits?

*Answer.* ONDCP contracted with KPMG to perform external financial audits on the HIDTA grantees and Federal agencies. Thus far, KPMG has conducted 13 full-scope audits and 16 limited-scope reviews. With regard to the 13 full-scope audits, the HIDTAs grantees received all unqualified "clean" opinions. With regard to the limited-scope audits, the HIDTA grantees and Federal agencies received no major findings. In addition to issuing the final audit reports, KPMG will prepare a Best Practices Report which we will share with all HIDTAs. The Best Practices Report will summarize the recommendations on how to improve grantees' internal controls and compliance requirements.

Is the taxpayer money being spent wisely?

*Answer.* Based on the audit results, we are confident that proper financial controls are in place. Implementation of the auditing recommendations will assure us that such confidence can continue.

*Question.* What types of "Best Practices" have been discovered, and when will they be shared with all of the HIDTA programs?

Answer. HIDTA Program Policy currently directs both internal and external reviews of the individual HIDTAs. These reviews, when coupled with ONDCP directed external audits ensure that the HIDTAs are operated in accordance with applicable directives. They also result in the identification of "best practices" that can be shared with all. As a result of this interagency policy review, a white paper will be published that includes information on the HIDTA Program. The Best Practices Report will summarize the recommendations on how to improve grantees' internal controls and compliance requirements. We expect to receive this Best Practices Report by the end of May. Once published, ONDCP would be pleased to provide that white paper to Congress.

*Question.* I also understand that ONDCP has begun on-site visits to the various HIDTA programs to help strengthen management, and that you plan to share information on best practices.

How do these on-site visits differ from the audits you mentioned before?

Answer. The KPMG audits are financial audits of the HIDTA grantees and participating Federal agencies. Internally, ONDCP has begun a programmatic review process that includes on-site visits to HIDTAs by ONDCP staff, as well as staff from the Departments of Justice and Treasury. The on-site reviews help strengthen management at the individual HIDTAs and at ONDCP. To date, we have reviewed 13 HIDTAs and we plan to conduct an additional 5 to 6 program reviews in fiscal year 2002 and an additional 5 to 6 in fiscal year 2003. The program reviews have proven beneficial to the HIDTAs and ONDCP as best practices are identified and shared.

*Question.* What exactly are you looking for?

Answer. The HIDTA Program Review Process addresses the following areas with regard to the individual HIDTAs:

- Support of the National Drug Control Strategy by the strategies and initiatives of the individual HIDTAs;
- Effectiveness of the HIDTAs' efforts in accomplishing their missions;
- Efficiency in the use of HIDTA resources;
- Accountability in the use of HIDTA resources; and
- Compliance with ONDCP/HIDTA policies, program guidance, and directives.

The review process is conducted in three phases. Phase 1 consists of reviewing the Annual Report and the Strategy, Initiatives & Budget submitted by each HIDTA. Phase 2 consists of Internal Program Reviews conducted by the HIDTAs, with results forwarded to the National HIDTA Program Office. Phase 3 consists of On-Site Program Reviews conducted at the HIDTAs, coordinated by the National HIDTA Program Office.

*Question.* Can you give us some examples of the best practices you have found?

Answer. Best practices have been identified in the following areas:

- Executive Board Involvement/Subcommittees;
- HIDTA Memorandums of Understanding (MOUs) and Standard Operational Plans/Policies (SOPs);
- Property Accountability Systems;
- Fiscal Tracking Methods;
- HIDTA Facility Layouts; and
- Intelligence Center Locations/Organization.

Best practices are shared with HIDTAs during on-sites visits both informally and formally via recommendations, with recently designated HIDTAs, and at HIDTA Directors meetings. At the conclusion of this on-site review cycle (June 2002), best practices observed during the first 14 on-site reviews will be cataloged and distributed.

#### THE UNITED STATES ANTI-DOPING AGENCY

*Question.* Director Walters, last night it was my privilege to attend a dinner honoring the U.S. participants at the 2002 Winter Olympic Games which were held in Utah. As you know, I have been a strong supporter of the Games, and of the United States Anti-Doping Agency.

USADA, as it is called, was created to oversee testing, education, research, and adjudication on behalf of our country's athletes competing in international sports events. They reach out to athletes to educate them on health issues and the ethics of competing fairly in sports.

The fiscal year 2003 budget requests only \$1 million for this important and valuable function. This is significantly less than what has been provided in the past.

It is my understanding that USADA needs more than last year, not less, to continue their work and expand their message to athletes at the earliest stages of their involvement in sports.

Why was the funding requested for this program significantly reduced from fiscal year 2002?

Answer. Now that the Salt Lake Olympic and Paralympic Games are complete, less funding is required. The \$1 million requested will support research and administrative initiatives, educational programs, and efforts to inform athletes of the rules governing the use of performance enhancing substances, and the ethics of doping and its harmful health effects.

#### GENERAL QUESTIONS

*Question.* How many Full-Time Equivalent positions are currently on board at ONDCP?

Answer. As of May 30th, we have 111 FTE on-board.

*Question.* When do you expect to be fully staffed?

Answer. We expect to be fully-staffed by the end of July.

#### DRUG-FREE COMMUNITIES SUPPORT PROGRAM

*Question.* The Drug-Free Communities Act established a cap on the administrative costs of that program. The cap was recently increased to 6 percent as part of the Drug-Free Communities Act reauthorization.

Is this sufficient?

Answer. The new 6 percent (\$3.6M) administrative cap is sufficient to ensure effective management of the current and expanded program. ONDCP signed a Memorandum of Understanding with the Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) in December for them to continue administering the grant award process.

*Question.* How are you allocating the six percent?

Answer. Of the total \$60.0 million request, only \$3.6 million will support "administrative costs." These activities include grants management and program evaluation, and program administration. We anticipate allocating \$3.28 million to OJJDP for grants management and evaluation, up to \$120,000 for grant management costs associated with the National Coalition Institute, and \$200,000 to support the DFCS Program Administrator and the Advisory Commission on Drug Free Communities.

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#### QUESTIONS SUBMITTED BY SENATOR MIKE DEWINE

*Question.* How will ONDCP work with the Department of Education to ensure that the uniform management information and reporting system required by the Safe and Drug Free Schools and Communities program can determine which school based prevention programs are effective?

Answer. ONDCP began a policy and program review in March 2002, in which the Department of Education has been actively involved. The management information and reporting system is being addressed as part of that review. To date, the Department's efforts to get states to base-funding decisions on objective data and to implement research-based programs have met with modest success. The Department reports that states and localities have increasingly emphasized research-based programs in response to the "SDFSCA Principles of Effectiveness," which were incorporated into program regulations in 1998. However, only baseline data about program implementation are available to date.

To move the program toward the outcome data needed to evaluate program effectiveness, ONDCP is supporting the Department's formal assessment of the extent and quality of the data collected at the local level regarding drug use and violence. The anticipated next step will be a large scale evaluation of SDFSC programs, based on student outcome data. In addition, ONDCP is working with the Department to incorporate uniform outcome measures into program reporting requirements.

*Question.* Given ONDCP's overall coordinating role for drug policy, how will your office ensure that the Safe and Drug Free Schools Advisory Committee effectively administers the program?

Answer. ONDCP began a policy and program review in March 2002, in which the Department of Education has been actively involved. The Advisory Committee is being addressed as part of that review and ONDCP anticipates that it will be operational by the end of the summer. The Department views the Committee as an opportunity to enhance interagency and intergovernmental collaboration.

ONDCP will use its role as a key member of the Committee to ensure that the members are informed of opportunities for needed improvement in a number of significant areas, including: focusing the program on research-based approaches; using

specific outcome indicators as the basis for program evaluation; assessing the quality of data at local level; preparing for a comprehensive evaluation of student outcome data on youth drug use and violence; incorporating student assistance as important prevention and intervention component of the program; and incorporating school drug testing as a component of deterrence in context of comprehensive prevention.

SUBCOMMITTEE RECESS

Senator DORGAN. We look forward to continuing to work with you.

This hearing is recessed.

Mr. WALTERS. Thank you, Senator.

[Whereupon, at 2:46 p.m., Wednesday, April 24, the subcommittee was recessed, to reconvene subject to the call of the Chair.]



**TREASURY AND GENERAL GOVERNMENT  
APPROPRIATIONS FOR FISCAL YEAR 2003**

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**WEDNESDAY, MAY 15, 2002**

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

The subcommittee met at 2:09 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Byron L. Dorgan (chairman) presiding.

Present: Senators Dorgan and Campbell.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

**STATEMENT OF CHARLES O. ROSSOTTI, COMMISSIONER**

OPENING REMARKS

Senator DORGAN. This hearing will come to order. This is the Subcommittee on the Appropriations Committee dealing with Treasury and General Government.

This afternoon, we welcome Commissioner Rossotti for what I understand may be your last appearance before this Appropriations Subcommittee inasmuch as your term expires later this year. I think President Bush would be wise to appoint you to another term, but I understand that you have indicated that you are going back to the private sector. Let me thank you for the service that you have given this country.

You took over the Internal Revenue Service when its reputation was at one of its lowest ebbs. There had been investigatory hearings by Congress on a range of issues and you undertook the responsibility to try to bring the Service into the 21st century. I think, although we are not there yet, you should be enormously proud of what you have accomplished so far. If you do leave at the end of this year, Commissioner, you will have left your successor with a stable foundation upon which he or she may build.

I want to thank you also on a personal note from the standpoint of North Dakota. As you know, I have been working with you and have been concerned about a couple of things. One is the issue of taxpayer assistance, which is easier to get in urban areas and harder to get in rural areas and you have put together a model program in North Dakota extending taxpayer assistance to rural areas, for which I am grateful.

And also, you have partnered with companies in North Dakota, particularly one company, to do processing of information services, which I think is a terrific thing to do. Rather than have centralized processing in the major cities, you are doing it around the country and that is beneficial to a range of interests, especially in North Dakota. The contracts that you have had there have benefitted Native Americans, have substantially benefitted people who are coming off the welfare programs, and so I want to thank you for what you are doing there.

I think that we are going to have a vote very soon, and what I would like to do is try to make sure that we get this hearing in and have the opportunity to ask some questions, so I think I will recognize you, Commissioner, for your statement. Your entire statement will be made a part of the permanent record and you may summarize your statement. I am told that some of my colleagues will be here. We are having a vote on the floor right now. I just voted and rushed over. Why do you not begin, and if and when my colleagues show up, we will invite them to ask questions, as well.

PREPARED STATEMENT

But again, Commissioner Rossotti, let me understate how much I appreciate your service. You have been the first of the professional tax administrators to be appointed to the IRS for a term certain and I think it is the right thing to do. It is a good way to deal with the head of our taxing agency and I think your term of service has been an extraordinary one.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

Good Afternoon, Mr. Director. We welcome your appearance today to discuss the President's fiscal year 2003 budget request for the Office of Management and Budget. You may be getting tired of testifying before North Dakotans, but we appreciate your coming.

This subcommittee is responsible for funding the operations of the Department of the Treasury and all of its agencies—such as the IRS and the Customs Service. This subcommittee is also responsible for funding the operation of your agency—the Office of Management and Budget—as well as all the other component agencies which make up the Executive Office of the President. It is also in this subcommittee's bill that we carry provisions affecting the operations of all Federal agencies. We will focus on some of those proposals today.

It has been a few years since a Budget Director last appeared before this subcommittee. That is why we appreciate your willingness to appear today.

Your task of assembling and producing the budget for the Federal government is not a task I envy or one to which I aspire. The government is an enormous entity to watch over and one can see how some smaller tasks might fall through the cracks. But when this happens, it gives one pause.

For instance, this budget not only proposes to make a sweeping change in how the government funds a significant portion of the Federal retirement system, but it assumes Congressional approval of the proposal in the budget numbers submitted for each agency. Ordinarily, this type of change should be submitted to the appropriate authorizing committees for their consideration and action—then be taken up by the appropriators. But that is not the case this year when it comes to your proposal for treatment of retirement accruals. Nor is it the case for how you want the administration of the Federal worker's compensation account treated. The authorizers have the expertise on these matters. These proposals should have been submitted to them for their consideration and action, not to us. This troubles me.

And your office appears to have had some difficulty getting the word out to all the agencies about these new proposals. During staff briefings with each of the more than 30 agencies funded in this bill, we learned that not every agency was aware of the new treatment of either the retirement accruals or the worker's compensation

proposal or both. Some of them also did not get the word from your office about the proposed pay raise. Most were aware that pay disparity was proposed in the budget, but instead of planning on a 2.6 percent pay raise, some budgeted for a 3.9 percent pay increase or some other number in between. Their numbers did not add up, but were submitted as fact on February 4 when the budget was delivered.

These might appear to be little problems, but to many of the smaller agencies we fund here, they make a big difference. That is why I was even more disturbed by some of the "fact" sheets your office produced and delivered to the media when the budget was released.

In essence, your numbers did not add up. Your office claimed that the Treasury agencies were receiving big increases compared to last year when in fact most budgets dropped when actual dollars are compared. For instance, the document your people delivered trumpeted an overall 5.4 percent increase in funding for the Customs Service between fiscal year 2002 and fiscal year 2003 with an 18.4 percent increase for the salaries and expenses account alone. But when real dollars are compared, Customs funding for fiscal year 2003 is 9.1 percent below fiscal year 2002 levels. The same is true for the Federal Law Enforcement Training Center—which you claimed was receiving a 4.9 percent increase, when in fact it faces a 14.6 percent decrease.

The list goes on. Perhaps many of these agencies do not need huge budget increases. Perhaps cuts are justified. Perhaps Customs should have a year to pause and hire and deploy the people it needs at the borders before we require additional hiring.

But the fact remains that all of these indicators give me reason for concern.

—Asking appropriators to carry sweeping authorizing language is putting the cart before the horse.

—Not getting specific budget direction to every Federal agency is more than careless.

—And playing semantic games with the numbers casts a larger shadow on the veracity of the budget requests.

—Individually, they can be explained perhaps. But taken together they are very troubling. This makes it even harder to support requests which would further reduce the amount of information already being provided to the Congress.

But we will dig into these issues during the questioning rounds. We welcome you here this afternoon, but first let me turn to my Ranking Member, Senator Campbell, for any statement he would like to make.

Senator DORGAN. Commissioner Rossotti, you may proceed.

#### STATEMENT OF CHARLES ROSSOTTI

Mr. ROSSOTTI. Thank you very much, Mr. Chairman, and let me also thank you for the support that you have given me and the agency, also for your comments, especially since I know that you were head of a agency yourself. I know that you really understand some of the challenges and also some of the things that we should be doing, so I really do appreciate your comments.

I do think that we are improving our performance in the agency across the board and we are trying to do that by leveraging through better management and fundamental reengineering the resources that we have as opposed to just simply always asking for massive amounts of new resources. That is the theme that we are pursuing in this year's budget.

Just to note a couple of things that, I think, show some of the progress we have made, we have certain surveys that track the public's view of our agency. There are two of them plotted on this chart. One of them goes back to the early 1980s by the Roper Starch organization, and as you can see, as you noted yourself, Mr. Chairman, our rating as viewed by the public really reached an unfortunate low point in the mid-1990s, and as you can also see, it has rebounded quite a bit. It is also shown in the red line University of Michigan survey.

## PUBLIC RATING OF IRS

I do not want to put too much emphasis on surveys, but I do think that the public's rating of how the IRS is doing its job is important for the health of the tax system. I do not think it is acceptable for the government agency that affects more Americans than any other agency to also be the lowest rated. So that was the mandate that we were given by RRA—one of them—and I think that we are starting to deliver on that, although we certainly have a way to go.

In terms of internal management, there was also a report that just came out today called the Federal Performance Project that was sponsored by George Washington University and Government Executive magazine. They do this elaborate analysis of all dimensions of management and we were just given a rating of B-minus, which is certainly not something we are satisfied with, except for the fact that the last time they did it, we were down in a C or C-minus, so I think the trend is coming up.

There are a lot of things that are needed to be done to continue that trend. I think that one of them that helps us both on productivity and on customer satisfaction is electronic filing, electronic tax administration. We had a very nice result this year with 46 million returns filed electronically. We have a legislative proposal in the President's budget to help us move forward even more on that, which would extend the filing date for those who pay and file electronically until April 30. That has been passed by the House, and when it gets to the Senate, we hope that the Senate will give that favorable consideration.

## FISCAL YEAR 2003 BUDGET REQUEST

Now, turning to the budget request itself for 2003, it is for \$10.4 billion and 101,000 full-time equivalent personnel, which is a \$482 million increase. I want to point out this chart, which I think you also have copies of, shows what we are trying to do here, and I think we are succeeding, to deliver more bang for the buck. A simple way to look at that is that we are proposing that we would fund \$259 million worth of programmatic increases, that is, direct tax administration for customer service and compliance. Most of that would be funded through internal improvement efficiencies and reallocation, such as electronic filing and other results of our modernization program, such that about 76 percent of the total programmatic increase would be self-funded and only requiring a quarter of that, roughly, in net appropriations from the Congress.

I do need to point out, Mr. Chairman, that this approach will only work if the funds are actually appropriated for mandated items, such as pay raises and other legislative items which, frankly, has been a bit of a problem in the past.

The other big part—really, the only other part of our request that is a programmatic increase is \$58 million for the Business Systems Modernization Program, which in turn is the foundation for our future productivity increases, and I want to turn briefly to that program. We have in the last year begun to graduate from the planning phase into the delivery phase.

As shown in the chart there in the green blocks, it shows that in 2001 and 2002, there are three critical building blocks that we plan to put in place. One of them we already have, which is our new telephone system to handle customer inquiries coming in by the telephone, which is our biggest single source of requests from taxpayers.

#### MODERNIZATION AND SECURITY

This year, we plan to do two other big things. One is to move, for the first time, some of the records of taxpayers out of a 1960s tape-based system into a modern, reliable database, and the second one is to establish a security system that will reliably allow us to communicate and access data internally and externally.

These things are very, very important and fundamental building blocks of the modernization program. Getting them in, getting these initial deliveries in is difficult and it is complex and it is risky, but it is also, I think, without question, something that when we succeed, will leave lasting value for the whole tax system. The lack of these building blocks has really been one of the fundamental millstones around the neck, if you will, of the IRS for many years.

We are also addressing issues that have been raised by ourselves, as well as by GAO, in our capacity to manage this program going forward. There are weaknesses that have been identified in our ability to reliably predict schedules and to manage some of the configuration control as we put more and more systems into production. We are giving equal attention to fixing those as to delivering the specific deliverables.

So to just sum it up, we think the 2003 budget request by the President does reflect our twin goals of delivering improved performance in the near term while modernizing to improve further in the future. We are attempting to do that to the maximum extent possible through internal reallocations and efficiency improvements and only requesting from the Congress what we believe is absolutely necessary.

So that sums up our request, Mr. Chairman, and, of course, I am happy to answer your questions.

Senator DORGAN. Commissioner Rossotti, thank you very much.

We have been joined by my colleague, Senator Campbell. Senator Campbell, do you have an opening statement?

#### STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. I think, with your permission, I will just put my complete statement in the record since I arrived late, Mr. Chairman. I apologize for that. I was right over there on time to vote. How did you get here so quickly? You must have taken a fast train. But anyway, I do apologize for missing part of the Commissioner's statement.

Let me just say one thing, and I am reading from the Government Executive magazine honoring your service as Commissioner, since you will soon be going back to private life. The article stated that, "He," meaning Commissioner Rossotti, "did not take the job for the vain glorious rush of policy making at higher levels but rather for the challenge of reforming the internal structure and

management of an important institution in our government.” I think that was really praise worthy. I think they hit it right on the button. When you do retire, you can retire knowing you did a job well done.

I only heard you mention just in passing some group that gave you the measurement of a B-minus. Well, the college I was in, many of us would have aspired to be a B-minus.

