

COMMITTEE ON THE JUDICIARY
OVERSIGHT PLAN FOR THE 112TH CONGRESS

February 9, 2011

In accordance with Rule X of the House of Representatives, the Committee on the Judiciary is responsible for determining whether the laws and programs within its jurisdiction are implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated. Accordingly, in the 112th Congress the Committee will review all laws and programs within its jurisdiction to assess their application, administration, execution, and effectiveness. The Committee will also review the organization and operation of Federal agencies and entities within its jurisdiction for the administration and execution of laws and programs within its jurisdiction.

The Committee will review all agencies and programs within its jurisdiction to identify wasteful, inefficient, or duplicative programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also review the mission and operations of all agencies, including component organizations, within its jurisdiction. Through such oversight, the Committee seeks to determine how these agencies and entities can achieve more impactful and effective programs with an eye toward improving the efficiency and effectiveness of Federal programs and agencies. The Committee also seeks to eliminate fraud, abuse, and mismanagement. As a result of this oversight, the Committee anticipates streamlining and eliminating spending on agencies and programs within its jurisdiction, if appropriate.

This document outlines the current plans of the Committee on the Judiciary for oversight activities in the 112th Congress. The Committee's oversight and investigation activities will be coordinated between the Full Committee and the Subcommittees in order to facilitate comprehensive and strategic oversight of the programs and agencies within its jurisdiction. Oversight activities will include hearings, briefings, correspondence, reports, and public statements.

FULL COMMITTEE

- I. U.S. Department of Justice. In conjunction with the Subcommittees, the Committee will conduct oversight of the U.S. Department of Justice, including all Department components and agencies.
- II. Management Performance and Budget Oversight. The Committee will conduct oversight and identify U.S. Department of Justice grant programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also conduct oversight on all agencies and programs within its jurisdiction to uncover waste, fraud, or abuse and to identify programs that are inefficient, duplicative, or outdated, or that are more appropriately administered by State or local governments. In addition, the Committee will consider the extent to which federally funded or administrated agencies and activities can more efficiently handle certain tasks on a national level and whether they save, reduce, or render more effective state or local government expenditures or activities. In addition, the Committee will consider whether any federal programs within

its jurisdiction should be enhanced, concomitant with cuts to or the elimination of less effective programs.

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

- I. Trials of Suspected Terrorists. The Subcommittee will conduct oversight on matters related to the prosecution of suspected terrorists.
- II. U.S. Department of Justice. The Subcommittee will conduct oversight of the law enforcement agencies of the U.S. Department of Justice.
 - A. The Federal Bureau of Investigation (FBI). The Subcommittee will conduct oversight of the FBI. In addition to its traditional criminal investigatory jurisdiction, the Subcommittee will also conduct oversight of the FBI's counter-terrorism and counter-intelligence authorities.
 - B. Drug Enforcement Administration (DEA). The Subcommittee will review the operations of the DEA, including domestic and international drug enforcement, money laundering and narco-terrorism investigations.
 - C. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The Subcommittee will review the mission and operations of the ATF, including federal firearms enforcement, explosives investigations, and tobacco and alcohol trafficking operations.
 - D. U.S. Marshals Service (USMS). The Subcommittee will review the mission and operations of the USMS, including fugitive apprehensions, court and witness security, and its responsibilities under the Sex Offender Registration and Notification Act (SORNA).
- III. The Federal Bureau of Prisons (BOP). The Subcommittee will review the mission and operation of the federal prison system, including prisoner rehabilitation, reentry programs, and management of a growing offender population.
 - A. Federal Prison Industries. The Subcommittee will also conduct oversight of the Federal Prison Industries (FPI), a government corporation that employs offenders incarcerated in federal prisons and provides job training opportunities to prisoners by producing goods and services for federal agencies.
- IV. Office of the Federal Detention Trustee (OFDT). The Subcommittee will conduct oversight on the operations of OFDT.
- V. Office of Justice Programs (OJP). The Subcommittee will review the mission and operations of OJP and its component organizations and the administration of law

enforcement assistance grants in order to identify programs that should be streamlined or eliminated, and those that could be enhanced.

- VI. Office on Violence against Women (OVW). The Subcommittee will review the mission and operations of OVW and the administration of Violence against Women Act (VAWA) grants.
- VII. Community Oriented Policing Services Office (COPS). The Subcommittee will review the mission and operations of COPS and the administration of community policing grants.
- VIII. Executive Office of U.S. Attorneys (EOUSA). The Subcommittee will conduct oversight on the operations of EOUSA.
- IX. U.S. Department of Homeland Security (DHS). The Subcommittee will conduct oversight of DHS law enforcement components, including the U.S. Secret Service, U.S. Immigration and Customs Enforcement, the Bureau of Customs and Border Protection, the U.S. Coast Guard, and the Federal Air Marshals Service.
- X. U.S. Sentencing Commission. The Subcommittee will review the mission and operations of the U.S. Sentencing Commission with particular attention to the role of the Commission following the Supreme Court's decision in *U.S. v. Booker*, 543 U.S. 220 (2005) and its progeny. The Subcommittee will also examine the extent to which federal courts are imposing sentences that diverge from those recommended by the sentencing guidelines, particularly in cases involving drug smuggling and child pornography.
- XI. National Security. The Subcommittee will review the use of Foreign Intelligence Surveillance Act (FISA) and U.S. PATRIOT Act authorities by Intelligence Community (IC) agencies.
- XII. Domestic/Home-Grown Terrorism. The Subcommittee will review the threat to our national security from home-grown terrorists including the recruitment and training or self-radicalization of home-grown terrorists and the federal government's efforts to preempt, investigate, and prosecute domestic terrorism.
- XIII. Crimes against Children. The Subcommittee will review laws and law enforcement tools designed to combat child exploitation, including reauthorization of the Adam Walsh Act, and the proliferation of child pornography on the Internet.
- XIV. Criminal Street Gangs. The Subcommittee may consider enforcement and prevention issues concerning criminal street gangs, including border gangs, and the issue of how gang affiliations may be broken to reduce the number of both street and prison gangs.

- XV. Crime Prevention. The Subcommittee may examine the extent to which federal policies and funding support crime prevention strategies at the Federal, State, local, and tribal levels.
- XVI. Firearms Regulation. The Subcommittee may examine issues related to firearms regulation.
- XVII. International and Domestic Human Trafficking. The Subcommittee will review law enforcement and other activities within its jurisdiction that address international and domestic trafficking in human beings.

SUBCOMMITTEE ON THE CONSTITUTION

- I. Civil Rights Division, U.S. Department of Justice. The Subcommittee will examine the enforcement record and priorities of the Civil Rights Division. The Subcommittee will focus on the Division's activities in the areas of education, employment, credit, housing, public accommodations, law enforcement practices, voting rights, voting fraud, and federally funded and conducted programs.
- II. Community Relations Service. The Subcommittee will conduct oversight of the operations of the Community Relations Service.
- III. Congressional Authority. The Subcommittee plans to consider the boundaries of the Commerce Clause and other Congressional authorities.
- IV. Tort Reform. The Subcommittee will review the policies and practices of the civil justice system and the need for its reform.
- V. Office of Government Ethics. The Subcommittee will consider the priorities and operation of the Office of Government Ethics.
- VI. Property Rights. The Subcommittee will consider whether there is a need for greater protection of citizens' private property rights.
- VII. Religious Liberty. The Subcommittee will consider the federal role in the protection of Americans' rights under the free exercise and establishment clauses.
- VIII. Abortion. The Subcommittee will examine the constitutionality and enforcement of federal and state statutes that relate to the performance of abortions.
- IX. Marriage. The Subcommittee will examine constitutional issues concerning marriage.
- X. War on Terrorism. The Subcommittee will consider constitutional issues associated with the War on Terrorism.

- XI. Detention of Suspected Terrorists. The Subcommittee will conduct oversight on matters related to the long-term detention of suspected terrorists.
- XII. United States Commission on Civil Rights. The Subcommittee will review the work of the Commission, its management, and its implementation.

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

- I. Department of Homeland Security
 - A. The Administration Budget. The Subcommittee expects to conduct hearings on the Administration's budget request for fiscal year 2012 as it applies to immigration functions at U.S. Citizenship and Immigration Services ("CIS") and U.S. Immigration and Customs Enforcement ("ICE").
 - B. Administrative Discretion. The Subcommittee expects to examine the uses of deferred action and other exercises of administrative relief by ICE and CIS for aliens not lawfully present in the U.S.
 - C. Immigration and Customs Enforcement.
 - 1. Worksite Enforcement. The Subcommittee expects to conduct hearings on the effectiveness of ICE's worksite enforcement activities.
 - 2. Fugitive Operations. The Subcommittee expects to conduct hearings on the effectiveness of ICE's fugitive apprehensions program.
 - 3. Immigration Consequences of Drunk Driving. The Subcommittee expects to examine the immigration consequences of drunk driving convictions.
 - 4. Cooperation of State and Local Law Enforcement. The Subcommittee expects to conduct hearings on issues involved with the cooperation of state and local law enforcement agencies with ICE in the enforcement of federal immigration laws, including the operation of the 287(g) and Secure Communities programs.
 - 5. Enforcement Statistics. The Subcommittee expects to conduct hearings on the reliability of immigration removal statistics.
 - 6. Mexican Law Enforcement Issues. The Subcommittee expects to conduct hearings on the implications of Mexican law enforcement issues for asylum and refugee policy.
 - D. U.S. Citizenship and Immigration Services.