PREPARED STATEMENT

So, do not worry about the B-minus. I think that is considerably up from where the IRS was when you took the job, so thank you. Thank you, Mr. Chairman.

Senator DORGAN. Senator Campbell, thank you very much.  
[The statement follows:]

PREPARED STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Thank you Chairman Dorgan. Good afternoon, and again, Welcome Commissioner Rossotti. My statement will be Brief. Commissioner Rossotti, it is a pleasure to have you appear before the Committee to express the needs, concerns and accomplishments of the Internal Revenue Service (IRS).

Since your 5 year tenure will end later this year, I would like to thank you for doing a great job in reorganizing the IRS. The IRS has never been an agency with a lot of friends; in fact, the IRS may have been without any friends at all. But, as you move on to greener pastures, you will carry with you the accomplishments of:

- Reorganizing the IRS by eliminating nearly 4,000 Jobs without a reduction-in-force;
- Receiving an “Unqualified” opinion on the financial statements for both the revenue and administrative accounts from the GAO for the past 2 year;
- Aligning the IRS along business, rather than geographical units;
- Business system modernization is moving from the planning to implementation stages;
- Transitioning of the old taxpayer records to a modern database;
- Improving customer service and compliance; and
- Providing better service for innocent spouse relief.

There was a recent article in the “Government Executive Magazine” honoring your service as Commissioner. The article stated that “he did not take the job for the vainglorious rush of policy-making at high levels, but rather for the challenge of reforming the internal structure and management of an important institution in our Government”. That was truly a praiseworthy article and I agree with the interpretation of your commitment and for that, I commend you for a job well done.

The IRS is requesting \$10.418 billion which is an increase of 4.1 percent over fiscal year 2002. Of that amount, \$1.676 billion is for information systems, \$450 million for business systems modernization, \$3.988 billion for tax law enforcement, \$4.150 billion for processing, assistance and management and \$154 million for the earned income tax credit compliance initiative.

All of these accounts are really big ticket items and we understand the need for the IRS to be able to improve the timeliness and accuracy of IRS’S ability to interact with taxpayers.

In the 2001 Tax filing season, there was noticeable improvement. A recent news release stated that the 2002 tax filing season was one for the record books. If these reports are correct then the IRS is moving forward in the right direction even though there is still a lot to be done.

The final analysis is that taxpayers should always receive courteous, accurate and expeditious service and I will continue to lend you my support.

Thank you Mr. Chairman.

FEDERAL PAY RAISE

Senator DORGAN. Mr. Commissioner, the President’s budget proposes a 2.6 percent pay adjustment for Federal civilian employees and a 4.1 percent pay adjustment for those in the military. There will be a discussion here in Congress about whether to provide pay

parity for civilian employees in the military. If the Congress were to choose to provide Federal civilian employees the same pay increase or pay raise that the military were provided, what would that cost the Internal Revenue Service?

Mr. ROSSOTTI. We are estimating it would cost slightly in excess of \$70 million, which is a very substantial amount for us. If you look at it compared to what I just showed you on the chart, it basically reverses most of the programmatic increases we were hoping to gain.

So I would say—and, of course, last year, we had a 1 percent difference, which was \$40 million, and, of course, that continues into the following year. So together, if you add those two together, you are up over \$110, \$115 million.

My recommendation, or, I guess it could be a plea to the Congress would be, certainly, it is in the Congress's prerogative to decide what the pay raise should be, but in an agency like the IRS, which is heavily dependent upon personnel, if the pay is made higher, that the Congress would appropriate the funding for it. Without that, what we are doing is really just undermining the rest of the program.

#### ABUSIVE TAX SHELTERS

Senator DORGAN. Commissioner Rossotti, there are more and more stories that appear in our papers these days about abusive tax shelters and about tax advisors who tell corporations that they can go right up to the line, in some cases too close to the line, with respect to sheltering their income. I just came from a 4-hour hearing on the Enron Corporation. The Enron Corporation, I believe, was running something like 600 subsidiaries out of a single post office box in the Cayman Islands.

So how prepared is the Internal Revenue Service to attack these abusive tax shelters? Do you think you have a ghost of a chance to make a difference there? Are you dealing with it aggressively? Can you tell me about that?

Mr. ROSSOTTI. Yes, Mr. Chairman. First of all, let me just say that I think we have better than a ghost of a chance. I really think that we are very clearly focused on this. There are a variety of different kinds of tax avoidance devices. The kind that you were referring to tend to be used mainly by large corporations and a few—

Senator DORGAN. They tend to be what?

Mr. ROSSOTTI. They tend to be used by mainly large corporations and very wealthy individuals. I call them the designer tax shelters. There are other kinds of tax avoidance devices for middle-income and other people, such as using credit cards to hide income and offshore accounts. We have, at the present time, I think, very clear strategies and focus on both of these kinds of devices.

With respect to the corporate-type shelters, the key thing, I believe, that has been a problem for us up until now. We are starting to make some progress on getting disclosure on these shelters. We had a regulation—

Senator DORGAN. What do you mean by getting disclosure?

Mr. ROSSOTTI. Well, finding out about them, finding out who is using them, which taxpayers are using them. They are complex and they can be very—corporate tax returns are very huge and

sometimes we, just because of the time it takes to audit these returns, do not get—we are not as current as we would like to be on which years we are auditing. We can simply miss or too much time can go by before we find out which corporations are using which shelters, and that hurts us in terms of reversing improper use of shelters on the taxpayers' past returns. It also causes a delay in shutting these down for the future.

I think we are making some real progress on that. We had an initial regulation that was issued which was not as well complied with as we would have liked. Recently, we had a disclosure initiative, and I can report to you that we have close to 1,000 taxpayers now that have come forward, corporate taxpayers, some individuals that have disclosed these returns. Treasury and the IRS worked together to come up with a proposal, which was outlined about a month ago, to require even more disclosure. Some of those would require legislation. Some of them can be done administratively.

With disclosure, which we are now starting to get, and the Treasury's proposals implemented even more successfully, we will do two things. One is we will go back to the taxpayers that have used these in the past and require them to pay to the extent that they are verified to be actually abusive shelters, and then we will shut them down for the future.

I think we are on the case. I do think we need the help of Congress to pass the additional request that the Treasury has submitted legislatively to ensure disclosure.

Senator DORGAN. There is a study out of Florida which I have last year added some funds so that we will institutionalize that in a short period to provide some additional information—

Mr. ROSSOTTI. Right.

#### TRANSFER PRICING

Senator DORGAN [continuing]. But they feel very strongly that we are losing \$30 to \$40 billion a year, and that actually is through price transfers or transfer pricing, as it is called, and they study these things and show that companies that have United States subsidiaries are buying and selling from themselves and charging prices like \$50 for a piano, \$7.60 for a tractor tire, \$15 for a toothbrush.

They overprice or underprice a product in order to zero out any income in the United States, and, therefore, they pay no income tax in the United States. They do this through a sophisticated scheme called transfer pricing, and for you to get to the bottom of it, you have to take the equivalent of two plates of spaghetti and connect the ends of the spaghetti. It is impossible to do. I do not think you can do it. I do not think you are doing it.

And yet, the Treasury Department, as a matter of policy, they look around and act moon-faced and say, gee, things are just great. They are not great. You need more resources and we need a different strategy. What we need is a formula-based system rather than the arms-length system. But you will be long gone and I will still be debating this, and I probably will not win, but I am not going to quit because that is also part of abusive sheltering of income. What the big interests do not pay, the little folks end up pay-



ing in income taxes. It was therapeutic for me to say that, and I will—

Mr. ROSSOTTI. The transfer pricing is one aspect, but I think more generally, the use of various international techniques, if you will, a variety of them try to move income outside the United States is part of the problem, without question.

Senator DORGAN. Is inversion legal, corporate inversion, where a corporation renounces its U.S. citizenship, pays a few bucks to a tax haven, becomes a citizen of that tax haven, and calls its operations in this country a subsidiary and then plays around between itself and its subsidiary in the United States as a foreign corporation? You know that inversion is happening.

Mr. ROSSOTTI. Yes, I do.

Senator DORGAN. Is it legal?

Mr. ROSSOTTI. Well, first of all, let me just be cautionary. I am not—this gets into one of the most highly technical areas of the law that there is, and—

Senator DORGAN. Yes, but I am in the middle of it, so—

Mr. ROSSOTTI. I know, and—

Senator DORGAN. It does not mean I understand it. I am just asking—

Mr. ROSSOTTI [continuing]. And I do not want to overstep my level of expertise.

Senator DORGAN. Well, go ahead.

Mr. ROSSOTTI. As far as I know, there are techniques that make some of these kind of inversions legal under current law. That is what I have been advised. Now, there probably are a wide range of facts that affect any individual one, so you can never comment in general, but my understanding, as I have been advised, is that, for the most part, people are following the letter of the law and they do have the right to do this.

I will say that some of these transactions are taxable when they do them, I do know that, so that it does require a payment of capital gains tax at the time the inversion is done. That is part of the law.

But this is an extremely complex area and it really requires, I think, some careful analysis by the appropriate committees as well as Congress.

#### POST 9/11 SITUATION

Senator DORGAN. Let me ask your judgment about it, though. Post-9/11, when we are fighting terrorism and so on and we have a company that says, you know what I would like to do? In order to save on our tax bill, I would like to renounce my American citizenship. What is your impression of that?

Mr. ROSSOTTI. Well, I think as a citizen, that is not an appealing thing for somebody to do. I am speaking as a personal matter. Our job in tax administration is to administer the laws as they exist. There are plenty of them that I do not particularly like, but I have made up my mind that I would take the oath of office and administer them as they were passed.

Senator DORGAN. I understand. I am asking the question because I find it pretty outrageous, frankly. I mean, the issue of patriotism is an important issue in this country—

Mr. ROSSOTTI. I agree.

Senator DORGAN [continuing]. And the companies that do an inversion and essentially renounce their U.S. citizenship, who are they going to call, the Bahamian navy when they are in trouble? I do not think so. I mean, the best they get to offer is a post office box in these countries. All right. But you are nearing the end of your term and you can say whatever you like.

Mr. ROSSOTTI. What I have said many times, and I think it is not just on inversions but any misuse of the law or skirting of the tax law by people that have access to very sophisticated tax advisors or devices that are promoted in any form to not pay taxes that they should be paying, I think is probably the worst thing that can happen as far as the tax system is concerned for the very reason that you say. Most people have to pay their taxes. Most people do pay their taxes.

We hear this all the time, not only anecdotally, but just going out and talking to people out in the community. They say, why are you guys picking on the little guy? Why do you guys not go out and really get the people that are really abusing the system? I agree with that. It is just that, sometimes, people are using laws as opposed to abusing laws and we can only deal with the ones that are abusing the laws. Without legislation, we cannot deal with the ones that are using the laws as they exist on the books.

Senator DORGAN. Mr. Commissioner, I have a series of questions I will submit to you.

#### CONTRACTING OUT

One last question, and then I will call on my colleague. The Office of Management and Budget is proposing that every agency meet a contracting out quota, 5 percent of their commercial jobs in fiscal year 2002 and 10 percent in fiscal year 2003. You are in the middle of a major reorganization. I am wondering, do you think these arbitrary contracting out quotas are good? Are they a good tool at this point or are they restrictive and difficult?

Mr. ROSSOTTI. We are attempting to manage this process in a way that will be as constructive in terms of our real objectives as we can. I mean, it is a quota of those jobs that you designate as being potentially outsourceable. It is not the whole agency, and so what we have been trying to do is to be very careful, and we are putting significant effort into analyzing those things. There are some, frankly, the ones we have identified in the first 2 years are reasonable to look at for outsourcing and they are commercial activities, like distributing forms, for example. We have some distribution centers that distribute forms. That is something that can reasonably be done by an outside group.

I think that as long as we can manage this in a way that is reasonably consistent with our objective for increased productivity without making them arbitrary, then I think we will be fine.

Senator DORGAN. Senator Campbell?

Senator CAMPBELL. Thank you, Mr. Chairman.

Let me ask a few simple questions that will not tax your level of expertise, although I do not think here in the Senate that is a problem, because we do it every day.

The IRS is looking into the feasibility of outsourcing some of the collection process to private collection agencies. I think that is what Senator Dorgan alluded to. In that 1996 pilot program, expenses were equal to the revenue generated and, therefore, you did not make any money. At least, that is what I figure. What can private debt collection agencies do differently this time to collect more than it is costing?

Mr. ROSSOTTI. That is exactly the issue we are studying, and I think it is a good illustration of how we are trying to handle this, responding back to the Chairman's question. We are not going forward and doing the same thing that was basically a failure in 1996. What we are doing is, as part of our modernization of collection process, which is one of our modernization processes, we have invited private sector companies in. Let me just say, I can only go so far in this because I have an ethical conflict here and a recusal, so I can only comment at a very general level on this subject.

But the basic idea is that we have invited these people to look at the way the process works and to determine whether there would be a business case and what portion of the collection process we would do before we actually do a project and study it and actually outsource it. So that is the process that we are following.

I think as an intelligent way to manage it, it is reasonable, because we are getting the input from people that are in the business of doing private sector debt collection. We have them actually look at the way it works in the Federal Government and determine if there is, in fact, some portion of the debt that could be profitably outsourced, before we go just jumping in and saying this is what we are going to do.

Senator CAMPBELL. How do you ensure privacy when you outsource?

Mr. ROSSOTTI. Well, that is one of—what we have given through the process of consulting, we have actually put out an RFI, which is a request for information, a definition. We asked them to respond, and one of the key things that the vendors are looking at and coming in to tell us about, and they are not telling me because I am recused from the process, but what they are telling our staff is how they would, if they did come in, meet a variety of things that are particular to the Federal situation and privacy is paramount. Taxpayer rights is another one. The Congress has passed a lot of taxpayer rights provisions that are part of the—

#### CONTRACTING OUT

Senator CAMPBELL. Do you have some way of monitoring that with companies that are outsourced?

Mr. ROSSOTTI. Well, we have not gotten down to that point yet, but what we are asking the companies that are thinking about doing this business is to tell us how or if they could comply with these requirements, such as privacy and taxpayer rights, and then how we would ensure compliance if we went forward.

Let me mention one other point, Senator, and that is that this would require legislation. The issue of outsourcing, that particular outsourcing of debt collection, we have been advised by Counsel would have to come before the Congress. It would require legislation.

Senator CAMPBELL. What you did was a demonstration project.  
Mr. ROSSOTTI. Right.

OFFERS-IN-COMPROMISE

Senator CAMPBELL. The offers in Compromise, I guess it is called, the OIC program, which includes collecting that which could be reasonably collected at the earliest time with the least cost, meaning avoiding a costly litigation, I assume, things of that nature, gives taxpayers a fresh start to let them voluntarily comply—

Mr. ROSSOTTI. Right.

Senator CAMPBELL [continuing]. What was the total amount collected through that program in fiscal year 2001?

Mr. ROSSOTTI. That is a number that I would have to get you for the record, Mr. Chairman. I do not think I have the exact number.

Senator CAMPBELL. Then maybe you could tell me how you measure the effect of this, of offers as a collection tool.

Mr. ROSSOTTI. What we do, and let me just preface this by saying this is a relatively new program, or it is not completely new, but it was dramatically expanded in RRA. I have to be honest and say we have been struggling with this program—I do not want to mislead anybody—to get it in an efficient state so that it will accomplish its objectives, and I do not think we are quite there yet, but I think we are getting close.

What the basic idea of this program is and a measure of effectiveness is if a taxpayer is willing to pay but cannot pay the full amount of their debt, which happens, there are a lot of reasons why people can get behind—

Senator CAMPBELL. It is cheaper to take what you can get rather than putting them in jail and going through all the litigation or all that stuff.

Mr. ROSSOTTI. Exactly. Let us take what we can get, and that is measured by something that is called the reasonable collection potential, which is a calculation that we can go through with a taxpayer to determine, based on their income and their assets, how much they could pay. If that is less than the full amount, then we compromise. We settle on that, we wipe it off the books and they get a clean slate.

The difficulty has been that we have gotten a huge upsurge of these offers since RRA was passed and we have gotten a backlog of them which we are now just starting to work down.

The other thing that we have had difficulty with is figuring out how to efficiently calculate what this reasonable collection potential is and coming to a conclusion, and we have put a lot of work into that. We have now got two sites that are set up specially to do this, and we just recently, in the last few months, made some additional decisions about how we can streamline this process. We really expect—right now, we have an inventory of 103—I think it was about 100,000 claims of these in process and we hope to get that down to about 55,000 by the end of this year, cut it in half.

Senator CAMPBELL. So you do not actually know if the costs of monitoring it and doing this has collected more revenue than—

Mr. ROSSOTTI. Oh, it would be collecting more revenue than it is costing, but I will have to get you—I can get you, in fact, the numbers. I just do not have them with me today.

Senator CAMPBELL. I know it works sometimes, because when I was a young man, long before politics, Mr. Chairman, that happened to me, not through any fault of mine, but the guy that prepared my tax returns missed it by about \$20,000 and I was called down and told that I owed \$20,000 and I did not have any money. I just told them, well, send me to jail because I did not have any money and needed a vacation anyway. But they worked something out so I would pay part of it and pay part of it on time and all that and it worked pretty good. So they got more out of me, so I imagine it works with other people the same way.

Mr. ROSSOTTI. There is no question. I was one of the great proponents of doing this. It is just that it turns out to be a little complex on a case-by-case basis to actually come to a conclusion as to what the right amount is and get it off the books. But there is no question about the value of the program.

#### TAX RESOLUTION ISSUES

Senator CAMPBELL. According to the 2001–2003 Wage and Investment Strategy and Program Plan, the IRS plans to hire and train tax resolution representatives to provide a greater range of services. They will be expected to assist taxpayers with claims for innocent spouse relief. Have you presently trained and deployed these people in field offices yet?

Mr. ROSSOTTI. We have. We have trained and deployed some of them. We did some of them in 2001 and some of them in 2002. The budget is, of course, the constraining factor as to how fast we do them, but we definitely have established the position. I can get you the numbers on how many. I do not have it right here with me. I can get the numbers—

Senator CAMPBELL. I would also be interested in knowing the results, too, if you have any.

Mr. ROSSOTTI. The results, I think, are already—although we do not have perfect measurements—I think, without question, the response we have gotten from the public is very positive, because if you remember, I think we came out to your district—

Senator CAMPBELL. You did. You talked to widowers, I remember, and a widow.

Mr. ROSSOTTI. And part of that was that there was no one that they could go to in person to get this problem resolved in one place, and that was the whole reason that we set these up. It is a new position in the IRS and I think it has a lot of value, and the idea is that someone can come in, make an appointment if they want to, and get one person to resolve their case.

Senator CAMPBELL. Instead of talking to a computer or a machine or something.

Mr. ROSSOTTI. Right—

Senator CAMPBELL. There are people in Colorado—

Mr. ROSSOTTI. We will get you the numbers on how many have been deployed so far.

Senator CAMPBELL. All right. Thank you. That trip you made to Colorado years ago, there are people that were in there that got a

chance to talk to you personally about their problems. Some of them still come in the office and say how beneficial that was to them, how much it helped them.

Mr. ROSSOTTI. We learned a lot, too.

WALK IN TAXPAYER ASSISTANCE

Senator CAMPBELL. Thank you, Mr. Chairman.

Senator DORGAN. Commissioner Rossotti, as I indicated, we will submit questions to you. One last point. As you know, last year, I added some money to the Inspector General's account and asked that he conduct an audit every second month of your walk-in taxpayer assistance centers, and the reason I did that is I was at home late in the evening reading an Inspector General's report prior to a hearing and discovered that the report showed that of those who showed up at these walk-in taxpayer assistance areas around the country, 73 percent, I believe it was, either got the wrong answer or no answer. I was very angry about that and said that that cannot continue. So I put money in the Inspector General's account and asked that every second month, he do a similar investigation and report the results back to us.