1. E-Verify. The Subcommittee expects to conduct hearings on CIS's operation of the E-Verify program to verify the employment authorization of newly-hired workers.
2. Immigration Benefit Fraud. The Subcommittee expects to conduct hearings on CIS' ability to uncover fraudulent applications and petitions for visas and other immigration benefits.
3. Backlog Reduction. The Subcommittee expects to conduct hearings on the ongoing efforts of CIS to reduce the processing backlog for immigration petitions and applications.

II. U.S. Department of Justice

- A. Immigration Judge Disciplinary Proceedings. The Subcommittee expects to conduct hearings on the impact of disciplinary investigations on the decision making of immigration judges.
- B. REAL ID ACT of 2005. The Subcommittee expects to hold hearings on the implementation by the federal judiciary of the provisions of the REAL ID Act of 2005 related to determinations by immigration judges.
- C. Enforcement of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). The Subcommittee expects to conduct hearings on the level of enforcement, by the Justice Department, of the provisions of IIRIRA pertaining to rules regarding in-state tuition charges by public universities, and communications between state and local agencies and the Department of Homeland Security regarding the immigration status of individuals.
- D. Adjudication of Immigration Cases. The Subcommittee will conduct oversight on the Department's work to adjudicate immigration cases, including a review of relevant budgetary requirements.

III. Impact of Immigration Policy on the American Economy and Society

- A. Effect on American Workers. The Subcommittee expects to conduct hearings on the impact of illegal and low-skilled immigration on American workers.
- B. Fiscal Effects of Immigration. The Subcommittee expects to conduct hearings on the fiscal effects of illegal and low-skilled immigration at the local and national levels.
- C. Effects on Social Security. The Subcommittee expects to hold hearings on the impact of illegal and low-skilled immigration on the Social Security system.

- D. Assimilation of Immigrants. The Subcommittee expects to conduct hearings on the process of assimilation of immigrants, including issues such as the availability of English language instruction, constitutional requirements for citizenship and dual nationality.
- IV. Terrorists and the Immigration System. The Subcommittee expects to conduct hearings on how to prevent the manipulation of our immigration system by terrorists.
- V. Criminal Law Issues
- A. Gang Violence. The Subcommittee expects to conduct hearings on gang violence in immigrant communities.
 - B. Detention of Foreign Nationals. The Subcommittee expects to conduct hearings on the detention of aliens in light of the Supreme Court's decisions in *Zadvydas v. Davis* and *Clark v. Martinez*.
 - C. Victims of Crime. The Subcommittee expects to conduct hearings on the effect of crime committed by immigrants.
 - D. Convention Against Torture. The Subcommittee expects to conduct hearings on the implications of the Convention Against Torture in immigration proceedings.
- VI. Illegal Immigration
- A. Illegal Immigration in Arizona. The Subcommittee expects to conduct hearings on the effects on Arizona residents of illegal immigration and the constitutional issues raised by Arizona's immigration enforcement law (SB 1070).
 - B. Local Enforcement of Immigration Law. The Subcommittee expects to conduct hearings on the effects on public safety of cooperation and non-cooperation by local enforcement in the enforcement of the immigration law.
 - C. Identity Fraud and Theft. The Subcommittee expects to conduct hearings on identity fraud and identity theft in the immigration context.
 - D. Temporary Protected Status. The Subcommittee expects to conduct hearings on the administration of the Temporary Protected Status ("TPS") program.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY, COMPETITION, AND THE INTERNET