One such investigation has now been done. It shows marginal improvement. It is an improved situation, although still not anywhere near where you and I would want it to be. I am going to monitor that very closely all year. Every second month, I am going to get a report, an investigative report. I know you are working on this very hard.

If you have a tax law and expect people to comply with it, if they seek out the Internal Revenue Service and ask for assistance and get the wrong answer or get no answer or get treated rudely, as happened in a couple of cases, it is exactly the wrong thing and it upsets me as a lawmaker and I know it upsets you as a Commissioner.

I just wanted to underscore with you again how important that is to me. You and I have had several discussions about it and these investigations will be relentless over the 12 months—

Mr. ROSSOTTI. I understand.

Senator DORGAN [continuing]. And there is no way to escape them because they are in law, but I think it is good for you and good for us to have this done.

Mr. ROSSOTTI. We are using the results of those, as you know, very carefully, and we have been working closely with the IG. As I think we have discussed on some other occasions, getting the correct answers in tax law questions in the in-person sites is one of the harder pieces of the puzzle, just because they are dispersed in 400 locations, 250 of them are small enough they do not even have a manager on site, and, of course, there is a wide range of questions that people can ask. So what we have done is quite a few different things to try to improve the quality, first of all, let me say, at two levels.

The first level of quality is that people are treated properly regardless of the exact answer to the question. There is no excuse to have any level of failure in that area, and I think we did have some in the past. Very honestly, that particular part of the IRS was not given a lot of priority. As you can see from the report you have

been given, we have largely, although not 100 percent, fixed that part of the problem. I think people, for the most part, are getting service and getting treated properly, and if there are isolated incidents where they are not, we are going to fix it.

The next piece of it is to make sure that they not only are treated right and get an answer but that they do not get the wrong answer, that they get the right answer, and we have also made some progress on that. That is a harder problem because that involves technical questions and tax law training and repetitive work with employees to get the answers right.

#### TAXPAYER ASSISTANCE QUALITY

I think we have some encouragement from what has happened on the telephone system because most of the people who contact us for tax law questions actually call by telephone. A few years back, we did not even have a measurement system for it, and when we did measure it, the results were no better than what you heard from the IG on the walk-in sites. This year, so far, on telephones, we are up to about an 83 percent correct response rate, which is still not as good as it should be, but it is way, way up from where it was.

I think if you look at what percentage of the ones in the walk-in sites are correct now, they are probably down around the 60—of those that are answered, that it is probably around 60, 65 percent or somewhere in there. So I think we clearly have a ways to go on both of these, but I think we are working on it very diligently.

One of the things I would point out is structurally what we have done with the IRS so that it carries on is to have somebody that is in charge of it full time and that you know who they are and they are accountable for it.

In the old IRS, these walk-in sites, there were 400 of them, they all reported to different people, they were an afterthought. We now have one chain of command. I know who—and I would be glad to introduce him to you if you would like to meet him—who is in charge of these walk-in sites, and then he has a few people under him. They work full time, every day, trying to make this better, and that will carry on year-after-year-after-year. I think that is a fundamental structural change that we have today in the IRS that we did not have, and that is true of the other programs, too. The taxpayer phone service, there is somebody else in charge of that.

#### PREPARED STATEMENT AND ADDITIONAL COMMITTEE QUESTIONS

So at the very least, as time goes on, we are not going to forget about this. We are going to have people that are measured every month and every quarter on how well they are doing in delivering these services.

Senator DORGAN. Mr. Commissioner, thank you very much for your testimony today.

[The information follows:]

## PREPARED STATEMENT OF CHARLES O. ROSSOTTI

## BUDGET SUMMARY

Mr. Chairman, I want to take this opportunity to thank the President and Treasury Secretary O'Neill for their continued support of our critical mission on behalf of the American people and our efforts to modernize the Internal Revenue Service.

During this time of national sacrifice and resolve, I am most grateful for the funding contained in the proposed IRS budget. The President's fiscal year 2003 budget request of \$10.418 billion for the IRS will enable us to stay the course we embarked upon more than 3 years ago. We will be able to continue to make short-term improvements in service, compliance and efficiency as well as investments in our long-term Business Systems Modernization (BSM) program.

Mr. Chairman, let me also express my gratitude to you and the Members of the Subcommittee. After careful review, you have consistently approved a level of funding consistent with the requests of the President. Moreover, you have expressed a growing confidence in our ability to better manage the BSM program in spite of the challenges we confront. This was clearly demonstrated last year when you released a full year of funding for BSM. We still have much work to do to meet the high standards and goals you set, but this tangible vote of confidence is most appreciated and we will endeavor to earn it every day.

## INTRODUCTION

Mr. Chairman, 3 years after the passage of the IRS Restructuring and Reform Act of 1998 (RRA 98), we have developed and are carrying out a modernization program of short- and long-term improvements. They are designed to achieve the overall objectives of improved service, better treatment of taxpayers, more efficient and effective compliance and greater overall efficiency.

We are proving that the long-standing problems at the IRS are not insolvable. We are gradually improving our performance across the board—not through massive infusions of new resources, but by leveraging our limited resources through better management and a fundamental reengineering of business processes. We have been able to reallocate precious resources and personnel to where they are needed most, such as improving customer service and stabilizing critical compliance activities.

During fiscal year 2001, returns, payments and refunds were efficiently processed. The telephones were better answered. We tore down more barriers and added more incentives to electronic filing of returns and payment of taxes. More taxpayer problems are being solved in a telephone call or visit. We simplified some forms and regulations. We better administered RRA 98's taxpayer rights. We stabilized some key compliance activities. We worked to ease the burden of those affected by the September 11th terrorist attacks.

However, if we look back on the progress we made in fiscal year 2001, we also clearly see how far we still have to go. The IRS Oversight Board, the GAO and Treasury Inspector General for Tax Administration (TIGTA) have reported on numerous deficiencies. We still are not consistently providing service at a level that taxpayers expect or deserve. We still are not ensuring that everyone's neighbor or competitor is complying with the tax law and paying what he or she owes. We have many jobs that we must perform at higher quality and efficiency.

There are no shortcuts to achieving our goals. The IRS' problems developed over a long period and are too widespread, deep and complex to yield to simple, quick remedies. We must carefully lay a foundation that will allow us to succeed in our rebuilding efforts. We have now restructured our organization, reducing management layers and achieving more customer focus and greater management accountability. We have developed and implemented a new set of balanced performance measures.

Our biggest remaining task is to modernize all of our business processes using the appropriate and best technology. The real tangible benefits of modernization will materialize over the remainder of the decade in carefully planned and executed projects. The first of these were delivered this past year; taxpayers will see more in 2002.

To ensure the success of IRS modernization, we must stay focused and committed to the intent of the Restructuring Act, making adjustments as necessary; but not losing sight of the goal which is to provide quality service and proper treatment to every taxpayer while collecting the taxes that are due under the law. The scope of the task ahead is still enormous but so is our resolve to finish the job we started in July 1998.



## SERVICE IMPROVEMENTS MADE

We want to improve the entire way the IRS serves taxpayers—from filing and paying taxes to getting information and assistance to protecting their rights. More than the sum of its parts, the highly successful 2001 filing season continued to demonstrate how we can build on positive trends in service to taxpayers, especially as our major technology and organizational initiatives take effect.

Indeed, a government-wide survey released in December 2001 demonstrated improved customer satisfaction among individual taxpayers, especially among those who file their returns electronically. The IRS posted an 11 percent increase in satisfaction among all individual tax filers since 2000 and a 22 percent increase since 1999. It was the largest favorable gain of the 30 Federal agencies surveyed by the American Customer Satisfaction Index (ACSI) Survey. (Please see attached chart.)

*Electronic Tax Administration (ETA)*

In 2001, a little more than 40 million taxpayers filed electronically—a 13 percent rise from last year. Since 1997, e-filing increased by 110 percent, and on-line filing grew by a staggering 1,700 percent. Clearly, the value taxpayers receive from all our e-programs is one reason behind the growth. Faster refunds, positive acknowledgement of receipt and fewer errors that require time consuming letters and telephone calls to correct are key benefits to taxpayers.

One of the important reasons for the strong showing in the ACSI survey was the very high satisfaction rate among electronic filers. It was 77.2 points—higher than the previous year and the third year in a row that e-file taxpayers expressed increased satisfaction.

For the 2001 filing season, we added 23 additional forms to the 1040-e-file program. And we achieved a major milestone in the 2002 filing season—virtually all 1040 forms and schedules can be filed electronically and no paper signature document is required. We are also expanding the electronic payment options available to taxpayers by accepting credit cards to pay installment agreements and delinquent taxes. In addition, we are repeating a popular option from the 2001 filing season. Taxpayers who need a filing extension can get one automatically by making a simple phone call.

In 2001, we also better served the business community's ETA needs. In September we introduced EFTPS OnLine (Electronic Federal Tax Payment System), which allows businesses to enroll in the system, securely make Federal tax payments and check their electronic payment history over the Internet. And businesses can now file electronically their Form 941 (Employers Quarterly Federal Tax Return), as well as Form 1065 (Reporting Partnership Income) and Form 940 (Employers Annual Federal Unemployment Tax Return). Individual taxpayers who make quarterly estimated tax payments could also use the system, eliminating paper forms and receiving on-line access to payment history.

Taxpayer use of our web site also smashed all records. Four years ago, irs.gov received 260 million hits. This year, we estimate that it will post 2.6 billion hits with more than 317 million forms and publications downloaded. It has also been helpful in alerting taxpayers to a number of scams that are being perpetrated upon them, such as the bogus slavery reparations scheme.

In 2001, we also launched the Small Business and Self-Employed Community web page. It is dedicated to the needs of this important group of taxpayers who often confront more complex tax issues than those who have their taxes withheld by an employer. And we recently unveiled a revamped IRS web site that will eventually take us from being an information-only portal to a world-class transaction based gateway.

The Administration also proposes in its budget submission “an easy, no-cost option for taxpayers to file their tax return online.” Unfortunately, there has been some confusion regarding this proposal. The Administration's proposal to give taxpayers the option to file their tax returns on-line without charge is based on two principles: no one should be forced to pay extra just to file his or her tax return tax, and the IRS should not get into the software business.

In a statement issued on January 30, 2002, Treasury Secretary O'Neill stated, “I don't intend for the IRS to get into the software business, but rather to open a constructive dialogue with those who already have established expertise in this field. In the end, this effort should come up with a better way to save time and money for both taxpayers and the government.” The IRS totally concurs with the cooperative approach enunciated by the Secretary and we will follow it to the letter.

*Telephone Service*

Many taxpayers prefer telephoning the IRS, and our inability to deliver this basic service contributed significantly to the public's lack of confidence in the IRS in the

1990s. During that time, up to 80 percent of taxpayer calls were met with a busy signal, and according to Roper Surveys, the public's rating of the IRS declined to an all-time low in 1998.

Since 1998, we provided extended hours of telephone service during the filing season. We also put on more assistors at peak hours, rather than just during normal business hours. Almost 108 million taxpayers called on one of our toll-free lines during fiscal year 2001. We received 76 million automated and Teletax calls, and our live assistors handled 32 million taxpayer calls. Our San Patricio, Puerto Rico call site became fully operational in 2001 and will greatly assist us in providing better access and service to Spanish-speaking taxpayers.

Nearly all callers now have almost immediate access to automated services, although some callers are forced to wait longer to receive assistor service. For taxpayers who wanted to reach an assistor in the 2001 filing season, the overall wait time was 5 minutes and they reached an assistor 63.9 percent of the time, which often required them to call back. During the summer, a very large volume of telephone calls related to the special advance refund reduced the average service to below the previous year. And this level of service is still unacceptable to both taxpayers and the IRS. We are using every method at our disposal, including modern technology, to address this problem.

Once connected, taxpayers must get prompt, accurate and courteous answers to their account and tax questions. Here, too, we have made substantial progress towards providing better service to taxpayers. The telephone quality rates for tax law and tax account questions showed a marked improvement in fiscal year 2001. They were up to 75.1 percent and 69.1 percent respectively as compared to 73 percent and 60 percent over the same period last year. Although we would agree with the GAO's assessment that we have not yet attained a world class customer service level, we believe that we are on the right track to achieving that goal.

To increase productivity and quality of service, we must give our employees the technology and tools they need to do their jobs at a high level. The first of the BSM projects, Customer Communications 2001 (CC01), was deployed in July 2001. It improves the efficiency and effectiveness of our systems for receiving, routing and responding to millions of taxpayer telephone calls. CC01 helped us increase the total number of calls answered, which surged by 32 percent over the past year due in large measure to the advanced tax refund. We must also give our assistors specialized knowledge so they can better answer taxpayer questions about a very complex, difficult and changing Tax Code.

#### *In-Person Service*

For those taxpayers who prefer to visit an IRS office, service is available at more than 400 locations nationwide. At many sites, in-person service is offered on Saturdays during the filing season.

In the past, the IRS did not place a high priority on what were called "walk-in" sites. The services offered at them were limited and often of poor quality. However, under our new Field Assistance concept of operations, we will better serve taxpayers at our taxpayer assistance centers. We will help them meet their filing and paying responsibilities including answering their tax law questions and providing forms and limited courtesy return preparation.

Throughout the year, and at a variety of locations, we also schedule the highly acclaimed Problem Solving Days to resolve long-standing taxpayer issues for those who cannot take advantage of weekday problem solving services.

Problem Solving Days have an excellent track record. However, every day should be problem solving day at the IRS, not just three or four times a year. That means using a cross-functional approach to resolve most tax account issues with a single visit or phone call at any time throughout the year.

To help us meet this need, we created a new job at the IRS, "Tax Resolution Representative." These IRS employees will receive the training and authority to provide "one-stop-service" for a broad range of issues ranging from answering tax questions to resolving payment problems.

Our Stakeholder Partnership, Education and Communications (SPEC) organization is also now working to energize the Volunteer Income Tax Assistance return preparation program. Last year, we worked with more than 18,000 volunteer sites across the country to assist an estimated 4.3 million taxpayers wanting this service.

#### *Burden Reduction*

We are also working to provide immediate and far-reaching burden relief. For example, in fiscal year 2001, we overhauled the old, complicated rules governing the required minimum distributions from individual retirement accounts. Also, millions of taxpayers are no longer required to file the 54-line Schedule D, "Capital Gains

and Losses.” The “checkbox” burden reduction initiative, which enables taxpayers to authorize the IRS to discuss their returns with their paid preparers, also made a very strong showing in its inaugural year. In addition, we provided burden relief to small businesses through a number of initiatives, including permitting many of them to use the cash versus the accrual method of accounting.

However, burden reduction goes beyond filing and payment issues. It also means helping taxpayers with the sometimes complex RRA 98’s taxpayer rights provisions, such as the innocent spouse and offers in compromise programs and enhanced due process rules. We are still working very hard to administer these provisions better. However, along with some remaining management challenges, there have also been some successes.

Faced with a mounting backlog of 40,000 innocent spouse claims, we took several steps to promote greater efficiency. The innocent spouse program was centralized at one location in Cincinnati and we provided the necessary staff to dig out from under the backlog. The Innocent Spouse Program is now operating at a reasonable level of service and efficiency.

Burden reduction also means communicating with taxpayers in plain English. As part of our continuing effort to improve our correspondence to taxpayers, and following RRA 98’s directions, the IRS began sending out this year six redesigned notices, including those dealing with math errors, balance due, overpayments and offsets. These notices affect both individual and business taxpayers. The new notices should reduce the number of times taxpayers need to contact the IRS, be easier to understand, and help resolve inquiries. We continue to redesign 24 additional notices. We plan to release four of them in January 2002, seven in July 2002 and the remaining 13 in January 2003.

#### *Advance Refund and September 11 Response*

Last year, the concept of service to taxpayers went far beyond what is normally expected of the IRS. Two events—the issuance of millions of advance refund checks and our response to the tragic events of September 11—demonstrated how we could provide service to taxpayers under extraordinary circumstances.

For the advance refund, the IRS coordinated an unprecedented outreach to America’s taxpayers, an intricate computer programming project, a flurry of news releases, an updated irs.gov site and additional assistants to handle record call volumes.

Following the September 11 national tragedy, IRS and Treasury Department employees did their best to minimize the distraction of tax issues for the victims. By September 14, 3 days after the attack, we provided administrative relief to the victims in the form of extensions to file returns and pay taxes. We also suspended for 6 months many enforcement actions for the affected taxpayers. In addition, we established special toll-free numbers to answer any questions, and we set up a special disaster relief page on our web site.

Before and after the terrorist attacks, the IRS’ Tax Exempt/Government Entities (TE/GE) Operating Division also helped educate the public on the legal requirements organizations must meet to qualify for tax-exempt charitable status.

On September 18, we placed a new, easy-to-understand publication on our web site that provided information to assist the public to make use of charitable organizations. We also announced that we would speed processing of requests for tax-exempt status from new charities formed to assist the victims. Although we expedited the process, we did not lower our standards for new organizations applying for the tax-exempt status.

In addition, we worked with the September 11 charities in getting donations to the victims’ families. On November 16, we issued interim guidance that recognized the unique circumstances caused by the tragedy. We wanted to send a clear message that charitable groups that act in a reasonable and good-faith manner to help the victims would not endanger their tax-exempt status.

#### STEMMING THE DECLINE IN COMPLIANCE

Our tax system depends on each person who is voluntarily meeting his or her tax obligation having confidence that his or her neighbor or competitor is also complying. However, we simply do not have the resources to resolve every case of non-compliance. We must apply our resources where non-compliance is greatest while still maintaining adequate coverage of all other areas. Our near term goal in 2001 was to stabilize the level of our key compliance activities while beginning to focus on the areas of greatest risk to our nation’s tax system.

After careful study we identified and are addressing four important areas of systematic non-compliance. They are: misuse of devices such as trusts and passthroughs to hide income; use of complex and abusive corporate tax shelters to

reduce taxes improperly; failure to file and pay large accumulations of employment taxes; and erroneous refund claims.

Although major and systematic areas of non-compliance are our top priority, it is also important that we use all available tools to detect, correct and deter non-compliance of all kinds. For example, in 2002, the IRS will begin processing and matching K-1s reporting almost \$700 million of income and importantly, reported losses on trusts and passthroughs.

However, no matter how effectively we use our resources and new techniques to identify and prevent problems, some cases require intervention by IRS compliance personnel. Although 80 percent of the individual income is reported by third parties, the remaining 20 percent, mainly business income, are not reported and often require in-person auditing to verify. Also, business income, including that of pass-through corporations, partnerships and trusts can only be verified through auditing.

Compliance activities began to stabilize in fiscal year 2001. The number of liens filed and levies issued increased by 49 percent and 103 percent respectively over the previous year. Large corporate examinations and returns examined by correspondence increased by 27 percent and 65 percent respectively. We also made 10 percent more determinations for innocent spouse cases and processed 40 percent more offers in compromise. However, the significant exception to achieving our compliance goals was our in-person examination rate, which declined about 20 percent.

We also hired 568 Revenue Officers and 733 Revenue Agents in fiscal year 2001. This was the first time in 6 years that we were able to replenish these critical compliance positions. By stabilizing the number of compliance personnel, reengineering processes and setting clear goals, we believe that compliance activity levels will increase over the next 3 years. We will also be able to better identify and focus on key compliance problem areas. Research and other programs will support compliance operations. Taxpayer education, published guidance and pre-filing agreements will help us prevent compliance problems in the first place. However, compliance operations will not yet rise to the desired level of efficiency and effectiveness.

In the long term, we will rely on our BSM program to increase the effectiveness and efficiency of these activities. Business Systems Modernization will enable us to increase coverage from audits and other income verification techniques with modest increases in staff. We also have the opportunity to allocate our compliance resources more efficiently, both in specific cases and around patterns of non-compliance. And when intervention is necessary, we can use analytically-based techniques to assist in determining the appropriate action.

#### *National Research Program*

Last month, the IRS proposed to reestablish a key component of its ongoing compliance effort to help ensure fairness for America's taxpayers. The National Research Program (NRP) is designed to accurately measure tax compliance while minimizing the need to contact taxpayers during the process.

The NRP is developing innovative approaches to measure taxpayer compliance with the tax law. It will: (1) be far less intrusive and burdensome on taxpayers than previous compliance studies; (2) help the IRS build better compliance programs to more effectively catch tax cheating and help ensure all taxpayers pay a fair share; and (3) help reduce audits of taxpayers who filed an accurate return by at least 15,000 tax returns a year.

As part of ongoing compliance operations, NRP will focus on measuring three key areas of tax administration—filing compliance, payment compliance and reporting compliance. A key element involves measuring the accuracy of reporting information on tax returns. The IRS has overhauled the reporting component to minimize disruptions to taxpayers during the study.

Ultimately, this project will help all taxpayers by giving the agency timely, accurate information about tax compliance. This information will allow the IRS to replace outdated audit formulas and develop compliance efforts directed toward the tax returns most likely to have errors, rather than those from honest taxpayers.

In late fall of this year, the NRP will begin reviewing a small, statistically valid sample of individual returns from the 1040 family. The IRS will work closely with tax practitioners, Members of Congress and other key stakeholders to finalize the project.

#### PRODUCTIVITY THROUGH A QUALITY WORK ENVIRONMENT AND MODERNIZATION

On January 30, 2001, the IRS Oversight Board approved the IRS Strategic Plan. It lays out how we will use our limited resources to achieve the greatest benefits in performance. Moreover, we will meet these goals while continuing to shrink in size relative to the economy. Indeed, we are planning most of our performance improvement from internal management improvements and modernization, not in-

creased resources. Balanced measures in line with our strategic plan will have been rolled out to most of the new organization.

*Business Systems Modernization Program*

Our Business Systems Modernization effort is the largest ever undertaken in the public or private sector. And more than updating our antiquated technology, the modernization program changes the entire way the IRS interacts and conducts business with taxpayers and stakeholders.

Key to BSM's success is the Tax Administration/Internal Management Vision and Strategy (TAVS/IMVS). It provides a clear, integrated view of how the IRS should work in the future. In 2001, the IRS Executive Steering Committee also approved the Enterprise Architecture—a strategic view of the initiatives that are managed by BSM. It will enable us to design and build new business and technology projects that will be the backbone of the modernized IRS.

The BSM program was officially inaugurated on June 28, 1999. In 2 years, we graduated from strategic planning and systems design to business results. In fiscal year 2001, we put two projects into production, including the Customer Communications fiscal year 2001 Project that greatly improves the efficiency and effectiveness of our systems for receiving, routing and responding to millions of taxpayer calls. We also deployed a commercial tax computation software package, the Customer Relationship Management Exam. It was sent to over 500 revenue agents in our Large and Mid-Size Business (LMSB) operating division and allows them to make accurate tax assessments for complex tax calculations. It will provide time and resource savings for both taxpayers and the government. The feedback we have received from Revenue Agents on the software has been overwhelmingly positive. Copies of the software will be delivered to the rest of the LMSB revenue agents by the end of fiscal year 2002.

In 2002, the BSM program will achieve two extremely important and difficult milestones. And they are both firsts: the first movement of records of some taxpayers out of the old 1960's tape-based system to a modern, reliable data base; and the first establishment of an IRS-wide security system providing both internal and external secure access and communications to IRS systems.

These two deliveries represent two of the most essential and most difficult building blocks of the entire modernization program. Given the scale, complexity, and fragmentation of existing IRS systems, and the sensitivity of storing and accessing taxpayer data, it was not surprising that developing and deploying new IRS-wide systems for these two key components eluded the IRS for decades.

The lack of these two essential components severely impeded the ability of the IRS to modernize its systems and imposed enormous risks and costs on the whole tax administration system. For this reason, achieving these two milestones will represent a tremendous success for the BSM program. And as BSM progresses, these two essential building blocks will continue to be enhanced and deployed on an ever-increasing scale until they eventually support the entire tax system.

I want also to stress that due to its enormous size, complexity and sensitivity, the BSM Program involves considerable risk. However, the fact that risk exists does not mean that the program will fail. It means that the program could fail if the risks are not adequately identified and appropriate action taken to address them on a timely basis.

We are actively identifying and managing the risks in BSM, and we have not hesitated to make changes in programs when necessary. There is a critical point to understand about managing risks in this program: making constant adjustments to plans is an indication that they are being addressed and managed. It is one of the hallmarks of a successful systems program.

STEWARDSHIP & RESOURCES

America's taxpayers, the Congress and the Administration expect us to be able to properly account for their money and property. I am very pleased to note that the GAO rendered an "unqualified" or clean opinion on the IRS' fiscal year 2001 Financial Statement for both the Revenue and Administrative accounts. This means that for the second year in a row, the IRS could properly account for \$8.3 billion in appropriated funds; over \$2 trillion in revenues collected; and over \$190 billion in refunds. Having a tax agency that performs this task honestly and accurately is an enormous asset to our nation.

Over the past 8 years, the IRS oversaw 500 million remittances without a major problem. However, in 2001, more than 70,000 taxpayer checks valued at \$1.2 billion were determined to be missing at the Mellon Bank Pittsburgh Lockbox site. The Lockbox Program is a network of financial institutions that process taxpayer remittances for the IRS. Operated through an agreement with the Department of Treas-

ury's Financial Management Service, the system helps accelerate the flow of funds to the Treasury.

Once detected, we took swift action to alert potentially-affected taxpayers to the problems. More importantly, these taxpayers will not be penalized by what occurred. They will be made whole, and the Treasury will receive its funds. The incident, although isolated, will be used to improve procedures and prevent any such problem in the future.

#### CHALLENGES REMAIN TO QUALITY SERVICE

The IRS Oversight Board has stated that, "service to taxpayers is inadequate" and we do not take issue with their position. In spite of the short-term gains we achieved, we are still not providing service to taxpayers at a level that they expect and deserve. The facts speak for themselves.

We received 108 million telephone calls on our telephone lines, covering a very wide range of subject matter. The quality of that telephone service—while improving—is still not on a level with what taxpayers receive in the private sector. Treasury Secretary Paul O'Neill characterized it as "unacceptable." He is correct.

Not only must we continue to improve taxpayer access to our toll-free lines, we must improve the accuracy of the response we give to tax law and account questions. Unfortunately, this problem is not confined to telephone assistance. We also have a steep learning curve at our taxpayer assistance centers. The GAO testified in April 2001 that "walk-in sites are continuing to provide poor tax law assistance."

We are not providing adequate service in other areas. For example, employers, particularly first-time employers, are often discouraged by the delays and difficulties in obtaining an Employer Identification Number (EIN).

As previously noted, we are now administering RRA 98's 71 taxpayer rights provisions. Many of the provisions, such as innocent spouse protection, due process in collections and offers in compromise, would individually be considered major projects. Collectively, they represent a challenge of learning new ways of doing business for nearly every one of our 100,000 employees. And during this process, we encountered a number of problems and demands that we are still addressing.

RRA 98 added requirements that lengthened the offer-in-compromise (OIC) process. Over the past few years, the OIC Program's over-age inventory continued to grow in spite of applying more resources. To improve quality, timeliness and efficiency, we centralized OIC processing at our Memphis and Brookhaven Service Centers. By using revised procedures at the new consolidated sites, we hope to streamline the processing of over 120,000 applications submitted each year.

RRA 98's collection due process provisions also presented new challenges and have resulted in a backlog of cases. However, through the training of additional Appeals Officers in collection processes and procedures, we believe we will be able to clear up the case backlog in 2002. Improved resource allocations, case development practices, better management, communications and technology should also provide for more efficiency, greater productivity and better results.

It will take time, resources and management attention to solve the challenges that RRA 98 presents. However, our Strategic Plan squarely addresses these issues. More importantly, it improves our quality and productivity through modernization and reengineering of our technology and business practices with minimal increases in resources.

#### FISCAL YEAR 2003 RESOURCE REQUEST

Mr. Chairman, the IRS budget request for fiscal year 2003 is \$10.418 billion and full-time equivalent employment (FTE) of 101,080. The request is \$482 million more than last year's \$9.936 billion appropriation. The largest programmatic component of this increase is \$259 million to enhance customer service and compliance, of which \$196 million will be funded through a redeployment of resources within our base budget.

Overall as shown in the attached chart, the IRS is proposing to achieve \$259 million in increased program resources and program delivery at a net requested increase of only \$63 million. Therefore, 76 percent of the improvement is being achieved by improved internal efficiency and redeployments.

The funding increase request also maintains momentum in the IRS Business Systems Modernization projects with \$58 million. The budget increase for fiscal year 2003 will allow us to fund these critical projects as they move from the planning and design phase to development and implementation. The remaining increase would fund pay raises, and inflation, \$10 million for Tier B Projects (see p. 21) and adjustments for Homeland Security funds appropriated in fiscal year 2002.

In addition, \$39 million of the total increase is requested as part of a legislative proposal to change the accounting of pension and retiree benefits costs. Please note that although the increase of \$39 million is the incremental change from the fiscal year 2002 appropriation (as adjusted), the actual increase to our fiscal year 2002 base for this proposal will be \$503 million. These costs are transfers of funds that were previously included in other agency budgets and do not represent any net increases in IRS programs.

To help create a "World Class Treasury Department," Secretary O'Neill challenged each bureau to review all programs on a continual basis and redirect resources to meet needs, rather than asking for funding increases. Budget and performance integration, as part of the President's Management Agenda, requires this kind of business review, with an emphasis on best results at the lowest total cost.

Indeed, let me stress the process that underlies the fiscal year 2003 request. For the first time, we fully integrated the development of our budget with the establishment of performance measures. First, we determined the highest priority resources needed to increase customer service and compliance. In addition, as part of the budget process, IRS' senior team conducted a review and prioritization of agency-wide needs for fiscal year 2003 and searched for the most efficient allocation of resources. The realignment of resources woven throughout the fiscal year 2003 budget comes through reengineering, efficiencies and investment in modernized systems. To this end, the review developed 2,287 FTE that could be re-deployed to high priority areas in customer service and compliance.

#### OPERATIONS

##### HIGHEST PRIORITY RESOURCE NEEDS

###### *Customer Service and Workload Increases (+ 1,595 FTE, \$91M)*

In fiscal year 2003, the IRS must build on the gains it has made in customer service if we are to achieve our first strategic goal, "top quality service to each taxpayer in every interaction." We are still not providing a consistent high level of service that taxpayers expect and deserve. We must continue to improve taxpayer access to our toll-free telephone lines and the accuracy of the responses we give to tax law and account questions. We must continue to improve the service at our taxpayer assistance centers. We must further reduce taxpayer burden. We must continue to increase e-file options. We must better administer the RRA 98 taxpayer rights provisions. And we must give our employees the training and tools to meet these needs. The highlights of some of the following initiatives will help us meet our goals.

- Increased Offer in Compromise (OIC) Cases.*—This initiative is designed to address the escalating OIC inventory by centralizing and streamlining the processing. Cases sent to the field will include all background financial data needed to conduct the investigation, thereby reducing the amount of time that revenue officers must spend on gathering this information.
- Telephone Level of Service.*—Taxpayers must still speak to live assistants to answer tax law and account questions as well as Automated Collection System (ACS) inquiries. Additional FTE are necessary to address current demand and to meet taxpayers' legitimate expectations that they receive service comparable to what is offered by the best private sector companies.
- Multi-Lingual ACS.*—The Multi-Lingual Automated Collection Service (ACS) will help meet taxpayer growing demands for timely, accurate and efficient services in languages other than English.
- Improving Correspondence.*—We are improving the clarity of our communications with taxpayers through a redesign of 24 of our notices over the next 2 years.
- Filing Services.*—We must continue to provide filing services—from e-filing to submission processing to timeliness of refunds—and handle a projected increase in the number of returns filed.

###### *Enhanced Compliance Strategies (+ 1,857 FTE, \$125 M)*

In 2001, we began to stabilize the long-term decline in compliance activities while beginning to focus effectively and efficiently on the four key areas of non-compliance and maintaining adequate coverage of other areas. However, we still must address a number of challenges. For example, from 1993 to 2001, the number of returns reporting adjusted gross income in excess of \$100,000 grew by 163 percent. We must keep pace with this increase by expanding the number of these returns that are examined in IRS field and office programs. We must also tackle the \$66 billion in our total potentially collectable inventory. And we must focus on the proliferation of tax scams ranging from sophisticated illegal offshore trust programs to the slavery reparations scheme being perpetrated upon African-Americans. The following are the

highlights of our enhanced compliance strategies for fiscal year 2003. A detailed description can be found in our congressional justification.

- Stabilize Audit Rates.*—The IRS will devote resources to stop the overall declining audit rates and will dedicate more resources to auditing partnerships and other passthrough entities.
- Abusive Trusts.*— Experts estimate that the revenue loss to our nation due to abusive trusts could run into the tens of billions of dollars. We now have a coordinated strategy to deal with this growing problem using a full range of tools from public education to civil and criminal enforcement against both promoters and participants.
- High-income Returns.*—From 1993 to 2001, the number of returns over \$100,000 and \$1 million dollars grew by 163 and 259 percent respectively. However, IRS examination of these returns has not kept pace and we must now narrow the gap.
- Highest Priority Collection.*—To address the mounting employment and income tax gaps, the IRS will dedicate more resources to high priority compliance and collection cases involving unpaid employment taxes.
- Fraud Referral.*—Referrals and leads generated from the Lead Development Centers and the Fraud Detection Centers will produce more quality criminal investigations cases and help ensure public confidence in the fairness of our of tax administration system.
- Automated Underreporter.*—To improve voluntary reporting on individual income tax returns, the Remote Automated Underreporter Program will utilize a national rotational inventory approach for case selection.
- Employment Tax.*—To combat non-compliance with employment tax laws, the IRS will boost resources for legal source tax crime cases with a special emphasis on emerging problems, such as the use of temporary employment agencies/employee leasing agencies to evade employment and income taxes.
- Money Laundering.*—IRS Criminal Investigation (CI) was delegated primary investigative jurisdiction in all money laundering investigations where the underlying conduct is a violation of the income tax laws.
- e-Crimes.*—CI must continue to develop investigative knowledge and techniques to keep pace with the growing number of e-crimes, such as fraud and theft.
- Criminal Tax Cases.*—Continued development of a close relationship between Chief Counsel Criminal Tax and CI will help to ensure that legal errors in the investigative process are minimized and the chances for successful prosecution are maximized.

*Contract Services (+ \$44M)*

The IRS must also pay for a number of non-labor program increases, many of which are mandated by Executive Order or departmental regulations. For example, in response to concerns raised by GAO and TIGTA, we must provide for enhanced guard services at our submission processing and computer centers. In addition, we are requesting funding for physical security upgrades such as more secure gates and entrances, and barriers that can be raised and lowered. Other items include the Public Transportation Subsidy, which was increased from \$65 to \$100/month.

RESOURCES RE-DEPLOYED THROUGH INCREASED EFFICIENCY AND PRODUCTIVITY

A combination of strategic redeployment of staff and labor saving programs will allow the IRS to improve its level of taxpayer service without commensurate increases in the number of FTE applied. Targeted improvement projects, such as Re-engineering/Quality efforts and labor savings from e-file and e-Services can be re-applied to other high priority programs. Technology modernization programs will generate the bulk of the FTE savings.

*Improvement Projects (Redeployment of 1,779 FTE, \$107M)*

The IRS identified FTE redeployments from improvement projects that are expected to come to fruition in fiscal year 2003 and are highlighted below. The FTE will be reinvested to fund the top priority needs identified below:

- Reengineering/Quality Improvements.*—Reengineering and Quality Improvement projects and programs will focus on redesigning internal processes, policies, and procedures. Updating the antiquated workload selection system will, for example, reduce/eliminate the substantial number of returns that are ordered, classified, and never worked.
- e-file.*—In addition to the many taxpayer benefits, e-file also provides clear cost savings and burden reductions for the IRS, enabling us to redirect precious resources from processing to customer service and compliance programs. In addition to expanding electronic filing for individual taxpayers, the IRS will promote



the electronic filing of all business tax returns in fiscal year 2003. Our ultimate goal is to convert all business transactions with the IRS to fast, accurate, paper-free electronic methods. Through e-Services, we will also provide to tax practitioners easy-to-use electronic products and services.

- Customer Relationship Management.*—The funding for this project will pay for training travel, operating travel and support costs related to bringing IRS staff quickly up to speed on the newly improved Corporate Tax Analysis software. The software's main strengths are its capacity to do carryback/carryover calculations for net operating losses (and other losses), the interaction of losses and charitable contributions, alternative minimum tax calculations and the foreign tax credit calculations— including carrybacks and carryforwards.
- Information Technology Projects.* Two projects are expected to begin realizing savings in fiscal year 2003: the Employee Plan Determination System Redesign (EDSR) and the Remittance Transaction Register (RTR). EDSR is expected to reduce cycle time and improve quality of determination letters. RTR is projected to improve efficiency in submission processing by providing all Lockbox payment information online soon after receipt, reducing from 1 month to just 3 days response time for reconciling payment information and responding to payment information queries.

*Workload Decreases (Redeployment of 508 FTE, \$50.5M)*

- Reduced Field Innocent Spouse.*—The initial high inventory of Innocent Spouse cases is expected to decline to a point where they can be processed without significant delays on our part. Revenue Agents and Tax Auditor FTEs assigned to this program will be re-deployed to address compliance in other areas.
- Reduced Filing Season Support.*—We will reduce the FTEs in the Small Business and Self-Employed operating division planned for customer service details.
- Narcotics Program.*—With redeployments realized from the narcotics program realignment, 67 FTE will be used in the Fraud Referral Program and 18 FTE will be used in the Money Laundering Strategy Program.
- Reduced Tax Court Cases.*—The number of cases filed in the Tax Court is declining. Emphasis on pre-filing resolution of cases through programs such as Advance Pricing Agreements is also expected to moderate increases in Tax Court litigation in the future, as well as Refund and Appellate litigation.

*Targeted Efficiency Improvements (Redeployment of \$39M)*

Redeployment is expected from the Treasury's approach to better business practices to remove or reduce current efforts that do not have significant programmatic value. This is targeted to produce \$39 million in redeployments.

MAINTAIN CURRENT OPERATIONS

The IRS is still a labor-intensive organization and a stable work force is critical to carrying out our mission. We must maintain current operations, protect the integrity of the tax filing season, oversee tax administration programs and continue to implement organizational modernization. To do so, the IRS must have the resources to pay for the inflationary costs associated with statutory pay and other mandatory increases described below.

- Maintaining Current Services Level (+ \$295 M).*—Needed to maintain fiscal year 2002 program levels in fiscal year 2003 by funding pay, benefits, and non-labor inflationary costs.
- Within-Grade Increases (+ \$37M).*—To cover the costs of within-grade pay increases for on-board employees.
- Homeland Security (+ \$10M).*—For the enhanced security arrangements required by the Homeland Security supplemental. These funds were appropriated as a consequence of the September 11, 2001 terrorist attacks and other related security concerns.
- Homeland Security Non-Recur (- \$31M).*—Funding in the amount of \$31 million from the fiscal year 2002 will be non-recurred in the fiscal year 2003 budget.