- I. PRO-IP Act Implementation. The Subcommittee will conduct oversight on the implementation of the “Prioritizing Resources and Organization for Intellectual Property Act of 2008” (PRO-IP) which increases civil and criminal penalties for trademark and copyright infringement.
- II. Oversight of the U.S. Patent and Trademark Office. Oversight of the USPTO is a priority for the Committee. A hearing will focus on agency operations and needs to determine how Congress can help the USPTO address its annual workload and backlog of patent applications. The agency has undertaken a number of new projects and initiatives that must be evaluated as well. As part of the project, the Committee will work with the appropriators to ensure that the USPTO receives sufficient funding to perform its work.
- III. Oversight of the U.S. Copyright Office. The Copyright Office is experiencing increased delays in processing registrations with a corresponding backlog. This issue can be addressed through staff briefings or a possible hearing.
- IV. Merger Clearance. The Subcommittee may explore potential efficiency enhancing measures in the Federal Trade Commission-Department of Justice Hart-Scott-Rodino merger clearance process.
- V. Consummated Merger Review. It has become increasingly common for the antitrust enforcement agencies to investigate and challenge consummated mergers. The Subcommittee may examine the reasons for the increase in challenges, and whether current law needs to be changed to give the agencies the flexibility they need to investigate potential anticompetitive behavior while providing appropriate certainty to the business community.
- VI. Procedural Divergence in U.S. Merger Enforcement. Under current law, the Department of Justice may sue to enjoin a merger in federal district court. The Federal Trade Commission can sue to enjoin that same merger in federal district court and, at the same time, proceed with a case before its own administrative law judge. The Subcommittee may examine the reasons for this disparity and whether it results in different substantive standards for antitrust review.
- VII. International Divergence in Antitrust Enforcement. This oversight will focus on whether the agencies are doing enough to harmonize U.S. antitrust law with competition laws in other countries. This will include exploring what actions the agencies are taking to harmonize laws and enforcement activities, particularly focused on the European Union, China, Brazil, Japan, and Korea; and how such activities are authorized and funded by Congress.
- VIII. Antitrust Exemptions. The Subcommittee will conduct oversight of industry exemptions to determine whether such exemptions continue to serve the public interest.

SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW

- I. Administrative Process and Procedure. The Subcommittee will conduct oversight of issues related to the Administrative Procedure Act, the Congressional Review Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the overall costs imposed by federal regulation, the extent to which agencies compete for policymaking primacy with the Legislative Branch, and the role that the Office of Information and Regulatory Affairs within the Office of Management and Budget plays in the federal rulemaking process.
- II. Bankruptcy. The Subcommittee expects to conduct oversight of the Bankruptcy Code's responsiveness to the needs of financially troubled small businesses and municipalities, as well as potential insolvency issues presented by a number of States. In addition, the Subcommittee may conduct oversight of the need for bankruptcy venue reform, bankruptcy issues related to the 2008 financial crisis and legislation enacted in response to it, the financial struggles of military veterans, and issues presented by asset sales under Bankruptcy Code sec. 363, such as those highlighted by the recent Chrysler bankruptcy. Oversight of auto bankruptcy issues may also extend to the dealings of the Administration's Auto Task Force and other aspects of the government-managed bankruptcies of General Motors and Chrysler.
- III. Federal Judiciary. The Subcommittee may conduct a hearing on the operations of the Administrative Office of the United States Courts, and the state of the Judiciary as a whole. This may include consideration of the judicial resource needs of Article III and bankruptcy courts, judicial salaries, and security for federal judges.
- IV. Agencies. The Subcommittee will conduct oversight of the Justice Department's Civil Division, Environment and Natural Resources Division, Executive Office for United States Trustees, and Office of the Solicitor General. It will also conduct oversight of the Department's compliance with the Freedom of Information Act and the Office of Management and Budget's Office of Information and Regulatory Affairs.
- V. State Justice Institute. The State Justice Institute (SJI) provides matching grants to state courts that allow them to develop methods to work more efficiently and productively. A review of SJI operations may be in order since its authorization expired in 2007.
- VI. Arbitration. The Subcommittee may conduct oversight of issues arising under the Federal Arbitration Act, including the implementation of the American Arbitration Association's mandatory binding arbitration program for General Motors and Chrysler auto dealers and other matters that shed light on the status and effectiveness of America's arbitration system.
- VII. Legal Services Corporation. The Subcommittee will review the mission and operations of the Legal Services Corporation.

- VIII. Interstate Compacts. The Subcommittee may conduct oversight to determine the extent of compliance with the constitutional process by which States seek Congressional approval of interstate compacts.
- IX. Administrative Conference of the United States. The Subcommittee will conduct oversight on the Administrative Conference of the United States.
- X. State Taxation Affecting Interstate Commerce. The Subcommittee may also continue oversight begun in the 111th Congress of issues related to state taxation that affect interstate commerce.