EARNED INCOME TAX CREDIT INITIATIVES

In fiscal year 2003, funding requirements for the Earned Income Tax Credit (EITC) Compliance Initiative Appropriation are projected to be \$154,346,000, an increase of \$46,000 over the fiscal year 2002 funding level of \$153,940,000. The FTE level of 2,353 is unchanged from fiscal year 2002.

This appropriation provides for customer service and public outreach programs, enforcement activities and research efforts to reduce overclaims and erroneous filings associated with the EITC.

## BUSINESS SYSTEMS MODERNIZATION AND OTHER INFORMATION TECHNOLOGY PROJECTS

The IRS' antiquated computer systems do not efficiently or effectively serve America's taxpayers, nor meet today's business needs. They are one of the fundamental obstacles to providing consistent top-quality service. Failing to modernize IRS's tax administration business systems would require a significant increase in resources to maintain the old legacy systems while not addressing their underlying deficiencies that will only worsen with time.

Business Systems Modernization will update our antiquated technology and change the entire way the IRS interacts and conducts business with taxpayers and stakeholders. Indeed, we do not view systems modernization as a separate entity, but rather as one of the major ways we can achieve all of RRA 98's goals within realistic budget resources.

Over the past 2 years, BSM graduated from strategic planning and systems design to business results. The successful deployment of Customer Communications 2001 and the ongoing roll-out, deployment and training for Customer Relationship Management Examination in 2001 provided IRS front-line staff with the right tools to do their jobs more efficiently and effectively. Valuable lessons were learned as we developed and implemented these projects utilizing the rigorous management processes of the Enterprise Life Cycle, while at the same time ensuring that all BSM projects adhere to the Enterprise Architecture.

The proposed IRS fiscal year 2003 budget provides continued funding for BSM and builds upon last year's achievements. For example, we will continue to phase in the deployment of the Customer Account Data Engine and move additional filers into the modernized system. The IRS will also greatly strengthen its core financial systems through the deployment of the first phase of the Integrated Financial System. These projects coupled with entire BSM portfolio will deliver on IRS' commitment to meet the nation's revenue collection needs and provide world class service to our taxpayers.

I want to stress, Mr. Chairman, that we will continue to use a formal methodology to prioritize, approve, fund and evaluate our portfolio of BSM investments. This methodology enforces a documented, repeatable and measurable process for managing investments throughout their life cycle. Investment decisions are approved by the IRS Core Business System Executive Steering Committee, chaired by the Commissioner.

*Fiscal year 2003 BSM Request*

The proposed \$450 million fiscal year 2003 BSM budget request includes an increase of \$58.4 million over last year's appropriation. Let me summarize the key BSM projects that are addressed in the funding request. A complete description of each can be found in our congressional justification.

*Customer Account Data Engine (CADE)*

CADE is the foundation for all of IRS' tax administration systems. It will replace the tape-based Master Files that currently contains the only authoritative information on all individual and business tax accounts. The IRS dependence on this 1960s Master File system today constitutes an insurmountable barrier to efficient service and compliance operations and is a very serious risk to the whole tax system.

CADE will incrementally move individual filers from the 1960s tape system to a modernized database. CADE Individual Master File (IMF) will build the database that will replace the existing IMF processing systems. CADE will create applications for daily posting, settlement, maintenance, refunds processing and issue detection for taxpayer tax accounts and return data. The database and applications developed by CADE will also enable the development of subsequent modernized systems that improve customer service and compliance. Once implemented, modernized applications, such as Customer Account Management (CAM), will allow on-line posting of data in addition to daily batch processing.

CADE will be deployed over time in five releases, each related to a specific taxpayer segment, phased in over a period of 6 years. At the conclusion of Release 5, CADE will have replaced IMF.

Mr. Chairman, let me point out that due to a number of technical difficulties and schedule delays, Release 1 of CADE Production has been delayed by 6 months. We discovered in December 2001 a significant issue with Procurement of a Business Rules Engine (BRE). A key part of the overall CADE development strategy was predicated on the use of BRE software that would be used to generate some programming code. Unfortunately, the PRIME was unable to procure the BRE in time to be used in the development of Release 1 and we were forced to proceed using standard development language. We began mitigation on this situation.

In addition to the technical difficulties, we encountered in late March 2002 an additional 1-month slippage to July 2002. We notified our Executive Steering Committee and Oversight Board of the problem and our corrective actions. The delay will provide time for the development, testing and implementation of the Release 1 pilot this summer. Currently, most of the software has been developed and testing has begun. Planning for production implementation in conjunction with the startup of the 2003 filing season has also started. The release will include both 1040EZ electronic and paper single refund filers—about 10 million taxpayers. Therefore, based on this plan our most important business objective, which is to move the first block of taxpayers onto a new data base will be achieved.

*Integrated Financial System (IFS)*

IFS has three clear goals: (1) provide core financial capabilities and financial reporting; (2) meet Joint Financial Improvement Program requirements; and (3) provide an integrated framework for retirement of current financial systems.

IFS will be accomplished in two releases, each representing a distinct usable segment. Release 1 will replace the Core Financial Systems (CFS) as defined by the Joint Financial Management Improvement Program (JFMIP). In addition to CFS, Release 1 will include budget formulation as well as implementation of a Cost Accounting System to allow the IRS to move into compliance with Statement of Federal Financial Accounting Standard Number 4. Release 1 creates a logical design for the core financial applications including Cost Accounting. The core financial applications consist of General Ledger (G/L), Accounts Payable (A/P), Accounts Receivable (A/R), Cost Management, Funds Management, Core Financial Management and Financial Reporting.

*Custodial Accounting Project (CAP)*

GAO identified the lack of an acceptable accounting system for the \$2 trillion collected in tax revenue as one of the most significant material weaknesses in IRS' financial management. CAP will provide the IRS with the critical control and reporting capabilities mandated by Federal financial management laws.

It will also support the appropriate custodial subledgers containing data from tax operations and help the IRS meet compliance issues with both the Federal Financial Management Improvement Act (FFMIA) and Federal mandates related to custodial revenue management. CAP will also help us to better manage, control and focus resources.

*Enterprise Data Warehouse (EDW)*

The ability of the IRS to make effective use of information about its operations is limited by the numerous fragmented databases that evolved over time. EDW provides the foundation for data mining and decision analytic tools. In addition, it enables risk-based analysis for case selection and provides the tools to report on IRS balanced performance measures.

*e-Services*

The e-Services project will support our ability to meet the overall goal of conducting most transactions with taxpayers and their representatives in an electronic format, as required by RRA 1998. e-Services will provide to third parties over the Internet the four most requested applications: electronic taxpayer identification number matching, electronic transcript delivery, disclosure authorization and Electronic Account Resolution. e-Services also directly supports the President's Management Agenda's government-wide initiative to expand electronic Government.

*Customer Account Management (CAM)*

The Customer Account Data Engine cannot be deployed beyond its initial limited releases without Customer Account Management. CAM allows us to go into CADE and update the data and will help taxpayers to receive timely and accurate responses to requests and inquiries.

The CAM Individual Assistance and Self Assistance Operating Models will provide improved technology and business processes that will enable the IRS to: (1) better manage customer service functions; (2) maintain and utilize customer data to improve taxpayer interactions with the IRS; (3) provide comprehensive account and tax law assistance to taxpayers and practitioners; and (4) manage the case work flow of customer inquiries.

Delivering customer assistance through a live IRS Customer Service Representative (CSR) is the Individual Assistance operating model's main function. In order to provide world-class service, CSRs must be equipped with the tools to access taxpayer information quickly and accurately in response to complex customer inquiries.

Individual Assistance will provide this capability from a desktop information system.

By being able to access and update comprehensive, current account information, CSRs will be able to respond quickly and accurately to customer inquiries. Workflow management tools and processes will also allow them to automatically inform relevant parties throughout the organization of actions taken on a particular customer's account and manage outstanding cases for follow-up work or to identify the status of an inquiry for a taxpayer.

The CAM Self-Assistance operating model delivers many of the same capabilities. The main objective, however, is to provide taxpayers with the flexibility and convenience of accessing by telephone or the Internet on a 24/7 basis IRS-related information to resolve relatively simple inquiries.

#### *Filing and Payment Compliance (FPC)*

FPC is an end-to-end strategy to resolve collection issues quickly and fairly. Using industry best practices, it augments, refines and replaces existing processes and technology to enable the IRS to interact with taxpayers in a seamless and efficient manner. Protection of taxpayer rights is an important component of this strategy. The ultimate goals are to resolve all balance due cases above a minimum threshold, shorten the filing compliance lifecycle to ensure resolution before the next filing due date and shorten the payment compliance lifecycle to 6-months for non-enforcement cases.

#### *Information Technology Projects*

The Business Systems Modernization program is aimed at developing major, IRS-wide systems that are the underpinnings of overall tax administration. BSM also sets forth the enterprise architecture that defines required standards of equipment, software, communications and data. This program is not intended to meet every need for every business application in the IRS, even in the long term. However, by establishing a well-defined architecture, it assures that specific business applications developed for specific business purposes will operate consistently and use common equipment while meeting required standards, such as security.

Through the strategic planning process, the IRS operating units identify specific business needs and prepare business cases for business applications that will not be met through the overall BSM process. There are many more projects with high returns than can possibly be funded. Therefore through the strategic planning process, these are then evaluated and those with the highest returns are selected. Many of the gains in performance projected in fiscal year 2003 and fiscal year 2004 are enabled by these so-called Tier B projects. Tier B project implementation time is 2 to 3 years and the projects are monitored within the Business Performance Review process.

The President's fiscal year 2003 budget includes a \$10 million increase for Tier B projects beyond the fiscal year 2002 operating level of \$39.8 million. They cut across the entire spectrum of IRS activities and functions. For example, Information Systems projects will support Criminal Investigation's activities by modernizing the equipment used to analyze forensic evidence. They will support the electronic filing of business forms and schedules and e-services will provide products and services to practitioner as well as the foundation for safe and secure electronic customer account management.

Other projects will redesign and consolidate systems to support casework and the Taxpayer Advocate Service. Correspondence will be imaged and we will be able to convert existing collection systems to electronic case processing. The Employee Plan Determination System Redesign will also reduce cycle time and improve the quality of determination letters from our Tax Exempt and Government Entities operating division. The Remittance Transaction Register will improve submission processing efficiency by providing information payment online.

#### LEGISLATIVE PROPOSALS AND PROPOSED ADJUSTMENTS (NO NET INCREASE IN IRS PROGRAMS)

The President's budget requests \$503 million (a \$39 million increase over the fiscal year 2002 appropriation as adjusted) for proposed legislative changes that change the accounting of certain pension and retiree benefit costs. These costs are transfers of funds that were previously included in other agency budgets and do not represent any net increases in IRS programs. The \$39 million increase will be used as follows:

—*Federal Employees' Compensation Act (FECA) Surcharge (+\$3M).*—The fiscal year 2003 President's Budget includes language in the General Provisions of the Treasury-Postal Appropriations bill to permit the Department of Labor to add

an administrative surcharge to the amount it charges each agency for its Federal Employees' Compensation Act (FECA) benefits. Previously this administrative cost was borne by the Department of Labor.

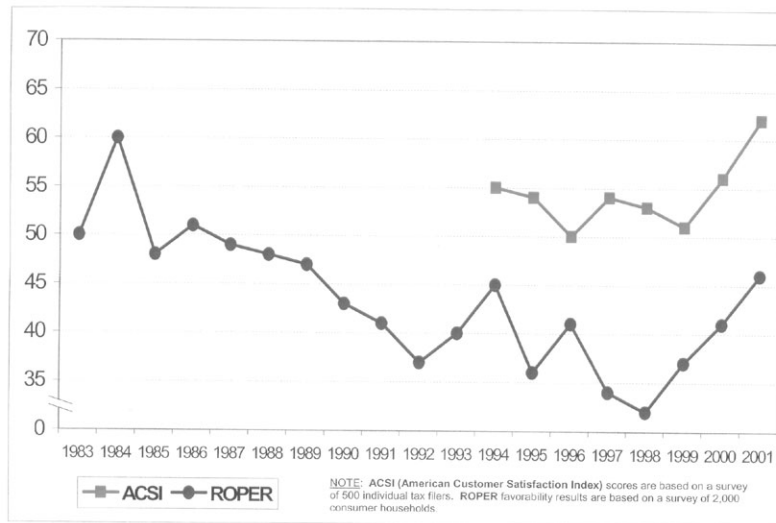
—*Legislative Proposal on Full Costing of Retirement and Health Benefits* (+\$32M).—The budget also proposes legislation to require agencies, beginning in fiscal year 2003, to pay the full Government share of the accruing cost of retirement for current CSRS, CIA and Foreign Service employees, and the Coast Guard, Public Health Service and NOAA Commissioned Corps.

—*Inter-Departmental Reimbursements* (+\$5M).—This adjustment will allow permanent transfers of funds from the General Services Administration, the National Archives and Records Administration and the Department of Agriculture for services provided to IRS.

CONCLUSION

Mr. Chairman, in conclusion, the President's proposed fiscal year 2003 budget for the IRS reflects the Administration's continued commitment to modernization of the agency. Moreover, it underscores that through new technology, improved management and reengineering our business practices, we can perform our mission efficiently and effectively with only limited increases in resources. Three years ago, the Restructuring Act set an important new direction for the IRS. Today, I firmly believe that the IRS is on the right track and this budget will help us stay the course. Thank you.

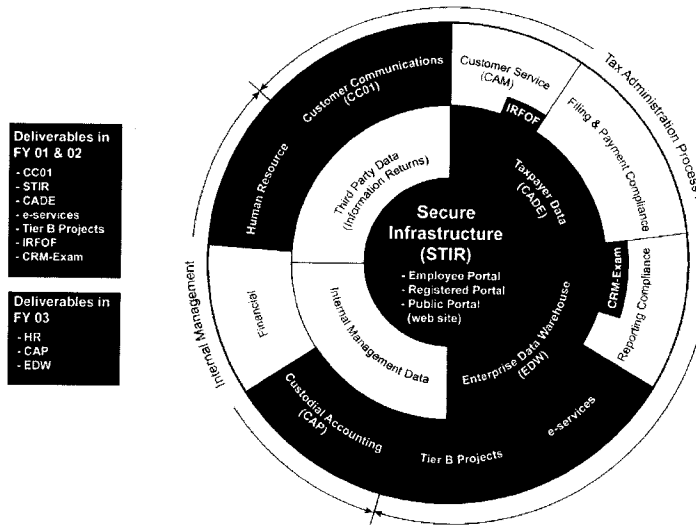
PUBLIC RATING OF THE IRS



**IRS WILL MEET 76% OF NEEDS  
FOR INCREASED SERVICE AND COMPLIANCE  
FROM INCREASED PRODUCTIVITY AND COST SAVINGS IN FY 2003**

	<b>Dollars</b> <i>(in millions)</i>	<b>FTEs</b>
<b>Highest Priority Resource Needs</b>		
Compliance	\$125	1,857
Customer Service and Workload Increases	91	1,595
Contract Services	44	0
<b>Total Highest Priority Needs</b>	<b>\$259</b>	<b>3,452</b>
<b>Less Redeployed Resources and Adjustments</b>		
Reapplication of Efficiencies and Workload Savings	\$157	2,287
Targeted Cost Savings	39	0
<b>Total Resource Reapplications and Adjustments</b>	<b>\$196</b>	<b>2,287</b>
<b>Total Increase</b>	<b>\$259</b>	<b>3,452</b>
<b>New Funding Requested</b>	<b>\$63</b>	<b>1,165</b>
<b>Percent of Needs Met through Budget Request</b>	<b>24%</b>	
<b>Percent of Needs Met through Productivity and Savings</b>	<b>76%</b>	

**IRS BUSINESS SYSTEMS MODERNIZATION  
IS DELIVERING KEY BUILDING BLOCKS IN FY 02 AND FY 03**



## QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

## BUSINESS STRATEGY ADJUSTMENT

*Question.* Secretary O'Neill has mandated that each Treasury Department agency achieve a certain level of savings through what he refers to as a "Business Strategy Adjustment." I understand that for the IRS this adjustment would amount to the IRS finding an additional \$39 million in savings.

How do you plan to meet this goal? What cuts in people, programs or service will you have to make?

*Answer.* The IRS expects to meet this goal through improved business practices: more effective uses of human capital, better financial management practices, expanded applications of technology uses across the Department, and competitive sourcing of appropriate business efforts.

## BI-MONTHLY AUDITS OF IRS WALK-IN SITES

*Question.* The first bi-monthly audit of IRS walk-in taxpayer assistance sites, issued last month by the Treasury Inspector General for Tax Administration as a result of funds we added to their budget, states that of the 84 visits made to 40 taxpayer assistance centers correct responses to questions posed were only received 46 percent of the time. The audit observes improvement in other areas such as courtesy of the IRS employees and cleanliness of the facility, but I am sure you will agree that getting an incorrect answer to a tax inquiry more than 50 percent of the time is still outrageous.

What steps are you taking to improve the assistance provided to taxpayers at the assistance sites?

*Answer.* Based on TIGTA's March and April visits to 37 TAC offices, we continue to show improvements in providing correct answers to tax law questions. However, we believe the statistics in the report do not reflect the accuracy of our answers. We disagreed with the TIGTA assertion that a referral to a publication is the same as providing an incorrect answer. We also disagree that referrals to publications should be included in computing the accuracy rate. The percentage of correct answers based on the March and April TAC visits, without counting referrals to a publication as incorrect, is around 65 percent as opposed to the 55 percent identified in the report. This is clearly an unacceptably low accuracy rate, and IRS is committed to make improvements.

During early February we met with TIGTA representatives to review the results of the January audit. After that meeting, we conducted a series of meetings with executives and managers at all levels advising them of January accuracy rates, soliciting ideas to improve tax law responses, and establishing zero tolerance for unprofessional conduct and performance. We added a requirement for all technical employees in Taxpayer Assistance Centers to complete one hour of uninterrupted, self-directed learning time each week. This hour is dedicated to tax law issues in: earned income credit, dependent qualifications, education credits, social security income, pension income, capital gains, filing status, individual retirement accounts, child care credits, child tax credit, rate reduction credit, student loan interest, and itemized deductions. The technical employees used Publication 17, Your Federal Income Tax, as their primary study guide. To supplement self-directed learning time, we are obtaining additional training aids, publications, and compact discs. The aids will include practice scenarios on a wide range of tax law topics including those mentioned above. We are including in this initiative Small Business/Self-Employed Division Employees assigned to work the customer service counter in Taxpayer Assistance Centers. We are also developing a training program, with some assistance from the North Dakota State University, that would allow remote access to electronic training.

## AGGRESSIVE AUDITS OF EITC RECIPIENTS

*Question.* Some Members have rightly expressed concern that, in a period when audits appear to be declining, the IRS is taking steps to aggressively increase the number of audits of EITC (earned income tax credit) recipients as opposed to taxpayers earning over \$100,000 a year. I have seen reports that 1 in 50 EITC recipients are audited. This is about triple the rate of audits of taxpayers earning over \$100,000. Secretary O'Neill blamed Congress for this increase in audits of EITC recipients.

Do you think it is fair and just to audit aggressively the poor yet take a pass on auditing the rich?

Answer. We audit EITC returns because IRS studies have found errors on nearly 50 percent of the returns filed.<sup>1</sup> The Congress has appropriated specific funds to be used to improve EITC compliance. The funds are used to educate and assist taxpayers in determining if they are eligible for EITC, as well as funding examinations of those returns that appear to have claimed the EITC in error. During the 5-years the EITC appropriation for compliance, outreach, research, and educational efforts has been in effect, we protected and/or collected about \$5 billion in revenue from math error adjustments and compliance activities. However, noncompliance is still an issue. Our most recent study on compliance estimates that taxpayers overclaim up to \$9 billion a year in EITC.

Our Service Center Tax Examiners generally conduct EITC examinations by mail. This methodology differs significantly from the examinations that our Tax Auditors and Revenue agents conduct in our field offices. The examinations conducted in our field offices tend to be more complex and the scope of the examination is not limited to a few issues, as is the case with EITC examinations. Examinations our Tax Auditor/Revenue Agents perform in our field office are interviews with the taxpayer and/or his representative either in the IRS office or at a place of the taxpayer's choosing. This method tends to limit the number of examinations we can complete. In the service center, lower-salaried employees can work correspondence examinations and review documentation sent in by taxpayers on all shifts. Since this type of audit does not require person-to-person contact, more examinations can be started, worked, and closed.

Our interaction with low-income taxpayers is not limited to audits; we also make taxpayers aware of tax benefits to which they may be entitled. We send notices when we receive tax returns that show the taxpayers might be eligible for the Earned Income Tax Credit. The notices allow the taxpayers to review the EITC eligibility criteria and determine to claim the EITC. We have also increased our number of partnerships with non-profit groups, faith-based organizations, and local governments to provide information about EITC and free tax return preparation. For example, the local governments in Chicago and Los Angeles have partnered with us to provide information to their citizens about EITC. They have partnered in turn with local non-profit groups to provide free tax preparation. Additionally, we have placed public service and paid radio and television ads about EITC from January through April 2002. These ads have run on network and cable television stations, and we have received a positive response from taxpayers and community organizations. These radio and television spots have provided information to individuals who may be eligible for EITC but who do not have a filing requirement. The ads reached a population that would not have any reason to contact us, and provided them the basic eligibility requirements for EITC. Also, we broadcast a thirty-minute paid television show about electronic filing that included EITC information on cable stations, including Telemundo (a Spanish television station). We undertook this effort based, in part, on research that reported Hispanic individuals are not claiming the EITC due to lack of knowledge.

We are focusing significant resources on noncompliance in the high-income population even though our systems and workload identification methodologies are limited by the age of our compliance data. We will continue to make the most informed resource allocation decisions possible, using all available compliance research information. We will supplement this information by conducting short-term targeted studies to help us select the best strategies for addressing identified areas of high compliance risk.

As reflected in our strategic priorities for fiscal year 2003, we are refocusing our compliance resources to address issues with high-income taxpayers:

- In fiscal year 2002, we began matching Schedule K-1 information for taxpayers who invest in partnerships, S-corporations, and trusts. We are using this data on a limited basis to help identify for examination taxpayers who underreport this income. We plan to expand significantly the use of matched K-1 data significantly in fiscal year 2003.
- We plan to continue to address promoters of and investors in illicit schemes designed to improperly eliminate or reduce tax liabilities.
- We plan to institute a program to address taxpayers with incomes greater than \$1 million who use flow-through entities to structure transactions that mask or improperly reflect taxable income.

<sup>1</sup> Compliance Estimates for Earned Income Tax Credit Claimed on 1999 Returns (February 28, 2002).



Through the National Research Program, we will begin to gather comprehensive compliance data for the first time since 1988. We intend to use this data to develop new cost-effective strategies for allocating our enforcement resources to improve the compliance of taxpayers in all income groups. In addition to ensuring a more efficient use of our resources, we expect that these strategies to reduce taxpayer burden associated with unnecessary audits.

*Question.* Is the IRS performing sufficient audits and are you targeting the right groups for audits?

Answer. To determine optimal audit rates, we must quantify the direct and indirect revenue effects of all enforcement and non-enforcement activities. Unfortunately, our ability to quantify those effects is in its infancy. We have to overcome significant data and statistical problems. We cannot yet determine the administratively optimal audit rate, or more precisely, the optimal mix of audit rates.

Nonetheless, we are very concerned that recent audit rates have been below what most everyone agrees would be optimal. As a result, taxpayers who timely meet all of their tax obligations bear an inordinate share of the overall tax burden. As a first step in increasing these audit rates, the President's Budget Initiative for fiscal year 2003 reallocates 635 FTEs for the examination of abusive trusts (400 FTEs) and high income returns (235 FTEs). More than 50 percent of these FTEs result from redirecting Examination reengineering savings.

Through the National Research Program, we will begin to gather comprehensive compliance data for the first time since 1988. This new data will allow us to update our workload selection formulas, develop new cost-effective strategies for improving compliance for all taxpayer segments, and more accurately allocate enforcement resources to areas of high compliance risk.

We will continue to analyze our processes and identify ways to improve the efficiency and effectiveness of our examination programs. Traditionally, we developed field examination work plans by return type and activity code. Starting in fiscal year 2003, we will develop examination work plans around specific non-compliance issues including:

- Understatement of business income
- Abusive Tax Schemes (including Abusive Trusts, Off-shore Activity, and Domestic Promotions)
- Non-filing
- Use of flow-through entities (Partnerships/S Corporations) by high income taxpayers to create structured transactions designed to reduce or eliminate tax liability.

A key weakness of our current return selection process is the inability of Discriminant Function (DIF) to identify returns with a high potential for unreported income. Almost 60 percent of the gross individual income and employment tax gap for Small Business/Self-Employed (SB/SE) taxpayers arises from the understatement of business income, due to the underreporting of gross receipts and the overstatement of business expenses. SB/SE and the Office of Research recently completed testing of new Unreported Income DIF formulas (UIDIF) they designed to identify returns with a high probability of unreported income. The higher the UIDIF score, the greater the probability of unreported income. The UIDIF formulas create a new work source for SB/SE field examination. We will begin using the UIDIF formulas on October 1, 2002.

By the end of fiscal year 2003, we will have completed the reengineering of our SB/SE Examination processes. A key component of this effort involves enhancing our return selection system to reduce taxpayer burden by focusing our resources on the most non-compliant returns. It also introduces new inventory management practices and enhanced auditing techniques that will further improve the quality and timeliness of our examinations.

#### BUSINESS SYSTEMS MODERNIZATION

*Question.* Your budget requests an additional \$450 million to continue your agency's systems modernization program. By the end of this year, the IRS—and the American taxpayer—will have invested nearly \$1 billion in this modernization effort.

What has the average taxpayer experienced as a result of this effort?

Answer. Over the past 2 years, BSM graduated from strategic planning and systems design to business results. We have put several projects into production.

- In fiscal year 2001, the Customer Communications fiscal year 2001 (CC01) Project was placed into operation. This project greatly improved the efficiency and effectiveness of our systems for receiving, routing, and responding to millions of taxpayer calls. The project went "live" just in time for the issuance of

the advance tax refund notices and the resulting onslaught of telephone calls. We successfully handled over 39,000 of these calls during CCO1's busiest hour the first day of the job. This new capability also helped us better route callers to our 9/11-disaster hotline.

- In fiscal year 2002, we are fully deploying a commercial tax computation software package, the Customer Relationship Management- Examination software. This software allows revenue agents to quickly and accurately calculate tax assessments for very complex tax scenarios, such as loss and credit carryback/carryforward, Alternative Minimum Tax, and Foreign Tax Credit. It also allows them to effortlessly re-compute the tax liability often required during the final stages of an examination. This will save time for the taxpayer and the government and increase accuracy. The software is a known and respected tool used by the private sector (taxpayers, accounting and legal firms.) We deployed the software and provided training to 2,777 Revenue Agents in our Large and Mid-Sized Business Division. The remaining LMSB Revenue Agents will receive the software and training by September 1, 2002
- In fiscal year 2002, we implemented a new Internet-based service that allows taxpayers who filed Form 1040, Form 1040-A or Form 1040-EZ and are due a refund to find out if we have processed their tax returns and when we will mail or direct deposit their refund. Taxpayers can also learn if a problem exists with their refund, find steps to resolve problems, and see if their check was returned to the IRS as undelivered. This new application is available through the IRS web site 24-hours a day from anywhere in the world. This capability marks the first time taxpayers have been able to access their accounts directly through the Internet in a secure environment. This web application, which we expect to be fully operational for the 2003 filing season, is a major step forward for IRS modernization. By the end of July we have had over 500,000 inquiries. The management information reports and on-line user-survey included with this application reveal:
  - Over 85 percent of the taxpayers are satisfied with the ease of this application.
  - 10 percent of the IRS refund inquiries since deployment are coming via the Internet.
  - 95 percent of the users receive response within 5 seconds.
  - 71 percent of users receive response within 1 second.
- This summer we will begin the pilot stage of the Customer Account Data Engine (CADE), using a modernized database. CADE will create applications for daily posting, settlement, maintenance, refunds processing, and issue detection for taxpayer tax accounts and return data. With CADE, taxpayers will receive faster refunds and our employees will have access to more accurate data. Due to the size and complexity of the software that analyzes and posts data onto the Master Files, and to minimize the risk of potential problems, we will first move simple accounts onto the CADE database, beginning with a subset of Form 1040EZ filers. Access to timely, consistent, and centralized corporate data is the key to modernization and CADE is the implementation vehicle. The CADE pilot will ensure readiness for the 2003-filing season. CADE will be deployed over time in five releases, each related to a specific taxpayer segment, phased in over a period of 6 years. At the conclusion of Release 5, CADE will have replaced the Individual Master Files. Subsequent releases of CADE will eventually replace the Business Master Files and Non-Master Files.
- Because of enhancements to our security and telecommunications infrastructures, the e-services project will have its initial release late in 2002, offering some web-based products to tax practitioners who actively participate in the IRS e-file program, such as self-filing registration. These web based business products will encourage third parties to increase their e-filing. In addition, these enhancements will allow IRS to better manage its stakeholder relationships and conduct marketing and educational outreach activities to integrate information, coordinate activities, deliver service and measure performance. The e-services project will allow practitioners the ability to complete applications, submit disclosure authorization requests, make taxpayer inquiries for notice and account problems, verify taxpayer identification numbers (TIN Matching), and request and receive taxpayer transcripts. It will be easier for practitioners to transact business with the IRS and to receive faster responses from us. E-services functionality will be delivered in two releases, the first scheduled for late 2002 and the second planned for the spring of 2003.

*Question.* If Congress appropriates these additional funds, what further enhancements to their service can they expect to see in the next year or two?

Answer. See below:

- In fiscal year 2003, we plan to launch an Internet EIN application to provide a web-based opportunity for employers, tax practitioners, and financial institutions to apply for and receive a validated employer identification number (EIN) directly from the IRS. This initiative will initially complement and eventually reduce the number of paper, facsimile, and telephonic requests for EINs. Businesses will be able to log onto a secure, government website from their office, bank, or state agency and file an electronic request for an identification number. The IRS will initially issue an EIN to the filer via the mail.
  - Over 5 years, releases of the CADE project will result in faster refund processing and authoritative account data for 1040 returns filed on paper or electronically. The additional funding will enable us to continue the buildout of the new customer accounts data base (CADE) and ongoing retirement of the Individual Master File. Hence, an increasing number of taxpayers will receive refunds faster and improved customer service.
  - The additional funds will also be directed toward design and development work on a new customer service and e-filing capabilities, although these projects will not deliver benefits until they are implemented in fiscal year 2004
  - In addition to direct taxpayer benefits, a major portion of the BSM Program is dedicated to improving our internal operational effectiveness and remedying material weaknesses. These improvements are necessary to meet the requirements of the Federal Financial Management Improvement Act. For example:
    - The Custodial Account Project (CAP) will integrate taxpayer account information with the general ledger and make it accessible for analysis and reporting for the CFO. This project will provide integrated, reliable, and timely tax operations data to support evolving analytics, performance measurement, and management information needs.
    - The IFS Project (Integrated Financial System) will implement a commercial-off-the-shelf financial system for the general ledger, accounts payable and receivable; funds management, budget execution and formulation; cost management; financial reporting; core financial management; and property and asset management.
    - The HR Connect Project will pilot new human resources online functionality, enabling self-service capability for many routine HR transactions.
- These projects will significantly improve compliance with applicable Federal Financial management laws and standards and support to GAO audits.

#### IMPACT OF SEPTEMBER 11 ON THE IRS

*Question.* The IRS was one of many Federal agencies directly affected by the tragic events of September 11. Many of your operations in New York were interrupted and Congress has appropriated over \$38 million to assist in the recovery efforts.

How has the recovery effort gone? With so many critical records now contained on computers, what efforts are you undertaking to provide for systems back-up and redundancy in the event of a future incident along these lines? How secure are your systems from a terrorist or cyber attack?

*Answer.* Following the catastrophic events of September 11, we moved quickly to repair and re-equip the offices destroyed in the WTC area for approximately 200 employees. We provided grief counseling for employees in the Manhattan area and other areas throughout the Nation. Enhanced physical security for all IRS buildings, which was put in place immediately following September 11, will continue to be a high priority, as will proper screening of all new employees. Following the September 11 attacks, we collaborated with other federal agencies to provide non-reimbursable related emergency assistance to taxpayers in the Manhattan area.

The anthrax attacks impacting U.S. Post Offices and some Federal offices presented us with yet another challenge, since we process millions of pieces of mail during the first five months of each year. To protect our employees, and ensure that we can continue to respond timely to taxpayers, we conducted a Campus Security Readiness Initiative to help prepare campuses to safeguard against potential biologic attacks through the mail. This preventative program was multi-organizational and included:

- Redesign and construction to isolate campus mail handling facilities
- Review and update of disaster recovery, business resumption and occupant emergency plans at every campus
- Distribution of gloves, coats, and masks to campus mail workers

We undertook a similar initiative to prevent and handle potential biological attacks at IRS field offices. As a result of these efforts, campuses reported a significant increase in the number of incidents involving suspicious activities during the

filing season. However, the impact on tax processing operations was minimal, and we safely completed the tax filing season.

The IRS has long maintained intense focus on protecting taxpayer information. We continue to take short and long-term actions to further protect our personnel, facilities, and information. However, we need more safeguards to fully address the threats inherent of increased terrorist activities within the U.S. We take a comprehensive approach to protecting our information systems, beginning with the physical security of key processing locations, careful screening of personnel, security within the information systems themselves, and internal reviews to ensure employees follow policies.

To improve the security of IRS assets, we have:

- Improved adequate backup capability to support core tax processing recovery at IRS computing centers. The systems affected represent the entire customer database for all operating units. Our efforts are focused on real-time backup of these computer center systems to provide improved disaster recovery capability. We received funding to support this effort as part of the special Congressional appropriation, and the project is well underway. Procurements are scheduled for completion by June 30, 2002, with full implementation of the backup capability expected by December 31, 2002.
- Increased guard services at IRS mission critical infrastructure facilities. However, to adequately protect the facilities from increased threats and risks, we may need additional guard forces. An independent Guard Force Analysis, completed in 2001, detailed additional requirements to adequately protect critical facilities. We are re-validating this study to consider the changes in the threat environment since September 11. If necessary, we will reprogram to cover unanticipated fiscal year 2003 needs.
- Taken or will soon take actions to further fortify physical security in Computing Centers, including installing stronger entrance protection, surveillance cameras or alarms, etc. The National Critical Infrastructure Assurance Office designated three IRS facilities as Critical Assets, necessitating these upgrades. These upgrades will provide safeguards that are commensurate with the increased threat. We will fortify high-risk facilities to better withstand the most common type of terrorist attacks. This fortification includes strengthening windows to either withstand blasts or minimize injuries as a result of blasts.
- Prioritized our major business processes. We are identifying the vital records associated with critical processes and supporting information systems to ensure we have adequate redundancy and backups in place to continue our operations, including those relying on paper records.
- Focused efforts on improving our response and recovery processes by implementing situation awareness and management centers in four IRS locations. These centers contain information, communications, and other decision support for emergency situations.
- Implemented a computer security incident response capability that works with the IRS's information technology owners to monitor IRS network and Internet activity 24 hours a day, seven days a week.
- Centralized the reporting of computer security and physical security incidents to a single location. Events that threaten the safety of personnel or interrupt business operations are reported through this center and are immediately sent to an executive who evaluates the threat and determines appropriate actions.
- Implemented a layered defense to protect our critical assets. That is, we use various methods at different entry points to prevent attacks to our systems or facilities.
- Actively sought information regarding notices of hardware or software vulnerabilities so we can take steps to implement appropriate safeguards. We have an ongoing security awareness program to remind our personnel of their security responsibilities. We also significantly improved our virus protection program over the last year and now manage it centrally, which allows us to provide the latest virus protection updates to computers connected to our network. We continue to aggressively identify and evaluate threats and vulnerabilities related to our personnel, facilities, and systems to prevent or mitigate any damage.

#### HOMELAND SECURITY

*Question.* Your budget request includes \$10 million to annualize the costs for enhanced security arrangements associated with the Homeland Security Supplemental.

What role does the IRS play in Homeland Security?

*Answer.* The IRS's role is:

- Maintaining taxpayers' confidence in government agencies and continuing to collect and account for internal revenue critical to running our government. We have several infrastructure protection assets that are essential to the economic security of the United States.
  - Assisting other federal law enforcement agencies in investigating terrorists' financial activities and providing computer forensic support when requested.
  - Supporting Homeland Security through the IRS Criminal Investigation (CI) division's participation in the Federal Bureau of Investigation's Joint Terrorism Task Forces (JTTF) and "Operation Green Quest," the Department of Treasury's initiative to identify, disrupt, and dismantle terrorism fundraising activities.
  - Providing IRS special agents to support security efforts at important national events such as the UN 50 Celebration and the Olympic Games.
- In the aftermath of the September 11 attacks, CI:
- Assisted the FBI in the investigation of the attacks.
  - Detailed agents to the FBI's Financial Review Group and Strategic Information Center (SIOC) to help evaluate financial information.
  - Provided agents to assist in recovery efforts at the World Trade Center and the Staten Island landfill where debris was examined for evidence and to identify victims of the attack.
  - Helped the Office of Foreign Asset Control develop evidence to block the bank accounts of Hawalas and other organizations used by terrorists or suspected of engaging in terrorist fund raising activities.
  - Helped protect employees and enhance security at Federal buildings and IRS Service and Computing Centers.
  - Detailed 67 special agents to support the Federal Air Marshal Program.
  - Assigned 205 special agents to enhance security at the Winter Olympic Games.
  - In May 2001, CI purchased an exclusive license to update and maintain the source code for the ILook Investigator computer forensic software. ILook is a suite of software tools that allows a computer forensic examiner to analyze and extract files from images of seized computer hard disks and other storage media. It is the most technically advanced computer forensic analytic tool available today. Under the terms of the license, CI is obligated to make ILook available free of charge to other law enforcement agencies. (The license also prohibits any sale or other commercial distribution of ILook outside the law enforcement community.) In the last year, the use of ILook within the law enforcement community has increased dramatically. CI has approximately 5,000 licensees in over thirty countries. ILook is in use in all of the Treasury law enforcement bureaus and has been adopted as the primary computer tool by the DOD Computer Forensic Laboratory, NASA, and the FBI. Since September 11th, CI has established a strong working relationship with the intelligence community, which is using ILook to analyze computers seized in military and intelligence agency operations overseas. Most of the computers seized in recent terrorist-related investigations have been analyzed using ILook. ILook has been designed to allow the insertion of foreign language character sets so that documents in Arabic, Farsi, several dialects of Chinese, and many other languages can be searched and printed.

*Question.* What is your relationship, and the IRS relationship, with Governor Ridge and the Office of Homeland Security?

*Answer.* We do not have a direct relationship with the Office of Homeland Security (OHS). We support the OHS at the invitation of the Department of the Treasury. For example:

- We worked with Treasury to respond to the Homeland Security Advisory System (HSAS). We drafted protective measures associated with the proposed HSAS levels that integrate our physical security, incident management, or law enforcement personnel's response to terrorist threats. We are awaiting the final HSAS guidance before implementation.
- We also worked with the OHS during a recent two-day conference, hosted by the RAND Corporation, for law enforcement, first responders, and health care professionals. During this conference, we provided comments and recommendations about law enforcement vulnerabilities within the area of economic crime.
- On April 11, 2002, we provided to OHS an overview of CI's criminal jurisdiction, investigative expertise, and a summary of efforts to combat terrorism.

#### FUNDING FOR CASH TRANSACTION REPORTS

*Question.* Since September 11, tracking large cash transactions has become increasingly important to our national security. It is my understanding that the Currency Transaction Reports (CTRs) that document the transaction of large amounts

of money by banks and other financial institutions are processed through the IRS Computing Center in Detroit. I am aware that there is concern within the IRS that there may not be sufficient funding in this fiscal year to continue the CTR processing at its current level of activity. Further, I am told that the fiscal year 2003 budget request may also not be adequate to process these documents. I consider this function of the IRS a very high priority and do not want to see any reduction in the processing of the CTRs.

Please explain in detail whether there is adequate funding in this fiscal year to continue the processing of CTRs through the end of September without any reduction in the effort, and provide the Subcommittee with an estimate of the shortfall, if you predict there will be one.

Answer. We do not expect a shortfall in funding to process CTRs in this fiscal year.

*Question.* Also, please address whether the fiscal year 2003 budget request for this processing function will be adequate.

Answer. At this time, we believe the fiscal year 2003 budget request will be adequate to maintain the basic level of service for this processing function.

#### CONTRACT WITH UND

*Question.* I am interested in knowing the status of the IRS workforce training initiative that will be implemented, in part, at the University of North Dakota (UND).

Can you provide to the Subcommittee a description of the tasks to be performed, the timetable, the status of the contract with the University, the proposed overall budget and the portion of the budget that would be dedicated to the work conducted at UND?

Answer. The task directs the contractor to develop a blended learning solution to train employees in our customer service telephone operations who respond to inquiries about account adjustments from individuals and businesses. The learning solution will combine web-based, self-directed e-learning, classroom training and related instructional forms and resources as appropriate. We plan to award the contract by July 1, 2002, and to complete the tasks by the end of the calendar year. The overall budget for this effort is \$1.2 million; we expect the University of North Dakota to receive at least \$500,000 of the contract.

*Question.* It is my understanding that the workforce training model being developed calls for the conversion of traditional instructional methods to an e-learning delivery platform. Do you feel that this is a model that could be replicated in other federal agencies?

Answer. The contract is part of the IRS Enterprise E-Learning Strategy. The strategy supports the government-wide E-Government Strategy, announced by the Office of Management and Budget in February 2002. OMB's "E-Gov" initiative involves twenty-four high-payoff initiatives to improve the efficiency and effectiveness of the federal government through the use of improved technology and includes "E-training" as part of the strategy in support of the President's Human Capital initiative.

The IRS, in coordination with the Department of the Treasury, is a member of the Training Technology Implementation Group at OPM. The IRS is partnering with Government On-Line (GO) Learn to meet our Learning Management System (LMS) and e-learning content development needs. We will be using the Specialized Technical and Technology Users Services (STATUS) contract at the Department of Transportation. IRS is also partnering with the Advanced Distributed Learning Co-op Lab (ADL CoLab) to establish standards and specifications for e-learning solutions that could be used governmentwide.

Strategic Human Resource (SHR) developed criteria that considers the number of employees who would use the training, potential travel savings, portability and reusability across business units, and increases in productivity (reduced time spent in training to achieve the same level of competency) to maximize return on the E-Learning investment.

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#### QUESTIONS SUBMITTED BY SENATOR JACK REED

*Question.* Mr. Commissioner, many Federal agencies have been encouraged to work in an environment with less resources and less staffing, but still accomplish the same amount or even more work than in the past. It has been noted before that IRS staff has decreased significantly in recent years, while the number of tax returns has increased. How does the Service continue to expect to reconcile those two facts, while still maintaining its goal of higher customer satisfaction? Do you feel

that the Service has an appropriate amount of staffing and other resources to continue to work to achieve this goal?

Answer. There will always be far more potential work than can be handled regardless of how many resources are applied. But, we have re-engineered our business practices and used technology to perform our mission more efficiently in line with the best private and public sector practices. Reengineering has also helped us to leverage resources against workload so we can achieve higher levels of service without significantly increasing staffing.

Some of our other cost-saving initiatives include:

- Reducing the number of Submission Processing centers as the number of paper returns decrease and e-file returns increase.
- Expanding our use of automated telephone service to address the downstream impact of increased filings (increase in telephone calls and correspondence inquiries).
- Developing Internet applications that allow taxpayers to secure information online. This effort will allow more customers to receive service on basic inquiries without affecting our resources. For example, the recently released Internet Refund Fact of Filing (IRFOF) program allows taxpayers to determine the status of their refund on-line. Resources that we would have used to respond to this inquiry can now be reprogrammed to work on other high priority programs.
- Decreasing the number of tax returns prepared in our Taxpayer Assistance Centers. In fiscal year 2002, we had a 10 percent decline in demand for return preparation services. Our expanded partnerships with volunteers in our Volunteer Income Tax Assistance (VITA), Tax Counseling for the Elderly (TCE), and English as a Second Language (ESL) programs have allowed us to reprogram some of the resources we previously used to prepare returns.

In addition, we have developed partnerships with other external stakeholders who have communication channels in market segments with the highest compliance risks. This effort allows us to reach a much larger audience and deliver educational and informational messages to the market segment while having a minimal impact on our resources. For example, we recently provided briefings to representatives of the AMA, ADA and Construction Industry on Tax Schemes and Scams. By partnering with these representatives we are able to reach larger numbers of taxpayers through their newsletters.

*Question.* Mr. Commissioner, there has also been some attention recently to efforts by some people to encourage individuals and small businesses not to pay taxes, based on the erroneous assumption that the Constitution does not mandate it. Do you think those efforts are catching on at all? What is the IRS doing to counteract these efforts? What other actions in the realm of enforcement does the IRS plan to emphasize in the coming year?

Answer. The number of taxpayers using the classic Constitutional arguments of the 1st, 4th, 5th, 13th, 14th, and 16th Amendments have remained relatively stable. Newer arguments against taxation, such as the Internal Revenue Code (IRC) Section 861 argument that Americans are exempt from taxation on income earned within the United States, caught on during the late 1990's and we received substantial filings of Zero Tax cases.

In fiscal year 2000, we created the Frivolous Return Unit (FRU) at the Ogden IRS campus to focus specifically on combating false and frivolous claims. The Frivolous Return Program (FRP) centralized the processing of these claims and has protected \$3 billion of revenue for fiscal year 2001. It also developed nationwide employee training keyed to this problem.

Other IRS activities to counteract these abuses include:

- Identifying the promoters and the schemes through summonses of records, audits of promoters, disclosure regulations, and active analysis of leads from all sources
- Identifying participating taxpayers by auditing promoter records, screening tax returns, and matching of documents
- Establishing an Abusive Tax Schemes Lead Development Center (LDC) within the Small Business/Self-Employed Division to increase our vigilance on web-promoted tax schemes. A key role of the LDC is to conduct Internet research to identify and develop potential Abusive Tax Scheme "leads." The LDC began operating in early April 2002. We anticipate the LDC will provide significant new leads on abusive promoter cases and greatly enhance those leads identified from traditional sources.
- Providing specific warnings to the public and to potential promoters through issuance of official notices and disclosure regulations to the media, partnerships with practitioner and business groups, and letters to potentially affected taxpayers

- Linking our [www.irs.gov](http://www.irs.gov) web site to the Criminal Investigation “Tax Fraud Alerts” page on the Treasury web site to alert taxpayers and tax practitioners to tax scams and fraud schemes. This site contains in one location a wealth of information on these schemes, and case summaries of those convicted of committing the crimes.
- Taking enforcement action against promoters, including civil injunctions, civil penalties, and criminal investigations. Since last year, we have worked closely with our colleagues at the Justice Department to establish a parallel approach where we can seek civil injunctions while criminal actions are proceeding. This will be a major breakthrough as promoters often continue to operate while criminal investigations are taking place.
- Taking enforcement action against participating taxpayers, including audits, civil penalties, and criminal investigations.
- Taking action to measure the size of the problem and improve identification methods for the future.

*Question.* Mr. Commissioner, in my State of Rhode Island, we have had some very good feedback concerning the work of the Office of the Taxpayer Advocate. Are you satisfied with the work overall of the National Taxpayer Advocate? Do you see any room for improvement? Are their recommendations for legislative actions (such as for family status issues, joint and several liability, alternative minimum tax for individuals, etc.) outlined in their annual report being taken seriously by the IRS?

*Answer.* I found the National Taxpayer Advocate’s fiscal year 2001 Annual Report to the Congress to be a comprehensive and thoughtful document that accurately portrays the problems taxpayers face in trying to comply with a complex tax code and receive quality service from the IRS. Last year’s report identified tax code complexity as the top problem facing individual and business taxpayers. This year, the concept of tax complexity is incorporated into every aspect of the National Taxpayer Advocate’s report. Of the top 5 “Most Serious Problems Encountered by Taxpayers,” three dealt with EITC eligibility and multiple definitions of “qualifying child.” We are devoting a great deal of attention and resources to both the service and complexity problems identified by the National Taxpayer Advocate.

*Question.* Mr. Commissioner, about eighteen months ago you testified that you did not believe the IRS should get into the business of electronic tax preparation software, saying that this would erode the Voluntary Compliance system and would be a serious burden for IRS to assume. You testified that there was “no gray area” about that policy conclusion in your judgment. However, in a memorandum from the Office of Management and Budget in July 2001 to the heads of all executive agencies, they set forth their objective to have the federal government take on the function of providing “automated tax preparation” services over the Internet. Since the OMB proposal runs counter to the declared policy position taken by the IRS (through your earlier testimony), do you still hold the position you testified to in October 2000?

*Answer.* Yes. Although there has been much confusion, the Secretary of the Treasury and I have clarified the purpose of the EZ Tax Filing proposal (which is for private industry to offer free tax preparation and electronic filing options). We have stated publicly that the Department of the Treasury and the Internal Revenue Service have no intention of expanding their roles in the tax advisory or preparation business. As the Secretary of the Treasury stated in a January 30, 2002 press release, “The Department of the Treasury does not intend for the IRS to enter the software business but rather to work with established expertise in private industry.”

The Administration proposed in its fiscal year 2003 budget submission “an easy no cost option for taxpayers to file their tax returns on-line.” Through the EZ Tax Filing initiative, the IRS is committed to partnering with private industry representatives who have proven expertise in the tax software business. The objectives of this initiative are to:

- Assure access to a free and secure electronic preparation and filing option for additional taxpayers, building on the free electronic tax preparation and filing options available in the commercial market today
- Make tax return preparation and filing easier and reduce the burden on individual taxpayers
- Support the RRA98 goal of having 80 percent of Federal tax and information returns filed electronically by the year 2007
- Provide greater service and access to taxpayers
- Implement the proposal in the President’s fiscal year 2003 budget to encourage further growth in electronic filing by providing taxpayers the option to file their tax return on-line without charge.

We achieved a major milestone by receiving over 46 million electronically filed returns in 2002 with the assistance of the taxpayer professional community. However,



we know we need to do much more to encourage the remaining taxpayers to file their tax returns electronically.

*Question.* In declaring its objective to have the government begin offering “automated tax preparation” services to the public, the OMB has indicated that they wanted initially to cover all EZ tax returns the first year, and expand to take on the preparation of all income tax returns over a period of years going forward. What would be the total budgetary impact on the IRS of the OMB EZ Tax Filing proposal in its initial phase? What would be the ongoing budgetary costs in the out years as the program progresses and is expanded?

*Answer.* The initial phase of the EZ Tax Filing initiative involves establishing a consortium web page on the IRS’ web site (irs.gov) and Firstgov.gov that contains links to commercial web sites offering eligible taxpayers free electronic tax preparation and filing options. As a result, the budgetary impact of this initiative on the IRS for fiscal year 2003 will be minimal. If the consortium agreement between the IRS and industry remains consistent in future years, the budgetary impact for the IRS will remain low.

*Question.* What is the current status of the OMB proposal for the government to provide “automated tax preparation” services?

*Answer.* The Government and Industry recently completed a proposed agreement to offer a variety of free electronic tax preparation and filing options to a significant number of individual taxpayers. We will make these offerings available to taxpayers through a Government managed consortium web site located at irs.gov and Firstgov.gov. We anticipate that the web site will be available for Filing Season 2003.

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QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

BUSINESS SYSTEMS MODERNIZATION

*Question.* Will the IRS still need the entire \$450 million to fund business systems modernization for fiscal year 2003? If yes, what assurance can the IRS provide us that the \$450 million will be managed effectively?

*Answer.* Yes, we need the full \$450 million to continue the Modernization program and fund the necessary program management activities to improve business operations and improve delivery of services to taxpayers. \$450 million would enable us to provide a reasonably balanced program that builds out essential infrastructure, delivers taxpayer value, improves internal operations, and is within our ability to manage and implement.

Our oversight partners have noted steady progress in the overall management of the program. BSMO progress has been marked by significant improvements, adjustments, discipline, and our exceptionally open relationship with our oversight partners. In the 3 years since the program began, management processes have greatly matured and will continue to show progress as we gain more experience and continue to reexamine our commitments. We have addressed many of the recommendations made by GAO, such as prudently slowing some projects, and deferring new ones when management capacity is inadequate to proceed within acceptable risk.

We believe we have good governance—Control Boards, Core Business Systems Executive Steering Committees and Sub Executive Councils, Advisory Councils, the IRS Oversight Board- and a foundation in place to ensure a planned, repeatable modernization process. The established financial controls, the discipline of the Enterprise Life Cycle, a defined architecture, the required compliance architecture, security certifications, and the controls on when projects should advance within their life cycle are our tools for managing the Modernization program.

These controls and governance, and our own management judgment, ensure that we have adequate management capacity and an acceptable risk before starting future work. Valuable lessons have been learned as we have developed and implemented the modernization projects. Making adjustments to plans is an indication that the risks are being addressed and managed.

We are improving the quality and rigor of our management processes. We have established plans and schedules to implement fully Configuration Management, Risk Management, quality assurance, and cost and schedule estimating processes, as well as recommendations in human capital management and other areas. BSMO has launched a performance management program this past year to both track the ongoing level of performance during a project’s lifecycle (such as quality, timeliness, cost, and schedule compared to plans), and to look at value delivered after an application has been deployed and compare that to the business case. In addition to the dedicated staff assigned to these improvements, both the IRS and PRIME have ap-

pointed senior executives to coordinate within and across our respective organizations to ensure we give top priority to completing their implementation.

We firmly believe that we are making progress on all our commitments; are leveraging our precious resources; and are managing the considerable risk inherent in a program of the enormous size, complexity, and sensitivity as BSM. We have not, and will not hesitate to make changes when necessary. However, it takes time to establish and mature processes, procedures, and management controls. Sufficient funds are essential to maintaining the momentum and the continuity of the program so the projects can continue in an orderly manner. The extensive executive involvement and reviews, oversight, governance, and management controls and processes in place will ensure the proper use of the funds.

*Question.* How will the IRS assess accountability if it is not?

*Answer.* The BSM Program has been steadily working on managing program and projects based on best practices in cost and schedule planning, configuration management, risk management, management progress reporting and acquisition management. We will adjust our plans as we mature and learn from this large and complex business systems modernization program. However, we feel the established best practices, coupled with our strong governance process, and the rigorous and documented life cycle, will strike the proper balance between delivering business value, building critical infrastructure, and ensuring control and effectiveness.

*Question.* What is the PRIME's schedule for implementing mature processes and what is the IRS's plan for ensuring that this happens on schedule?

*Answer.* The PRIME already has mature processes in place.

The PRIME uses both the Software Engineering Institute's Software Acquisition Capability Maturity Model (SA-CMM) and the Software Engineering Capability Model (SW-CMM) to measure the maturity of its processes. The models provide a framework for measuring process maturity and providing a roadmap for improving how the PRIME conducts, develops and acquires software to modernize IRS business systems. The models include a series of key process areas that measure how a program is managed. They include defined practices applied to documentation, training, oversight, and evaluation throughout the life cycle of the project. The PRIME uses the SW-CMM as well as the SA-CMM to bring continuous improvement to how it develops, acquires, manages, delivers, and maintains software to improve IRS services to the taxpayer.

Within this environment, the PRIME manages the development and acquisition of software development services that fit into the Enterprise Architecture 2.0 blueprint for IRS modernization and follow the defined series of development steps as defined by the Enterprise Life Cycle, a key CSC software development methodology modified for IRS requirements. PRIME management applies rigorous Process Management, Configuration Control, and Change Control to software as it proceeds throughout the Enterprise Life Cycle.

In 1999, the CSC Civil Group became the first organization in the world to acquire SA CMM Level 2. In 2000, the CSC Civil Group was rated again at level 2. The PRIME participated and was singled out as being well on the way to a higher maturity level. In April 2002, the PRIME conducted a self-assessment and developed a Process Improvement Plan based on identified weaknesses. The PRIME is aggressively working to correct weaknesses. This self-assessment is for a Software Capability Evaluation in August. If successful in August, the PRIME will become the first organization in the world to acquire SA CMM Level 3. In 2001, the CSC Civil Group attained an SW-CMM level 4 rating, a significant accomplishment considering the size of the organization evaluated and the inherent difficulty in achieving that rating.

The IRS has engaged the Software Engineering Institute (SEI) to lead a formal evaluation (Software Capability Evaluation or SCE) using the SA-CMM in August of this year to reassess. The formally chartered BSMO Process Improvement Management Steering Group (MSG) chaired by senior BSMO executives oversees PRIME's process assessment and improvement initiatives on a regular basis.

*Question.* Until this is done, what steps is the IRS taking to mitigate the risk associated with the PRIME not having the processes in place?

*Answer.* Because the PRIME already possesses mature processes in both software engineering and software acquisition, no specific risk mitigation actions are necessary. However, the PRIME's effective implementation and improvement of these processes and good acquisition oversight is a key tenet of IRS's management of the PRIME. Toward that end, the IRS is on a path to improve its acquisition management capabilities.

The IRS is working to achieve a Software Acquisition Capability Maturity Model (SA-CMM) rating. IRS Business Systems Modernization's immediate goal is SA CMM Level 2. In addition, the IRS has institutionalized a number of very dis-

ciplined management processes applying SA-CMM principles to how we acquire the services of the PRIME, and subsequently how we manage ongoing activities during the life cycle of developing a new modernized capability for the IRS.

The IRS uses a series of oversight bodies, including the Core Business Systems Executive and Sub-Executive Steering Committees, the Business Systems Modernization Configuration Control Board, the Business Systems Modernization Project Control Board and the BSMO Process Improvement Management Steering Group (MSG) to ensure we monitor and track the status of modernization initiatives and process improvement plans.

And finally, as a result of a recent GAO report addressing IRS management weaknesses, the IRS has developed and is implementing a comprehensive action plan to address every weakness the GAO identified.

If the August SCE identifies remaining weaknesses, we will require the PRIME to update its Process Improvement Plan to address them. We understand process improvement is a long term and ongoing task.

*Question.* How many Tax Resolution Representatives (TRR) have you presently trained and deployed in the field offices?

Answer. 1,409

*Question.* What assurance does the IRS have that trained TRRs will be available to assist taxpayers with innocent spouse claims in all field locations?

Answer. Based on projections from the Innocent Spouse Project Office sufficient work does not exist to warrant training the number of employees we originally contemplated for processing innocent spouse claims. Field Assistance will use TRRs already trained to work cases they receive. In the future, TRRs will encounter the Innocent Spouse Issue as they expand their duties to conduct office examinations. We will add a lesson on Innocent Spouse issues to TRR training. TRRs can also use a software application to perform accurate determinations on these claims.

*Question.* What were the IRS's actual audit rates in fiscal year 2001 for low-income, middle-income, and high-income non-business, self-employed individual taxpayers?

Answer. The fiscal year 2001 audit rates of self-employed individual taxpayers for examination and other compliance contacts (correspondence examination, in-person examination, and automated underreporter) was: 1.05 percent for income less than \$25,000; 1.77 percent for income from \$25,000-\$100,000; and 2.78 percent for income \$100,000 and over. The overall rate was 1.83 percent.

*Question.* What are the IRS's expected audit rates for fiscal year 2002 for low-income, middle-income, and high-income non-business, self-employed individual taxpayers?

Answer. The fiscal year 2002 expected audit rate of self-employed individual taxpayers for examination and other compliance contacts (correspondence examination, in-person examination, and automated underreporter) is: 1.28 percent for income less than \$25,000; 2.47 percent for income from \$25,000-\$100,000; and 4.02 percent for income \$100,000 and over. The overall rate is 2.54 percent.

*Question.* How does the IRS measure the effectiveness of offers as a collection tool?

Answer. Our critical performance measure is disposition of cases. Through April 2002, we disposed of 74,343 cases. This amount includes:

- Accepted offers of 17,498;
- Rejected offers of 8,685;
- Returned offers of 26,160;
- Unprocessable offers of 13,992, and;
- Withdrawn and terminated offers of 8,008.

The fiscal year 2002 goal for Offer in Compromise (OIC) dispositions is 142,500 cases.

Two other effectiveness measures we use for OIC are the percentage of cases closed within 6 months and the quality of the cases, based on the following criteria:

- Clarity of the taxpayer action
- Timeliness of case action
- Completion of financial analysis
- Determination of an acceptable offer
- Use of appropriate negotiation skills
- Observation of taxpayer rights

Through April 2002, 34 percent of the cases we handled in OIC were closed within 6 months. The fiscal year 2002 goal for timely processing is 67 percent. For the same period, the quality of the field OIC cases, as reviewed by our Collection Quality Measurement System (CQMS), was 79.8 on a scale of 100. We have not set a fiscal year 2002 goal for OIC case quality.

*Question.* What was the total amount of revenue collected through OIC in fiscal year 2001?

*Answer.* For fiscal year 2001 we accepted OICs in the amount of \$341 million. Payment terms can extend past the remaining life of the 10-year statutory period for collection. Some offers have collateral agreements that may require additional payments at an indefinite time and for an amount not yet determined (for example, the taxpayer will pay a percentage of future income over a specified dollar amount for the next 3 years). Our manual tracking reports show 95 percent of taxpayers who submit OICs comply with their payment terms. Therefore, of the \$341 million offered, we expect to collect \$324 million.

*Question.* What were the total costs of the OIC program in fiscal year 2001, including staff hours spent by counsel, independent reviewers, managers and taxpayer advocate?

*Answer.* In fiscal year 2001 we applied 1,138 Field FTEs plus 22 FTEs for Independent Reviewers to the OIC program. Based on the average salary and benefit costs associated with OIC in the field and in the centralized sites, this translates into a cost of about \$83.5 million. Staff hours for Counsel and Taxpayer Advocate are not recorded specifically for the OIC program and, therefore, are not included in the \$83.5 million. Other costs we cannot quantify separately for OIC include form production, mailing, computer system maintenance, and software support.

*Question.* How does IRS monitor taxpayer compliance with the terms of accepted offers?

*Answer.* We enter follow-up dates for payments into our Automated Offer in Compromise system. Employees monitor this system to ensure taxpayers pay on time. If payments are not submitted, we contact the taxpayer. If the taxpayer fails to bring the payments up to date, the OIC is in default.

We also monitor for timely filing of returns through a system that generates transcripts of account history. Again, if the taxpayer does not file a return on time, we contact him or her. If the taxpayer still does not file the return, the OIC is in default.

These are both labor-intensive operations. We are enhancing our automated systems to reduce the administrative burden of these compliance checks.

*Question.* How does the IRS monitor whether the quality of offer decisions is being adversely affected by its efforts to speed up the OIC processing?

*Answer.* The IRS is developing a complete suite of balanced measures (business results, customer satisfaction, and employee satisfaction) for the OIC program. To ensure that we fully implement Balanced Measures for the OIC process, we monitor the quality of OIC field casework through the Collection Quality Measurement System (CQMS). We are also expanding this quality measurement to include the cases handled by the Centralized OIC sites. We also plan to study the effectiveness of process changes and associated cost benefit/risk of future changes made to the OIC process.

*Question.* What steps, if any, is the IRS taking to reach delinquent taxpayers sooner so that taxpayers can resolve their tax debts before an offer becomes necessary and so that the IRS can improve its ability to collect past due taxes?

*Answer.* We are using education programs to send key messages to taxpayers about collection alternatives, such as the installment agreement program. Through our expanded outreach efforts we have set up various partnership channels to assist taxpayers in timely complying with the tax laws. To better address those taxpayers who are likely to become delinquent, we have conducted research to profile various balance due and nonfiler market segments. This research, which is ongoing, provides an opportunity for us to determine the key demographic and compliance characteristics of these taxpayers and to facilitate tailored outreach methods and messages.

In 2001 we issued a CD-ROM advising taxpayers of their rights and alternatives, including collection alternatives and alternative dispute resolution vehicles. In addition, we are redesigning our SB/SE website to provide information on collection alternatives. We are also developing new messages to emphasize the broad range of Collection options taxpayers should consider before contemplating an Offer in Compromise.

#### CONCLUSION OF HEARINGS

Senator DORGAN. This subcommittee is recessed.

[Whereupon, at 2:45 p.m., Wednesday May 15, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

## LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

	Page
Bond, Senator Christopher S., U.S. Senator from Missouri, question submitted by .....	94
Bonner, Robert, Commissioner, U.S. Customs Service, Department of the Treasury .....	193
Opening remarks .....	197
Prepared statement .....	200
Buckles, Bradley A, Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury .....	126
Prepared statement .....	127
Questions submitted to.....	177, 187
Campbell, Senator Ben Nighthorse, U.S. Senator from Colorado:	
Prepared statements .....	29, 56, 98, 241, 298
Questions submitted by .....	42, 93, 172, 176, 180, 183, 186, 233, 283, 333
Statements of.....	56, 98, 240, 297
Daniels, Mitchell E., Jr., Director, Office of Management and Budget, Executive Office of the President .....	53
Opening statement .....	56
Prepared statement .....	57
DeWine, Senator Mike, U.S. Senator from Ohio:	
Prepared statement .....	242
Questions submitted by .....	291
Dorgan, Senator Byron L., U.S. Senator from North Dakota:	
Prepared statements .....	3, 54, 97, 239, 294
Questions submitted by .....	30, 74, 169, 173, 177, 181, 184, 226, 275, 323
Gurulé, James, Under Secretary for Enforcement, Office of Enforcement, Department of the Treasury .....	95, 193
Opening remarks.....	99, 195
Prepared statement .....	101
Questions submitted to .....	169
Hackenberry, Paul, Acting Director, Federal Law Enforcement Training Center, Department of the Treasury .....	152
Prepared statement .....	154
Questions submitted to .....	184
Institute of Makers of Explosives, prepared statement .....	188
Kingman, Edward, Assistant Secretary for Management and Chief Financial Officer, Office of the Secretary, Department of the Treasury .....	1
Landrieu, Senator Mary L., U.S. Senator from Louisiana, questions submitted by .....	89
Marx, Michele C., Director, Financial Management, Office of National Drug Control Policy, Executive Office of the President .....	237
O'Neill, Paul H., Secretary, Office of the Secretary, Department of the Treasury .....	1
Prepared statement .....	7
Statement of .....	4

	Page
Reed, Senator Jack, U.S. Senator from Rhode Island:	
Prepared statement .....	4
Questions submitted by .....	39, 92, 187, 279, 330
Statement of .....	4
Rossotti, Charles O., Commissioner, Internal Revenue Service, Department of the Treasury .....	293
Prepared statement .....	308
Statement of .....	295
Sloan, James F., Director, Financial Crimes Enforcement Network, Depart- ment of the Treasury .....	143
Prepared statement .....	145
Questions submitted to .....	181
Stafford, Brian L, Director, U.S. Secret Service, Department of the Treasury ..	112
Prepared statement .....	114
Questions submitted to .....	173
Stevens, Senator Ted, U.S. Senator from Alaska, question submitted by .....	94
Walters, John P., Director, Office of National Drug Control Policy, Executive Office of the President .....	237
Prepared statement .....	247
Statement of .....	243

# SUBJECT INDEX

## DEPARTMENT OF THE TREASURY

### BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

	Page
ATF:	
Accomplishments, fiscal year 2001 .....	130
Terrorism case examples .....	129
Budget request, fiscal year 2003.....	127, 130
Bureau-wide initiatives .....	138
Collect the revenue due .....	136
Critical infrastructure projects .....	140
Integrated violence reduction strategy (IVRS)/project safe neighborhoods .....	131
President's management agenda .....	141
Protect the public .....	137
Terrorism and homeland security .....	126

### FEDERAL LAW ENFORCEMENT TRAINING CENTER

Additional committee questions .....	169
Area site progress, Washington, D.C.....	152, 157
Border agency consolidation .....	187
Budget resources are inadequate for responsibilities .....	189
Business strategy adjustment .....	163, 164, 168, 170, 174
Cheltenham facility .....	187
Cooperation with other Federal agencies .....	167
Electronic crimes task force .....	174
Explosives permits .....	159
Facilities:	
Construction master plan .....	186
Master plan study .....	154
Master plan/five year construction plan .....	158
Federal:	
Agency coordination, need for .....	191
Air marshal training .....	165
Financial war on terrorism .....	169
Fiscal year 2002 achievements .....	156
Fiscal year 2003:	
And the USA PATRIOT Act .....	166
Budget .....	184
Request .....	152, 155
G.R.E.A.T. grant program .....	178
Gang resistance education and training program .....	163
Government Performance and Results Act (GPRA) .....	155
Gun show sales, background checks for .....	160
Increase in protective details .....	162
Interest of the IME .....	189
Joint border agency .....	171
Maintenance and renovation request .....	159
National:	
Instant criminal background check .....	161
Special security events .....	175, 178
Office of Homeland Security.....	164, 171, 179, 184
Overtime .....	162
Overview of operations .....	156

	Page
Protection of the U.S. currency .....	174
Relocation, New York field office .....	163, 175
Research .....	191
Rulemaking concerns—closing the import marking loophole .....	190
Rural law enforcement project .....	187
Shortfalls to the budget .....	177
Staffing .....	179
Strategic goals .....	190
Supplemental funding .....	178
Terrorist funding .....	183
Training capacity for air marshals .....	166
Transportation:	
Screener training .....	166
Security:	
Agency .....	186
Training .....	153, 158
Treasury counterterrorism fund .....	170
Workforce retention:	
And workload balancing .....	162
Annualization of new hires .....	173
Workload:	
Growth .....	153
Increase .....	152

#### FINANCIAL CRIMES ENFORCEMENT NETWORK

Accomplishments, fiscal year 2001 .....	148
Bank Secrecy Act, administering the .....	149
Budget request, fiscal year 2003 .....	147
Counterterrorism investigations .....	143
Financial crime trends and patterns, identifying .....	149
FINCEN'S:	
Regulatory mission .....	144
Top priority—supporting counter-terrorism investigations .....	146
Fostering international cooperation .....	150
Management support, strengthening .....	150
Money laundering, cooperative efforts to deter .....	147
Supporting the financial aspects of investigations .....	148
Technology, use of information .....	144
USA PATRIOT Act .....	144
Of 2001 .....	146

#### INTERNAL REVENUE SERVICE

Additional committee questions .....	307
Budget request, fiscal year 2003 .....	296
Business:	
Strategy adjustment .....	323
Systems modernization.....	325, 333
And other information technology projects .....	318
Challenges remain to quality service .....	314
Contract with UND .....	330
Contracting out.....	302, 303
Earned income tax credit initiatives .....	317
EITC recipients, aggressive audits of .....	323
Federal pay raise .....	298
Fiscal year 2003 resource request .....	314
Funding for cash transaction reports .....	329
Highest priority resource needs .....	315
Homeland security .....	328
Impact of September 11 on the IRS .....	327
IRS:	
Public rating of .....	296
Walk-in sites, bi-monthly audits of .....	323
Legislative proposals and proposed adjustments (no net increase in IRS programs) .....	320
Maintain current operations .....	317
Modernization and security .....	297



	Page
Offers-in-compromise .....	304
Operations .....	315
Post 9/11 situation .....	301
Productivity through a quality work environment and modernization .....	312
Resources re-deployed through increased efficiency and productivity .....	316
Service improvements made .....	309
Stemming the decline in compliance .....	311
Stewardship & resources .....	313
Tax:	
Resolution issues .....	305
Shelters, abusive .....	299
Taxpayer assistance:	
Quality .....	307
Walk in .....	306
Transfer pricing .....	300

## OFFICE OF ENFORCEMENT

Border security .....	101
Budget request, fiscal year 2003 .....	99
Combating money laundering .....	107
Countering narcotics .....	108
Disrupting and dismantling terrorist financing .....	102
Enforcement organization .....	110
Operation Green Quest .....	100
President's management agenda .....	109
Preventing terrorism and reducing violent crime .....	105
Reducing firearms violence .....	108
Strategic goals and performance measures .....	110
Tariff and trade laws, enforcing .....	109
2002 Winter Olympics .....	100

## OFFICE OF THE SECRETARY

Abusive tax practices .....	19, 24
Additional:	
Committee questions .....	30
Funding requirements for FLETC .....	26
Adequacy of ATF budget .....	23
ATF databases for firearms tracing, use of .....	40, 22
Automated commercial environment .....	41, 50
Business strategy adjustment .....	30, 42
Cobra user fee:	
Increase proposal .....	52
Proposal .....	30
Counterterrorism fund .....	31
Use of the .....	51
Cuban travel .....	15
Customs Service spending plan .....	51
Disclosure of enforcement actions .....	16
Earned income tax credit program .....	36
Elimination of corrupt gun dealers .....	41
Federal Law Enforcement Training Center requirements .....	34
Gang resistance education and training (G.R.E.A.T.) .....	50
Gun shows .....	22, 39
Health of the American economy .....	27
Information systems security .....	37
IRS:	
Customer service, compliance and workload initiative .....	49
Resource requirements .....	49
Joint border agency .....	17, 31
Law enforcement resource requirements .....	32
Legislative proposal on retirement and health costs .....	13
Modernization and improvement of IRS systems .....	42
National instant criminal background check system (NICS) .....	21
NTIA narrowband mandate .....	32
OECD and tax havens .....	25
Office of Foreign Assets Control .....	43

	Page
Policy for importation of firearms .....	23, 40
Progress of ACE modernization system .....	23
Reaction to Immigration and Naturalization Service publicity .....	14
Secret Service workload balancing .....	33
Sporting gun firearms for importation, exclusion of .....	22
Tax shelters .....	37
Tax-exempt bonds financing of recycling facilities .....	37
Trade deficit .....	29
Use of technology at the borders and ports of entry .....	35
Visiting Customs ports of entry .....	35
Youth crime gun interdiction initiative program .....	50

#### U.S. CUSTOMS SERVICE

ACE funding .....	231
Additional committee questions .....	226
Anti-terrorist money laundering .....	208
Arming National Guard detailees .....	223
Automated commercial environment (ACE) .....	210
Border security .....	202
Business strategy adjustment and pay parity .....	227
COBRA user fee shortfall .....	231
Container security initiative (CSI) .....	228
Customs:	
Automation modernization .....	221
Tax increase .....	226
Trade partnership against terrorism .....	221
Forced child labor .....	214, 232
Jewelry marking .....	223
Joint border agency .....	227
Mexican long haul trucking .....	225
Monitoring of strategic exports .....	208
National Guard .....	230
Assistance to Customs .....	215
Other core mission responsibilities .....	211
Overtime cap for inspectors .....	231
Port security .....	229
Post-September 11 border crossing wait times .....	220
Proposed COBRA fee increase .....	217
Safeguarding the economy; improving the flow of trade .....	209
Sea container:	
Inspections .....	218
Security initiative .....	215
U.S. Customs' top priority: counter-terrorism .....	201
USA PATRIOT Act .....	228

#### U.S. SECRET SERVICE

Acquisition, construction, improvements, and related expenses (ACiRE) .....	115
Counterfeit United States currency .....	113
Cyber-crime .....	113
Fiscal year 2003 appropriation request .....	114
Forward edge program .....	113
Human resources and training .....	123
Investigative:	
Mission .....	112
Program .....	116
Missing and exploited children .....	113
Mission funding, Secret service .....	112
National special security events .....	112
Office of Protective Research .....	121
Protective program .....	115
Salaries and expenses (S&E) .....	114
Workload retention and workload balancing .....	114

#### EXECUTIVE OFFICE OF THE PRESIDENT

##### OFFICE OF MANAGEMENT AND BUDGET

Additional committee questions .....	74
--------------------------------------	----

	Page
Administration's pay policy .....	61
Agriculture and payment limits .....	87
Army Corps of Engineers .....	89
Border Security Agency .....	75
Capitol Hill, Ridge testifying on .....	83
Child care and adoption .....	90
Competitive sourcing .....	70
Consolidated Executive Office of the President appropriation .....	59
Corps of Engineers .....	86
Customs user fee .....	74
Defense .....	88
Electronic government (E-Gov) .....	59
EOP consolidation .....	65, 69, 72
Ergonomics .....	93
Rule .....	68
Federal:	
Accounting Standards Board .....	80
Employees Compensation Act (FECA) proposal .....	66
Retiree costs, full funding for .....	58
Forest Service emergency firefighting funds .....	63
General Flowery .....	84
Government downsizing .....	83
Government's human capital crisis .....	82
GREAT grant program .....	77
Homeland security .....	60
Funding .....	66
House budget resolution .....	68
Improving the current Federal budget .....	91
Low-income home energy assistance program (LIHEAP).....	67, 92
Measuring performance and delivering results .....	58
Office of:	
Financial Assets Control (OFAC) .....	77
Homeland Security.....	62, 75, 90
OMB:	
Budget .....	58
Representation account .....	78
Outsourcing Federal jobs .....	82
Pay parity .....	76
President's management agenda .....	81
Regulatory oversight .....	79
Renewables .....	89
Risk analysis .....	84
Shared responsibilities with Congress .....	83
Small business loans, scoring of .....	78
Transportation funding .....	87
Treasury counter terrorism fund .....	77
Two-front war against terrorism .....	57
U.S.:	
Corps of Engineers .....	71
Customs Service .....	69
Postal Service .....	65
Veterans .....	85
OFFICE OF NATIONAL DRUG CONTROL POLICY	
Additional committee questions .....	274
Anti-doping efforts .....	245
Counterdrug:	
Intelligence executive secretaries .....	245
Technology Assessment Center.....	243, 286
Drug:	
Free Communities Act .....	279
Problem in our Nation, assessing the extent of the .....	248
Trafficking:	
Areas, high intensity .....	268
In New England .....	279
Treatment .....	271, 278
Drug-free communities support program .....	245, 291

	Page
Federal drug control budget .....	246
Fiscal year 2003, national drug control budget, the consolidated .....	249
General questions .....	291
Government-wide drug control efforts .....	284
High intensity drug trafficking areas (HIDTA) .....	246, 288
Media campaign .....	259
Methamphetamine in New England .....	280
National:	
Alliance for Model State Drug Laws .....	246
Drug court initiative .....	245
Youth Anti-Drug Media Campaign.....	244, 272, 275, 281, 283
ONDCP's fiscal year 2003 budget request .....	252
Parent Corp .....	277
Performance measures development .....	246
Prescription drug abuse .....	270
President's national drug control strategy .....	247
Substance among youths in the juvenile justice system .....	282
United States Anti-Doping Agency .....	290